



Notice is hereby given that a public meeting of the Dental Hygiene Board of California (DHBC) will be held as follows:

## **DHBC Public Teleconference Meeting Agenda**

**Friday, May 29, 2020**  
**10:00 a.m. - Adjournment**

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public nor teleconference location is provided. Members of the public may observe or participate using the link below. Due to potential technical difficulties, please consider submitting written comments via email at least five business days prior to the meeting to [elizabeth.elias@dca.ca.gov](mailto:elizabeth.elias@dca.ca.gov) for consideration.

### **INSTRUCTIONS FOR MEETING PARTICIPATION**

For all those who wish to participate or observe the meeting, please log on to this website (If the hyperlink does not work when clicked on, you may need to place the cursor on the hyperlink, then right click. When the popup window opens, click on Open Hyperlink to activate it and join the meeting)

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ed1d8b8d83548dba5eb9a1fa1a2249e48>

Instructions to connect to the meeting are attached to this agenda. The DHBC will conduct the meeting via WebEx computer program. The preferred audio connection is via telephone conference and not the microphone and speakers on your computer. The phone number and access code will be provided as part of your connection to the meeting.

### **MEMBERS OF THE BOARD**

President – Dr. Timothy Martinez  
Vice President – Nicolette Moultrie, RDH  
Secretary – Garry Shay, Public Member  
Educator Member – Dr. Michelle Hurlbutt  
RDHAP Member – Noel Kelsch  
RDH Member – Evangeline Ward  
Public Member – Susan Good  
Public Member – VACANT  
Public Member – VACANT

The DHBC welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Board at the time the item is heard.

## **AGENDA**

1. Roll Call & Establishment of Quorum.
2. President's Welcome and Report.
3. Discussion and Possible Action to Approve the November 22, 2019 Full Board Meeting Minutes.
4. Discussion and Possible Action to Approve the November 22, 2019 Education Subcommittee Meeting Minutes.
5. Discussion and Possible Action to Approve the November 22, 2019 Legislative and Regulatory Subcommittee Meeting Minutes.
6. Discussion and Possible Action to Approve the November 22, 2019 Licensing and Examination Subcommittee Meeting Minutes.
7. Discussion and Possible Action to Approve the November 23, 2019 Full Board Meeting Minutes.
8. Executive Officer's Report.
9. Status Update Regarding Dental Hygiene Board of California's Regulatory Packages.
10. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 California Code of Regulations (CCR) Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation.
11. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1103. Definitions.
12. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104. Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs.
13. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104.3. Reviews, Site Visits, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs.
14. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1105.2. Required Curriculum.
15. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1115. Retired Licensure.

16. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1116. Mobile Dental Hygiene Clinic Fee Resolutions.
17. Discussion and Possible Action on the Following Proposed 1 CCR Section 100 Package: Business and Professions Code (BPC) Section 901.
18. Discussion and Possible Action on Temporary Modification for WREB Clinical Examination to a Written Format and Request for the DCA Office of Professional Examination Services (OPES) to Review.
19. Discussion and Possible Action on Dental Hygiene Educational Program Completion Requirements During the COVID-19 Pandemic.
20. Discussion and Possible Action on the Commission on Dental Accreditation (CODA) Proposed Accreditation Standards for Dental Hygiene Educational Programs.
21. Discussion and Possible Action on Proposed California Northstate University Registered Dental Hygienist in Alternative Practice (RDHAP) Program Application.
22. Discussion and Possible Action on the Following Legislation:
  - Assembly Bills (AB) 62, 71, 193, 312, 316, 544, 613, 768, 1263, 1271, 1616, 1911, 1928, 1998, 2028, 2113, 2130, 2185, 2214, 2411, 2549, 2631, 2704, and 3045.
  - Senate Bills (SB) 53, 66, 144, 154, 653, 776, 878, 1168, 1324, and 1474.
23. Dental Hygiene Educational Program Site Visit Update and Schedule.
24. Licensing and Examination Statistics Update.
25. Enforcement Statistics Update.
26. Public Comment for Items Not on the Agenda.  
*[The DHBC may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting] (Government Code Sections 11125 & 11125.7(a))*
27. Future Agenda Items.

**<<Recess to Reconvene the Full Board for Closed Session>>**

## **28. Closed Session – Full Board**

*The Board may meet in closed session to deliberate on disciplinary matters pursuant to Government Code §11126 (c)(3). If there is no closed session at this meeting, it will be announced.*

**<<Return to Open Session>>**

## **29. Adjournment.**

Public comments will be taken on the agenda items at the time the specified item is raised. The DHBC may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, contact Elizabeth Elias, Assistant Executive Officer, at 916-263-2010, or access the DHBC Web Site at: [www.dhbc.ca.gov](http://www.dhbc.ca.gov).

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Elizabeth Elias, Assistant Executive Officer, at 916-263-2010, or email [elizabeth.elias@dca.ca.gov](mailto:elizabeth.elias@dca.ca.gov) or send a written request to the DHBC at 2005 Evergreen Street, Suite 2050, Sacramento, CA 95815. Providing your request at least five business days prior to the meeting will help to ensure availability of the requested accommodation.

# HOW TO – Join – DCA WebEx Event

The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the URL <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the California Department of Consumer Affairs logo and the text "California Department of Consumer Affairs".

**Event Information: 3/26**

**Event status:** Started  
**Date and time:** Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00) [Change time zone](#)  
**Duration:** 1 hour  
**Description:**

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

**Join Event Now**

To join this event, provide the following information.

**First name:**   
**Last name:**   
**Email address:**   
**Event password:**

[Join Now](#)  
[Join by browser](#) **NEW!**  
If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.  
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

# HOW TO – Join – DCA WebEx Event

The screenshot shows a web browser window with the URL [dca-ca.webex.com/mw3300/mywebex/default.do?nomenu=true&siteurl=dca-ca&service=6&rnd=0.562003235914354&main\\_url=https%3A%2F%2Fdca-ca.webex.com%2Fec3300%2Feventcenter%2Fevent%2FeventAction.do%3F](https://dca-ca.webex.com/mw3300/mywebex/default.do?nomenu=true&siteurl=dca-ca&service=6&rnd=0.562003235914354&main_url=https%3A%2F%2Fdca-ca.webex.com%2Fec3300%2Feventcenter%2Fevent%2FeventAction.do%3F). The page header includes the DCA logo and the text "California Department of Consumer Affairs".

**Event Information: 3/26**

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**Description:**

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**Join Event Now**

To join this event, provide the following information.

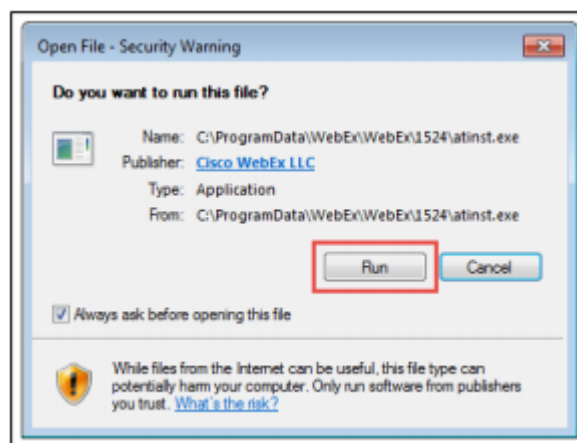
**First name:** Jason  
**Last name:** Piccione  
**Email address:** jason.piccione@dca.ca.gov  
**Event password:** \*\*\*\*\*

[Join Now](#)  
Join by browser **NEW!**  
If you are the host, [start your event](#)

3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



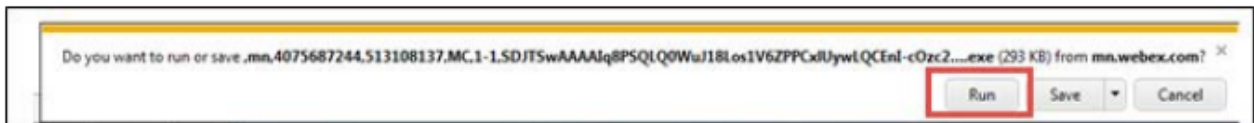
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

## Starting Webex...



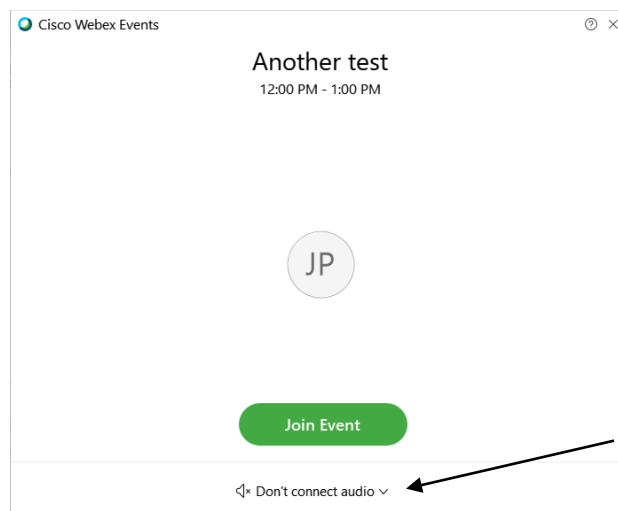
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



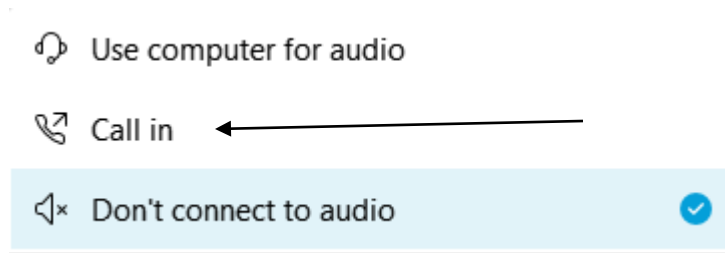
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

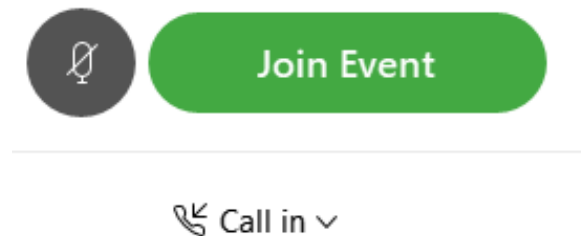


# HOW TO – Join – DCA WebEx Event

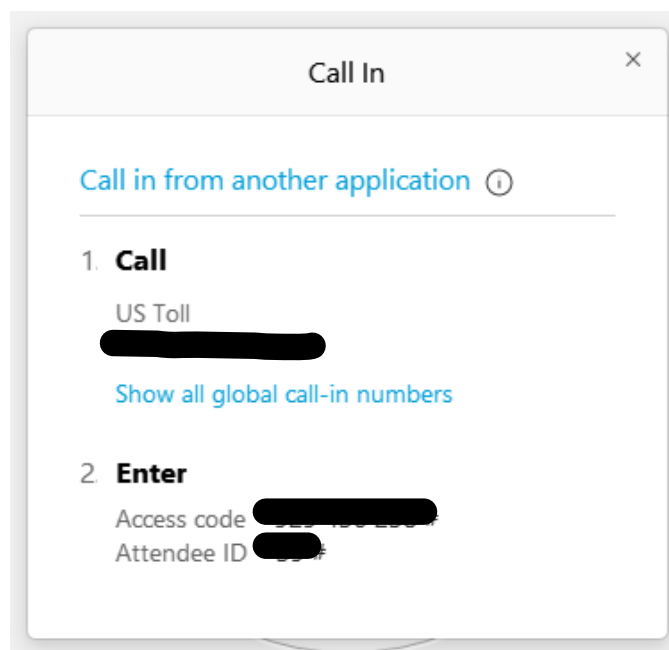
8. When the audio menu appears click 'Call in'.



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

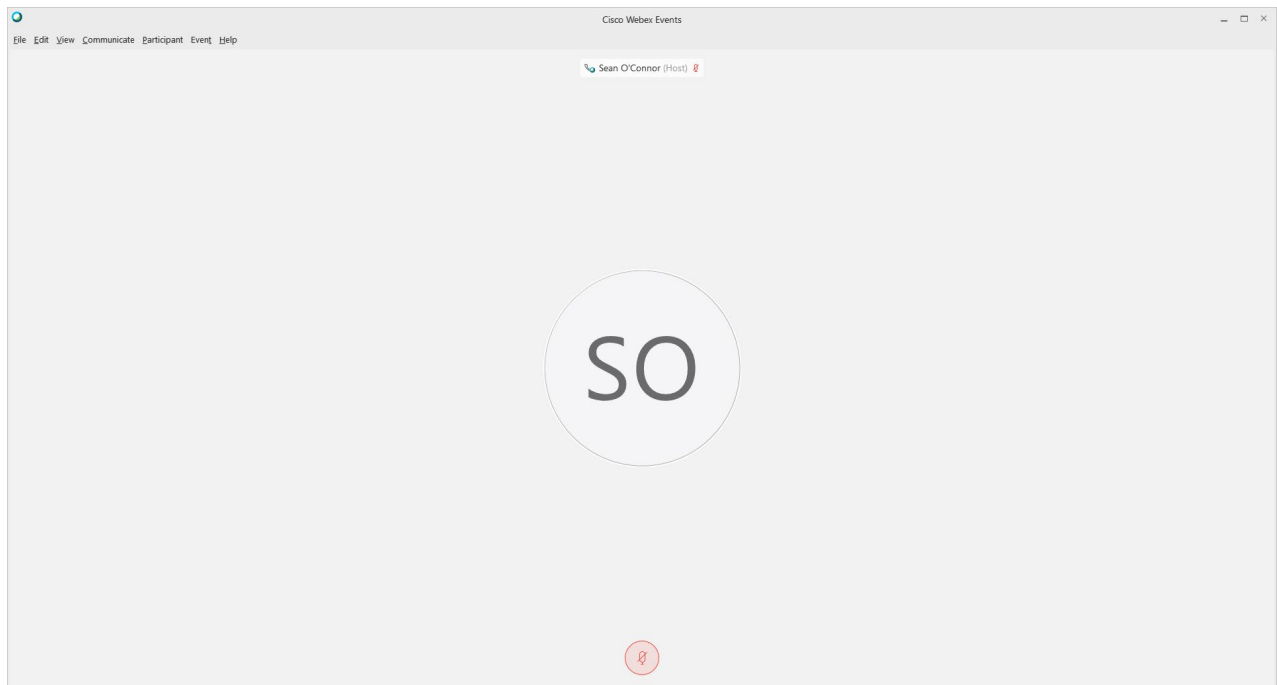


# HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

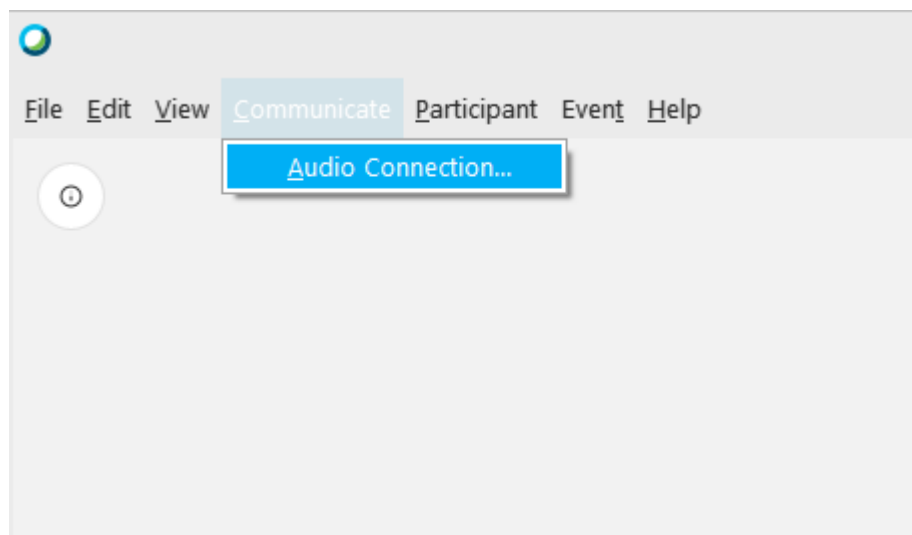


NOTE: Your audio line is muted and can only be unmuted by the event host.

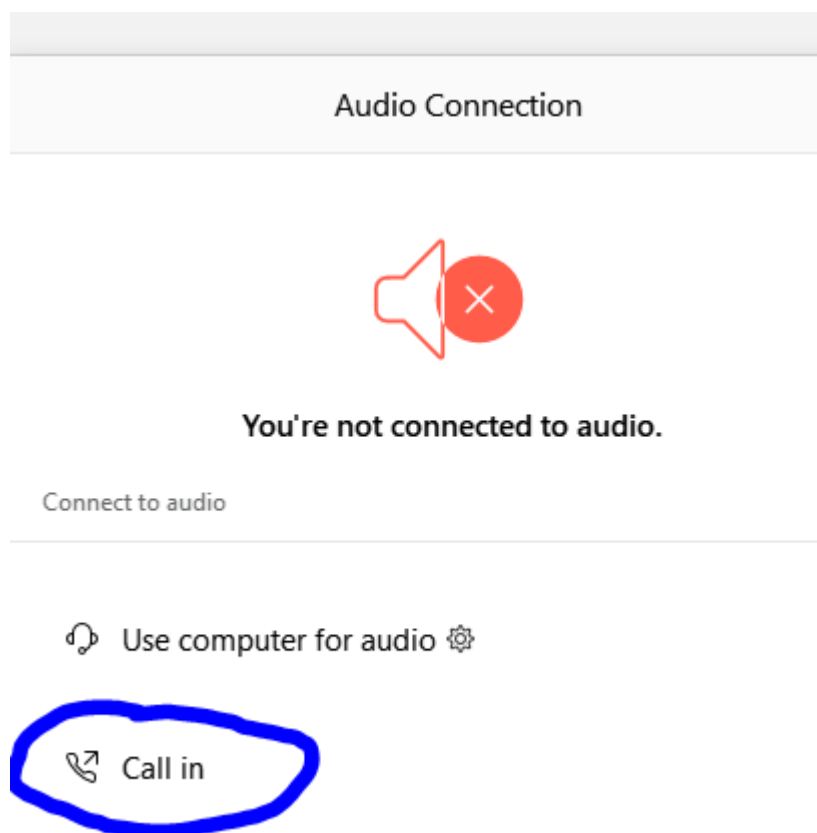
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

# HOW TO – Join – DCA WebEx Event



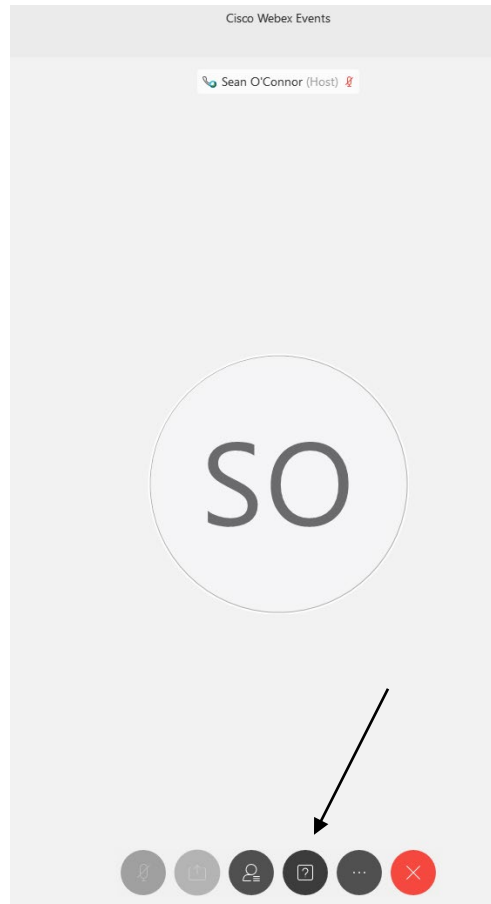
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

## Participating During a Public Comment Period

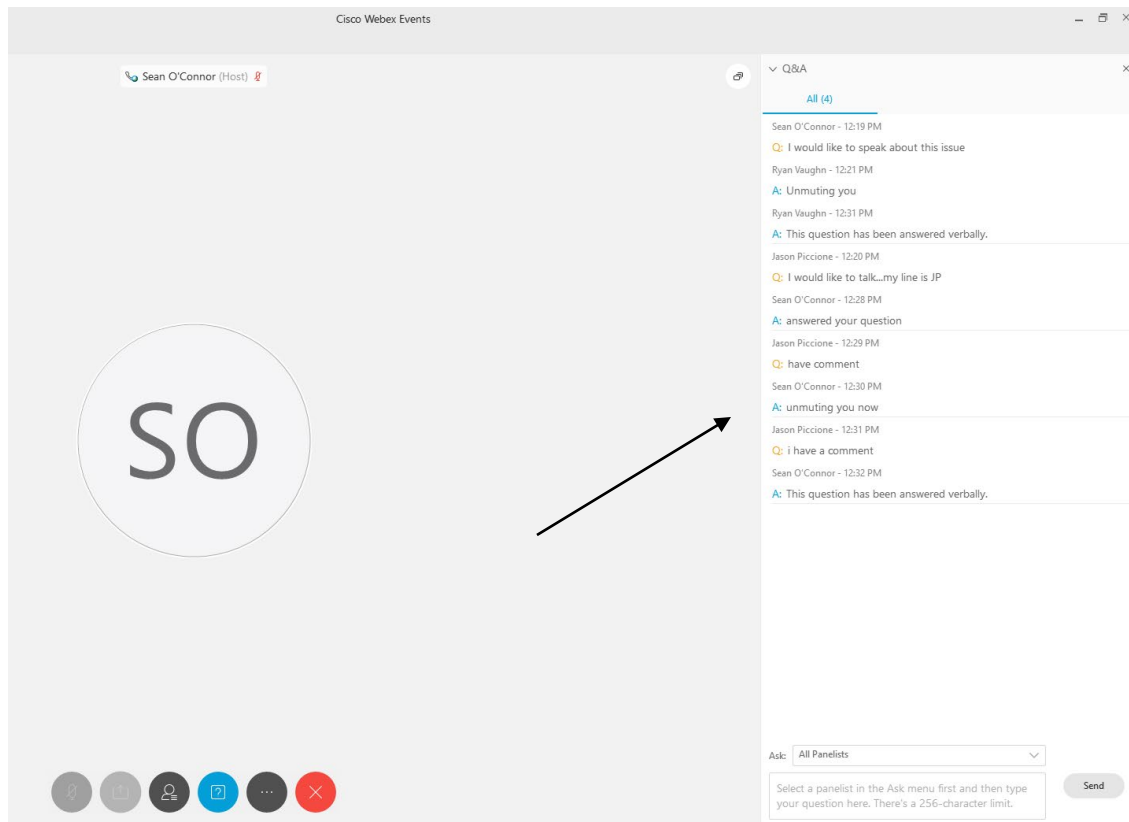
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

# HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.



## **Dental Hygiene Board of California Meeting Minutes**

Friday, November 22, 2019

**DRAFT**

### **Location:**

Hilton Los Angeles North/Glendale & Executive Meeting Center  
100 West Glenoaks Blvd  
Glendale, CA 91202

### **DHBC Members Present:**

Susan Good, President, Public Member  
Nicolette Moultrie, Vice President, Registered Dental Hygienist (RDH) Member  
Edcelyn Pujol, Secretary, Public Member  
Michelle Hurlbutt, RDH Educator Member  
Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP) Member  
Sandra Klein, Public Member  
Timothy Martinez, Doctor of Dental Medicine (DMD) Public Health Dentist Member  
Garry Shay, Public Member  
Evangeline Ward, RDH Member

### **DHBC Staff Present:**

Anthony Lum, Executive Officer (EO)  
Traci Napper, Program Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and Regulatory Specialist  
Daniel Rangel, Special Investigator  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC

### **Public Present:**

Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Mary McCune, California Dental Association (CDA)  
Laurel Bleak, California Dental Hygienist's Association (CDHA)  
Tonette Steeb, Diablo Valley College  
JoAnn Galliano, MEd, RDH, DHBC Educational Consultant and Subject Matter Expert (SME)  
Katie Flournoy  
Holli Dillon Burgess  
Vickie Kimbrough, California Dental Hygiene Educators' Association (CDHEA), Taft College, Purple Pen  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Kelly Reich, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, West Los Angeles College (WLAC)  
Brenda Serpa, San Joaquin Valley College-Visalia (SJVC-V)  
Lygia Jolley, SJVC-V, CDHA

## 1. Roll Call and Establishment of a Quorum

Susan Good, President of the Dental Hygiene Board of California (DHBC, Board), called the meeting to order at 9:00 a.m. President Good advised that the meeting is being webcast. DHBC Secretary, Edcelyn Pujol, took roll call and a quorum established with nine Members present. President Good reviewed the Bagley-Keene Open Meeting Act and explained that for each action item a roll call vote will be taken.

## 2. President's Report (Informational Only)

President Good reported her attendance at the August 15, 2019 Dental Board of California (DBC) meeting and updated the DBC of the DHBC's activities. She advised of ongoing conversations with the Department of Consumer Affairs (DCA) regarding the status of the Executive Officer's (EO) Salary Survey completed in 2019. She advised of possible consideration and action on the EO's salary at the April 2019 DHBC Meeting.

President Good reported her attendance at the September 19, 2019 Fresno, California "Veteran's Stand-down" and advised that dental hygiene services were provided along with DHBC outreach literature and hygiene kits.

President Good advised that four members are completing their Board terms this year (Michelle Hurlbutt, Noel Kelsch, Edcelyn Pujol, and Sandra Klein) and thanked them for their services to the Board.

No questions or comments received.

## 3. Public Comments for Items Not on the Agenda

DHBC EO Anthony Lum presented a public comment electronic communication from Debbie Narcisso requesting the Board to consider adding informed consent requirements for registered dental hygienists in alternative practice (RDHAP) for dental hygiene treatment of developmentally disabled and other vulnerable patient populations.

Holli Dillon Burgess requested the Board re-evaluate how punitive measures are imposed on Registered Dental Hygienists (RDHs) with long past infractions that have been atoned for with regard to issuance of a license.

No further comments.

#### 4. Approval of the August 6, 2019 Full Board Teleconference Meeting Minutes

Motion: Nicolette Moultrie moved to approve the August 6, 2019 Full Board Teleconference Meeting Minutes.

Second: Timothy Martinez

President Good requested comments from members of the DHBC or public. No comments received.

*Vote: Motion to approve the January 29, 2019 Full Committee Meeting Minutes.*

**Pass 5:0:4.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        |     |     | X       |
| Timothy Martinez   | X   |     |         |
| Sandra Klein       |     |     | X       |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      |     |     | X       |
| Garry Shay         |     |     | X       |
| Evangeline Ward    | X   |     |         |

#### 5. Executive Officer's Report (Informational Only)

EO Lum provided an update on issues being addressed since the last meeting.

***Budget Report:***

EO Lum provided the budget report within the meeting materials and stated the Board has had a healthy growth trend since inception. Additionally, with expenditures increasing, he advised a fee increase may be necessary in the future.

***Personnel:***

EO Lum reported he has filled two recent positions of the three reported at the last Board meeting. With regard to the third position, due to staff reassignments, he is working with DCA Human Resources (HR) to create a new duty statement for that position. As of July 1, 2019, the DHBC was approved for the addition of three new

positions (two for licensing and one for enforcement) which he will be working on filling. EO Lum welcomed Michael Walker, filling the Licensing Analyst position and Destiny Wells, filling the Enforcement Analyst position. EO Lum thanked staff for going “above and beyond” and keeping up with the workload.

***Office Lease:***

EO Lum reports that the DHBC office will remain in the current building. Plans to move to the proposed new office space should be in 2021 after tenant improvements have been made. Current lease extends to 2027. EO Lum provided information regarding security measures the building owner put in place.

***DCA Updates:***

EO Lum reported that DCA has a new Director Kimberly Kirchmeyer since October 28, 2019. She has extensive DCA experience and EO Lum looks forward to working with her and enhancing communication. Four remaining executive positions are open due to personnel moving on due to other interests.

DHBC implemented a new website over the summer, enhancing the site's capability. Site continues to be a work in progress.

***EO Activities:***

EO Lum completed two licensing outreach sessions at Loma Linda University and Southwestern College. Additionally, he attended the CDHA Spring Scientific session. EO Lum acknowledged that the Board has expressed interest in the past that they wish to participate in outreach sessions to increase communication between the DHBC and stakeholders and he would readily arrange for participation for them. EO Lum also participated in the May, August, and November DBC Meetings.

EO Lum informed the Board of the invitation by the Commission on Dental Accreditation (CODA) for Board members to attend CODA site visits and if there was interest to contact him to arrange for participation.

EO Lum updated the Board on the process and resource savings from switching the licensing system from paper renewals to online renewals via BreZze (DCA's licensing and enforcement system). EO Lum stated that there will be assistance with those having difficulty with the online system, as well as providing a paper renewal application for those requesting one. EO Lum updated the Board on communications and that the statute and regulations books, as well as the newsletter should be available in Spring 2020.

EO Lum participated in the DCA EO salary study in which there was a salary compaction issue between the EO and Assistant EO. Results are to be reported in the future by the DCA Executive Office.

***Future Agenda Items Update:***

- Uniform Standards and Disciplinary Guidelines revisions are being addressed and ongoing.
- Enforcement tracking methods ongoing and will provide data at the next meeting to provide a more accurate picture.
- Fictitious name permits may now be renewed online.
- Board may now accept individual tax identification numbers in lieu of social security numbers.
- RDH/RDHAP hybrid license is cost/technology prohibitive and may not be recognized by other jurisdictions.
- Diversion contract completed but only one bid received (Maximus). Built in measures were put in place for diversion participants to pay entire cost, the Board will not supplement the costs.
- Law and Ethics Exam may not be taken prior to graduation as BreEZe is structured to issue the approval to take the exam after all licensing requirements are received by the Board. Cost to restructure BreEZe is prohibitive.

**6. Dental Board of California Update (Informational Only)**

Karen Fischer, Executive Officer of the DBC, updated the Board on DBC activities. The DBC successfully completed their Sunset Review last year, providing for the ability for statute changes which will allow the DBC to have more efficient procedures. EO Fischer provided updates to the changes that the DBC will undertake beginning January 1, 2020. These changes included combining the Dental Assisting Fund along with the Dental Fund and procedures pertaining to teledentistry.

EO Fischer updated the Board on DBC licensing requirements and procedures and informed the Board that the DBC is no longer approving foreign dental schools. Additionally, the DBC is continuing the suspension of the Registered Dental Assistant (RDA) practical exam but still requiring a law and ethics exam.

EO Fischer updated the Board on current DBC regulatory packages and RDA rulemaking packages, as well as to DBC Board member status.

\*\*\*President Good recessed the Full Board at **10:00 a.m.** for the Subcommittees to convene.\*\*\*

\*\*\*President Good recessed the Full Board at **11:50 a.m.** for the Lunch Break\*\*\*

\*\*\* President Good re-convened the Full Board at **1:00 p.m.**\*\*\*

## 10. Presentation from the Department of Consumer Affairs Office of Professional Examination Services (OPES) to Update on the Board's Occupational Analysis

Heidi Lincer, Ph.D. (Chief, DCA Office of Professional Services) informed the Board that BPC section 139 requires all Boards and Bureaus who have licensure exams to conduct an Occupational Analysis (OA) every five to seven years. Dr. Lincer provided a presentation to review the OA process and provided an overview explanation of the OA results and informed the Board that the focus is now on reviewing the current Law and Ethics (L & E) exam for California content and developing a new L & E exam for the DHBC for both the RDH and RDHAP.

Discussion took place regarding the OA process and results as well as to L & E exam development. Additionally, Dr. Lincer answered questions from the Board and public regarding exam construction. It was determined that as there were concerns voiced by Board members, it was requested that EO Lum collect questions from the Board members to be answered by OPES and bring back to the Board at a future Board meeting. Dr. Lincer concluded her presentation by thanking the Board for the opportunity to provide the presentation and will be available for any further questions or issues the members may have.

## 11. Presentation and Report from the Western Regional Examining Board (WREB)

Kelly Reich, Western Regional Examination Board (WREB), provided a presentation on the WREB clinical exam which included some California-specific exam statistics, patient selection, exam scoring overview, examiner performance and examiner calibration techniques.

Discussion took place regarding California representation on the WREB Board of Directors. EO Lum will research the DHBC providing representation on WREB and bring back to the Board.

## 12. Presentation and Report from the Central Regional Dental Testing Service (CRDTS)

Kim Laudenslager, Central Regional Dental Testing Service (CRDTS), provided a presentation on the WREB clinical exam which included some California-specific exam statistics, patient selection, exam scoring overview, on-site retake information and statistics, examiner performance and examiner calibration techniques. Additionally, Ms. Laudenslager expressed that she provided EO Lum with the

collaborative OA between CRDTS and WREB and stated that if the Board or OPES requires further content, that CRDTS would be in full cooperation.

Discussions took place regarding exam results, updates to procedures, and membership on the CRDTS Steering Committee and the Exam Review Committee. Ms. Laudenslager concluded her presentation by thanking the Board for the opportunity to provide her presentation and will be available to answer any questions the members may have.

President Good recessed and excused the public to reconvene the Full Board for Closed Session.

13. Closed Session – Full Board.

DRAFT



## Education Subcommittee Meeting Minutes

Friday, November 22, 2019

### Location:

Hilton Los Angeles North/Glendale & Executive Meeting Center  
100 West Glenoaks Blvd  
Glendale, CA 91202

### DHBC Members Present:

Edcelyn Pujol, Chair, Public Member  
Nicolette Moultrie, Registered Dental Hygienist (RDH) Member  
Garry Shay, Public Member  
Evangeline Ward, RDH Member

**DRAFT**

### DHBC Staff Present:

Anthony Lum, Executive Officer (EO)  
Traci Napper, Program Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and Regulatory Specialist  
Daniel Rangel, Special Investigator  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC

### Public Present:

Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Mary McCune, California Dental Association (CDA)  
Laurel Bleak, California Dental Hygienist's Association (CDHA)  
Tonette Steeb, Diablo Valley College  
JoAnn Galliano, MEd, RDH, DHBC Educational Consultant and Subject Matter Expert (SME)  
Katie Flournoy  
Holli Dillon Burgess  
Vickie Kimbrough, California Dental Hygiene Educators' Association (CDHEA), Taft College, Purple Pen  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Kelly Reich, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, West Los Angeles College (WLAC)  
Brenda Serpa, San Joaquin Valley College-Visalia (SJVC-V)  
Lygia Jolley, SJVC-V, CDHA

## 1. Roll Call and Establishment of a Quorum

Edcelyn Pujol, Chairperson of the Education Subcommittee, called the meeting to order at **10:02 a.m.** Roll call was taken, and a quorum was established with all four members present.

## 2. Chairperson's Report

Chair Pujol stated that there was no Chairperson's report for this meeting.

## 3. Discussion and Possible Action, and Recommendation to the Full Board on the Following Proposed Regulatory Package: 16 CCR § 1105. Requirements for RDH Educational Programs Including the Acceptance of Advanced Placement (AP) Coursework or Examination by Dental Hygiene Educational Programs.

EO Lum stated that there have been questions with regard to acceptance of current available courses to satisfy Board requirements for prerequisite courses, as the Education Code allows for institutions of higher learning to accept the completion of Advanced Placement (AP) coursework or examination in high school math and English for college level course credit. EO Lum requested the Board to consider modifying the regulation to accept AP coursework as prerequisites for entrance to dental hygiene educational programs. Additionally, there were additional changes proposed within 16 CCR section 1105 to align the regulation with current educational terminology.

Discussion proceeded among the Subcommittee with regard to the proposed regulatory changes in 16 CCR section 1105.

Chair Pujol requested comments from the public.

Public Comment: Tonette Steeb presented that the Educational Code supports accepting AP courses as prerequisites. Lisa Kamibayashi would like to see more specificity to what types of AP mathematics courses would be accepted. Ms. Kamibayashi also voiced concerns how the AP score would be converted into the grade point average (GPA) towards acceptance into the dental hygiene programs.

Motion: Garry Shay motioned to approve and recommend to the Full Board the proposed regulatory changes to 16 CCR section 1105.

Second: Nicolette Moultrie

*Vote: Motion to Approve and Recommend to the Full Board the Proposed Regulatory Changes to 16 CCR section 1105.*

***Pass. 4:0:0.***

| Name                      | Aye | Nay | Abstain |
|---------------------------|-----|-----|---------|
| <b>Edcelyn Pujol</b>      | X   |     |         |
| <b>Nicolette Moultrie</b> | X   |     |         |
| <b>Garry Shay</b>         | X   |     |         |
| <b>Evangeline Ward</b>    | X   |     |         |

4. Discussion and Possible Action, and Recommendation to the Full Board on Proposed Draft Application Language for Approval of New Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.

EO Lum reported that the Board has received a request regarding opening a new RDHAP educational program. He reminded the Subcommittee that at the August 6, 2019 Teleconference Meeting of the DHBC, the Board reviewed and established by resolution the fee for application, review, and approval of new Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.

He stated that currently the DHBC does not have an application form for new RDHAP Educational Programs to apply for review and approval of their new RDHAP Educational Program and requested the Subcommittee to review and approve the application for review and approval of new RDHAP Educational Programs.

Motion: Garry Shay motioned to approve and recommend to the Full Board the proposed draft application language for approval of new Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.

Second: Nicolette Moultrie

Chair Pujol requested comments from the Subcommittee or public. There were no comments.

*Vote: Motion to Approve and Recommend to the Full Board the Proposed Draft Application Language for Approval of New Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.*

**Pass. 4:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Edcelyn Pujol      | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

#### 5. Public Comments for Items Not on the Agenda

Vickie Kimbrough requested for the Board to review AB 5 to assist and give guidance to dental hygiene programs when hiring Supervising Dentists as faculty or as independent contractors.

#### 6. Future Agenda Items

None.

#### 7. Adjournment

Chair Pujol adjourned the Dental Hygiene Licensing and Examination Subcommittee meeting at  
**10:15 a.m.**



## Legislative and Regulatory Subcommittee Meeting Minutes

Friday, November 22, 2019

Location:

Hilton Los Angeles North/Glendale & Executive Meeting Center  
100 West Glenoaks Blvd  
Glendale, CA 91202

**DRAFT**

### DHBC Members Present:

Noel Kelsch, Chair, Registered Dental Hygienist in Alternative Practice (RDHAP) Member  
Michelle Hurlbutt, Registered Dental Hygienist (RDH) Educator Member  
Garry Shay, Public Member  
Evangeline Ward, RDH Member

### DHBC Staff Present:

Anthony Lum, Executive Officer (EO)  
Traci Napper, Program Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and Regulatory Specialist  
Daniel Rangel, Special Investigator  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC

### Public Present:

Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Mary McCune, California Dental Association (CDA)  
Laurel Bleak, California Dental Hygienist's Association (CDHA)  
Tonette Steeb, Diablo Valley College  
JoAnn Galliano, MEd, RDH, DHBC Educational Consultant and Subject Matter Expert (SME)  
Katie Flournoy  
Holli Dillon Burgess  
Vickie Kimbrough, California Dental Hygiene Educators' Association (CDHEA), Taft College, Purple Pen  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Kelly Reich, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, West Los Angeles College (WLAC)  
Brenda Serpa, San Joaquin Valley College-Visalia (SJVC-V)  
Lygia Jolley, SJVC-V, CDHA

## 1. Roll Call and Establishment of a Quorum

Noel Kelsch, Chairperson of the Legislative and Regulatory Subcommittee, called the meeting to order at **10:18 a.m.** Roll call was taken, and a quorum was established with all four members present.

## 2. Chairperson's Report

Chair Kelsch reported that she has been busy with reviewing and researching the legislative proposals brought forth during this meeting with Executive Officer (EO) Lum.

## 3. Discussion, Possible Action, and Recommendation to the Full Board on Proposed Draft Statutory Language for the following:

- 1902.3 – RDH Licensed in Another State; Issuance of a Permit to Practice; Teaching Position; Requirements.
- 1913 – Dental Hygienist, Authority to Perform Procedures or Provide Services.
- 1917 – Dental Hygienist, Requirements for Licensure.
- 1917.1 – Dental Hygienist, Licensure Without Examination; Out-of-State Dental Hygienists.
- 1922 – Licensure as an RDHAP.
- 1930 – RDHAP Relationship with a Dentist.
- 1941 – Approval of Educational Programs; Need for New Educational Programs.
- 1950.5 – Unprofessional Conduct Defined.
- 1951 – Probation Options.

Dr. Adina Pineschi-Petty presented that staff continually analyzes and reviews statutory language for any possible revisions that would help clarify the language for staff, licensees and interested stakeholders; improve procedures; and enhance program efficiency. She requested for the Subcommittee to review the proposed language, determine whether additional information or language is required, and complete the draft of proposed statutory language to be recommended to the Full Board to be proposed in pursuit of legislation for 2020 or 2021. She advised that staff will submit the proposed changes to statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes that are unaccepted for the Omnibus Bill proposal will be sought through sponsored legislation.

Discussion took place among the Subcommittee regarding each proposed draft statutory language change. Language was discussed and agreed upon to recommend to the Full Board on proposed draft statutory language for Business and Profession Code (BPC) sections 1902.3, 1913, 1917, 1917.1, 1922, 1930,

1941, 1950.5, and 1951. BPC section 1930 was held and moved to the Licensing and Examination Subcommittee.

Motion: Garry Shay motioned to recommend to the Full Board proposed draft statutory language changes for BPC sections 1902.3, 1913, 1917.1, 1922, 1941, 1950.5, and 1951, referring 1902.3 to the Full Board with the understanding that additional language may be required, hold 1917(g) and referring 1930 to the Licensing Committee.

Second: Michelle Hurlbutt

No further questions or comments received from the Subcommittee or public.

*Vote: Motion to Recommend to the Full Board Proposed Draft Statutory Language Changes for BPC sections 1902.3, 1913, 1917.1, 1922, 1941, 1950.5, and 1951, Referring 1902.3 to the Full Board with the Understanding that Additional Language May be Required, Hold 1917(g), and Referring 1930 to the Licensing Committee.*  
**Pass. 4:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Noel Kelsch       | X   |     |         |
| Michelle Hurlbutt | X   |     |         |
| Garry Shay        | X   |     |         |
| Evangeline Ward   | X   |     |         |

4. Discussion and Possible Action, and Recommendation to the Full Board on Proposed Draft Regulatory Language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs

Dr. Pineschi-Petty reported that in order to implement the provisions of BPC §1941.5 to allow 16 CCR §1104.3 to move forward in the regulatory process, regulatory language and fees must be approved by the Board. Additionally, the fine will provide a method for the DHBC to recoup some of the cost to visit the dental hygiene educational program (DHEP) site and review the extensive documentation to determine whether DHEP continues to meet California standards.

Discussion took place among the Subcommittee regarding regulatory language and fees for site visits, investigations, cite and fine, and probationary status for DHEPs.

Motion: Garry Shay motioned to recommend to the Full Board proposed draft regulatory language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs.

Second: Evangeline Ward

No questions or comments received from the Subcommittee or public.

*Vote: Motioned to Recommend to the Full Board Proposed Draft Regulatory Language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs.*

**Pass. 4:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Noel Kelsch       | X   |     |         |
| Michelle Hurlbutt | X   |     |         |
| Garry Shay        | X   |     |         |
| Evangeline Ward   | X   |     |         |

5. Discussion and Possible Action, and Recommendation to the Full Board to Move Current Dental Board Regulations Pertaining to Dental Hygiene to the Board's Regulatory Sections Through a Section 100 Request

EO Lum reported that BPC section 1906 (d) authorizes regulations adopted by the Dental Board of California (DBC) to continue to apply to Registered Dental Hygienists, Registered Dental Hygienists in Alternative Practice, and Registered Dental Hygienists in Extended Functions (collectively dental hygienists) until other regulations are promulgated by the Dental Hygiene Board of California (DHBC). He stated that in recent discussions with the DBC and the Office of Administrative Law (OAL), it was determined that relocating regulatory sections pertaining to dental hygienists to the regulatory sections contained within the DHBC's sections of the California Code of Regulations (CCR) could be done. EO Lum requested the Subcommittee to discuss, take possible action, and make

recommendations to the Full Board to give permission for staff to request to work with the DBC to relocate sections of the CCR in the DBC's regulations pertaining to dental hygienists to be renumbered and relocated into the DHBC's CCR sections.

Discussion took place among the Subcommittee regarding giving permission for staff to work with the DBC to relocate sections of the CCR in the DBC's regulations pertaining to dental hygienists.

Motion: Garry Shay motioned to recommend to the Full Board to give permission for staff to request to work with the DBC to relocate sections of the CCR in the DBC's regulations pertaining to dental hygienists to be renumbered and relocated into the DHBC's CCR sections.

Second: Evangeline Ward

No further questions or comments received by the Subcommittee or public.

*Vote: Motion to Recommend to the Full Board to give Permission for Staff to Request to Work with the DBC to Relocate Sections of the CCR in the DBC's Regulations Pertaining to Dental Hygienists to be Renumbered and Relocated into the DHBC's CCR sections.*

**Pass. 4:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Noel Kelsch       | X   |     |         |
| Michelle Hurlbutt | X   |     |         |
| Garry Shay        | X   |     |         |
| Evangeline Ward   | X   |     |         |

6. Discussion and Possible Action, and Recommendation to the Full Board to Approve the Board's Forms and Fee Resolution for Out-of-State Dental Hygiene Educational Programs and Individual Applicant's Review and Approval of Training in the Procedures of Soft Tissue Curettage, Local Anesthesia Administration, and Nitrous Oxide and Oxygen Analgesia

Dr. Pineschi-Petty reported that at the January 29, 2019 Teleconference Meeting of the Board, the Board reviewed, amended, and approved regulatory amendments to 16 CCR §1105.2. Required Curriculum, in addition to approving

proposed applications incorporated by reference within the regulatory package. She stated that in 16 CCR §1105.2, there are references to 16 CCR §1107 which provides the requirements for Soft Tissue Curettage, Local Anesthesia Administration, and Nitrous Oxide and Oxygen Analgesia (SLN) courses. Dr. Pineschi-Petty stated that as 16 CCR §1107 is currently undergoing a regulatory revision process in which there are proposed changes to SLN requirements, previously approved proposed applications incorporated by reference in 16 CCR §1105.2 must be revisited by the Board to align with the proposed changes to the requirements of 16 CCR §1107. Additionally, pursuant to BPC §1944(a), staff requested the Board to establish by resolution the fee for out-of-state DHEPs and for review of individual out-of-state applicants for acceptable SLN education.

Discussion took place among the Subcommittee regarding revisions to previously approved proposed applications and fees for out-of-state DHEPs and individual out-of-state applicants for SLN education.

Motion: Garry Shay motioned to recommend to the Full Board for approval of forms and fee resolution for out-of-state DHEPs and Individual Applicant's Review and Approval of Training in SLN.

Second: Evangeline Ward

No further questions or comments received by the Subcommittee or public.

*Vote: Motion to recommend to the Full Board for Approval of Forms and Fee Resolution for Out-of-State Dental Hygiene Educational Programs and Individual Applicant's Review and Approval of Training in the Procedures of Soft Tissue Curettage, Local Anesthesia Administration, and Nitrous Oxide and Oxygen Analgesia.*

**Pass. 4:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Noel Kelsch       | X   |     |         |
| Michelle Hurlbutt | X   |     |         |
| Garry Shay        | X   |     |         |
| Evangeline Ward   | X   |     |         |

## 7. Public Comments for Items Not on the Agenda

There were no comments from the public.

## 8. Future Agenda Items

Michelle Hurlbutt requested the issue of Informed Consent be placed as a future agenda item.

## 9. Adjournment

Chair Kelsch adjourned the Dental Hygiene Legislative and Regulatory Subcommittee meeting at  
**11:35 p.m.**

DRAFT



## Licensing and Examination Subcommittee Meeting Minutes

Friday, November 22, 2019

### Location:

Hilton Los Angeles North/Glendale & Executive Meeting Center  
100 West Glenoaks Blvd  
Glendale, CA 91202

**DRAFT**

### DHBC Members Present:

Sandra Klein, Chair, Public Member  
Timothy Martinez, Doctor of Dental Medicine (DMD) Public Health Dentist Member  
Nicolette Moultrie, Registered Dental Hygienist (RDH) Member  
Edcelyn Pujol, Public Member

### DHBC Staff Present:

Anthony Lum, Executive Officer (EO)  
Traci Napper, Program Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and  
Regulatory Specialist  
Daniel Rangel, Special Investigator  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC

### Public Present:

Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Mary McCune, California Dental Association (CDA)  
Laurel Bleak, California Dental Hygienist's Association (CDHA)  
Tonette Steeb, Diablo Valley College  
JoAnn Galliano, MEd, RDH, DHBC Educational Consultant and Subject Matter Expert  
(SME)  
Katie Flournoy  
Holli Dillon Burgess  
Vickie Kimbrough, California Dental Hygiene Educators' Association (CDHEA), Taft  
College, Purple Pen  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Kelly Reich, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, West Los Angeles College (WLAC)  
Brenda Serpa, San Joaquin Valley College-Visalia (SJVC-V)  
Lygia Jolley, SJVC-V, CDHA

## 1. Roll Call and Establishment of a Quorum

Sandra Klein, Chairperson of the Licensing and Examination Subcommittee, called the meeting to order at **11:35 a.m.** Roll call was taken, and a quorum was established with all four members present.

## 2. Chairperson's Report

Chair Klein stated that Executive Officer Lum apprised her of agenda items and she was well prepared for this meeting.

## 3. Discussion and Possible Action, and Recommendation to the Full Board on Proposal to Revise Business and Professions Code Section 1930 to Require RDHAPs to Provide Documentation of an Existing Relationship with a Dentist at Each License Renewal

EO Lum presented that Business and Professions Code (BPC) section 1930 sets forth the requirement that a Registered Dental Hygienist in Alternative Practice (RDHAP) shall provide a documented relationship with at least one dentist for referral, consultation, and emergency services. He stated that Board staff identified a gap in the law for appropriate ongoing notification to the Board that an RDHAP has a current relationship with at least one licensed dentist for referral, consultation, and emergency services for their patients. He noted that the only official notification the Board receives of a dental relationship is when the RDHAP applies for their license and that once licensed, the Board rarely receives notification of the status of that relationship as to whether it continues, is terminated, or if they have a dental relationship at all. EO Lum stated that staff requests and recommends that the Subcommittee review the language in BPC section 1930 and add additional language to require RDHAPs to report a current relationship with a licensed dentist at every license renewal, as well as to report any termination of an existing dentist relationship and identify the new dentist with whom the new relationship has been established for referral, consultation, and emergency services within 10 business days in the interest of consumer protection.

Discussion took place among the Subcommittee regarding RDHAPs report a current relationship with a licensed dentist at every license renewal, as well as to report any termination of an existing dentist relationship and identify the new dentist with whom the new relationship has been established for referral, consultation, and emergency services within 10 business days in the interest of consumer protection.

Motion: Nicolette Moultrie motioned to approve and recommend to the Full Board the proposed revised statutory language in BPC section 1930 to require RDHAPs

to provide documentation of an existing relationship with a dentist at each license renewal.

Second: Edcelyn Pujol

No further comments from the Subcommittee or public.

*Vote: Motion to Approve and Recommend to the Full Board the Proposed Revised Statutory Language in BPC section 1930 to Require RDHAPs to Provide Documentation of an Existing Relationship with a Dentist at Each License Renewal.*

**Pass. 4:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |

4. Discussion and Possible Action, and Recommendation to the Full Board to Determine the Length of Time for Licensees to Remain on an Inactive Status Before Remediation is Required to Reactivate the Dental Hygiene License

EO Lum reported that this issue was brought forth as a Future Agenda Item at a prior meeting for the Board to discuss as a potential consumer protection issue. BPC section 1940 provides the requirements to apply for, or reactivate, an inactive dental hygiene license, however, there is no prescriptive language as to the duration an inactive license may remain on an inactive status prior to restoring a license to active status and resume patient care. The issue was raised that if a licensee maintains their license for an extended period in the inactive status and not treat patients, at what point would a practitioner's skills diminish where some form of remediation would be necessary for them to resume practice safely on patients. Currently, to restore an inactive license to active status, the licensee is only required to submit an application (Reactivation Application) along with evidence that the licensee completed the required number of approved continuing education (CE) hours within the last two years preceding the date of the application. EO Lum stated that staff is requesting the Subcommittee to review the language in BPC section 1940 to determine if

additional language is needed to limit the length of time for licensees to remain on an inactive status before possible remediation requirements are necessary to restore an active dental hygiene license in the interest of consumer protection.

Discussion took place among the Subcommittee regarding a reasonable amount of time a licensee may remain on inactive status before possible remediation requirements are necessary to restore an active dental hygiene license in the interest of consumer protection. It was decided that inactive California licensees currently practicing out-of-state would have different requirements to reactivate their inactive California dental hygiene license, providing documentation of current practice.

Motion: Nicolette Moultrie motioned for staff to research and begin creating language for the length of time for licensees to remain on an inactive status before possible remediation requirements are necessary to restore an active dental hygiene license at five years, including language for inactive California licensees currently practicing out-of-state to reactivate their inactive California dental hygiene license providing documentation of current practice.

Second: Timothy Martinez

No further comments from the Subcommittee or public.

*Vote: Motion for Staff to Research and Begin Creating Language for the Length of Time for Licensees to Remain on an Inactive Status Before Possible Remediation Requirements are Necessary to Restore an Active Dental Hygiene License at Five Years, Including Language for Inactive California Licensees Currently Practicing Out-of-State to Reactivate their Inactive California Dental Hygiene License Providing Documentation of Current Practice.*

**Pass. 4:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |

## 5. Discussion and Public Comments for Items Not on the Agenda

There were no comments from the public.

## 6. Future Agenda Items

There were no future agenda items.

## 7. Adjournment

Chair Klein adjourned the Dental Hygiene Licensing and Examination Subcommittee meeting at **11:50 a.m.**



## **Dental Hygiene Board of California Meeting Minutes**

**Saturday, November 23, 2019**

**DRAFT**

### **Location:**

Hilton Los Angeles North/Glendale & Executive Meeting Center  
100 West Glenoaks Blvd  
Glendale, CA 91202

### **DHBC Members Present:**

Susan Good, President, Public Member  
Nicolette Moultrie, Vice President, Registered Dental Hygienist (RDH) Member  
Edcelyn Pujol, Secretary, Public Member  
Michelle Hurlbutt, RDH Educator Member  
Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP) Member  
Sandra Klein, Public Member  
Timothy Martinez, Doctor of Dental Medicine (DMD) Public Health Dentist Member  
Garry Shay, Public Member  
Evangeline Ward, RDH Member

### **DHBC Staff Present:**

Anthony Lum, Executive Officer (EO)  
Traci Napper, Program Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and Regulatory Specialist  
Daniel Rangel, Special Investigator  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC

### **Public Present:**

Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Mary McCune, California Dental Association (CDA)  
Laurel Bleak, California Dental Hygienist's Association (CDHA)  
Tonette Steeb, Diablo Valley College  
JoAnn Galliano, MEd, RDH, DHBC Educational Consultant and Subject Matter Expert (SME)  
Katie Flournoy  
Holli Dillon Burgess  
Vickie Kimbrough, California Dental Hygiene Educators' Association (CDHEA), Taft College, Purple Pen  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Kelly Reich, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, West Los Angeles College (WLAC)  
Brenda Serpa, San Joaquin Valley College-Visalia (SJVC-V)  
Lygia Jolley, SJVC-V, CDHA

## 1. Roll Call and Establishment of a Quorum

Susan Good, President of the Dental Hygiene Board of California (DHBC, Board), called the meeting to order at 9:00 a.m. President Good advised that the meeting is being webcast. DHBC Secretary, Edcelyn Pujol, took roll call and a quorum established with nine Members present. President Good reviewed the Bagley-Keene Open Meeting Act and explained that for each action item a roll call vote will be taken.

## 2. Discussion and Possible Action on the Education Subcommittee Report

Edcelyn Pujol, Chairperson of the Education Subcommittee, proposed to the Full Board a motion to approve changes to language in California Code of Regulations (CCR), Title 16, section 1105.

Motion: The Educational Subcommittee motioned to approve proposed language changes to 16 CCR section 1105.

Second: Noel Kelsch.

Discussion commenced regarding changes brought forth by the Educational Subcommittee with regard to proposed language within 16 CCR section 1105. The Board finalized and approved proposed language changes to 16 CCR section 1105.

***Vote: Motion to Approve Proposed Language Changes to 16 CCR section 1105.***

***Pass. 6:3:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         |     | X   |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie |     | X   |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    |     | X   |         |

Edcelyn Pujol proposed to the Full Board a motion to approve proposed draft application language for approval of new Registered Dental Hygienist in Alternative Practice (RDHAP) educational programs.

Motion: The Educational Subcommittee motioned to approve proposed draft application language for approval of new Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.

Second: Garry Shay.

No discussion from Board or public.

***Vote: Motion to Approve Proposed Draft Application Language for Approval of New Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Programs.  
Pass. 9:0:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

### 3. Discussion and Possible Action on the Legislative and Regulatory Subcommittee Report

Noel Kelsch, Chairperson of the Legislative and Regulatory Subcommittee, reported on the actions during the Legislative and Regulatory Subcommittee meeting.

DHBC Executive Officer Anthony Lum reported that the DHBC staff drafted proposed revised statutory language for the Full Board to review regarding Business and Professions Code (BPC) section 1902.3.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1902.3 and direct staff to submit statutory language in the annual Omnibus

Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Timothy Martinez.

No discussion from the Full Board or public.

***Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1902.3 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.  
Pass. 9:0:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1913.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1913 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Sandra Klein.

No discussion from the Full Board or public.

***Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1913 and Direct Staff to Submit Statutory Language in***

***the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.  
Pass. 8:0:1.***

| Name               | Aye | Nay | Abstain    |
|--------------------|-----|-----|------------|
| Susan Good         | X   |     |            |
| Michelle Hurlbutt  | X   |     |            |
| Noel Kelsch        | X   |     |            |
| Sandra Klein       |     |     | X (absent) |
| Timothy Martinez   | X   |     |            |
| Nicolette Moultrie | X   |     |            |
| Edcelyn Pujol      | X   |     |            |
| Garry Shay         | X   |     |            |
| Evangeline Ward    | X   |     |            |

EO Lum reported that the DHBC staff drafted proposed language for the Full Board to review regarding Business and Professions Code (BPC) section 1917.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1917 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Sandra Klein.

Discussion commenced regarding proposed statutory changes to BPC section 1917. The Full Board finalized and approved the proposed revised statutory language for BPC section 1917.

***Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1917 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.  
Pass. 9:0:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1917.1.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1917.1 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Sandra Klein.

No discussion from the Full Board or public.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1917.1 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Susan Good        | X   |     |         |
| Michelle Hurlbutt | X   |     |         |
| Noel Kelsch       | X   |     |         |
| Sandra Klein      | X   |     |         |
| Timothy Martinez  | X   |     |         |

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1922.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1922 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Sandra Klein.

No discussion from the Full Board or public.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1922 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1941.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1941 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Timothy Martinez.

Discussion commenced regarding proposed revised statutory language for BPC section 1941. The Full Board finalized and approved the proposed revised statutory language for BPC section 1941.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1941 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1950.5.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1950.5 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Nicolette Moultrie.

Discussion commenced regarding proposed revised statutory language for BPC section 1950.5. The Full Board finalized and approved the proposed revised statutory language for BPC section 1950.5.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1950.5 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that DHBC staff drafted proposed revised statutory language for the Full Board to review regarding BPC section 1951.

Motion: Garry Shay motioned to adopt proposed revised statutory language for BPC section 1951 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

Second: Michelle Hurlbutt.

No discussion from the Full Board or public.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1951 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive*

*Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that in order to implement the provisions of BPC §1941.5 to allow 16 CCR §1104.3 to move forward in the regulatory process, regulatory language and fees must be approved by the Board. She reported that DHBC staff drafted proposed draft regulatory language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs. Additionally, Chairperson Kelsch reported that staff requested the Board establish by resolution the authority to assess an administrative fine, not to exceed five thousand dollars (\$5,000), for a deficiency in any regulation or standard applicable to a Dental Hygiene Educational Program.

Motion: Garry Shay motioned to adopt proposed draft regulatory language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package

Second: Timothy Martinez.

No discussion from the Full Board or public.

*Vote: Motion to Adopt Proposed Draft Regulatory Language for 16 CCR 1104.3. Site Visits, Investigations, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs and Direct Staff to*

*Take All Steps Necessary to Initiate the Formal Rulemaking Process, Including Noticing the Proposed Language for 45-day Public Comment, Setting the Proposed Language for a Public Hearing, and Authorize the Executive Officer to Make any Non-substantive Changes to the Rulemaking Package.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Motion: Garry Shay motioned to adopt by resolution that the Board or their authorized representative shall have the authority to assess an administrative fine, not to exceed five thousand dollars (\$5,000), for a deficiency in any regulation or standard applicable to a Dental Hygiene Educational Program.

Second: Michelle Hurlbutt.

No discussion from the Full Board or public.

*Vote: Motion to Adopt by Resolution that the Board or Their Authorized Representative Shall Have the Authority to Assess an Administrative Fine, Not to Exceed Five Thousand Dollars (\$5,000), for a Deficiency in any Regulation or Standard Applicable to a Dental Hygiene Educational Program.*

**Pass. 9:0:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Susan Good        | X   |     |         |
| Michelle Hurlbutt | X   |     |         |

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Kelsch reported that staff requested the Subcommittee to discuss and make a recommendation to the Full Board to allow DHBC staff to work with the Dental Board of California (DBC) to relocate sections of the CCR in the DBC's regulations pertaining to dental hygienists to be renumbered and relocated into the DHBC's CCR sections.

Motion: Legislative and Regulatory Subcommittee motioned to allow DHBC staff to work with the Dental Board of California (DBC) to identify and relocate regulatory sections of the CCR in the DBC's regulations pertaining to dental hygienists to be renumbered and relocated into the DHBC's CCR sections.

Discussion commenced regarding allowing DHBC staff to work with the DBC to identify and relocate sections of the CCR in the DBC's regulations pertaining to dental hygienists to be renumbered and relocated into the DHBC's CCR sections.

*Vote: Motion to Allow DHBC Staff to Work with the Dental Board of California (DBC) to Identify and Relocate Regulatory Sections of the CCR in the DBC's Regulations Pertaining to Dental Hygienists to be Renumbered and Relocated into the DHBC's CCR Sections.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |

| Name            | Aye | Nay | Abstain |
|-----------------|-----|-----|---------|
| Edcelyn Pujol   | X   |     |         |
| Garry Shay      | X   |     |         |
| Evangeline Ward | X   |     |         |

Chairperson Kelsch reported that staff recommended to the Board to review the related forms to complete the draft of proposed regulatory amendments to 16 CCR section 1105.2, and direct staff to take all steps necessary to initiate the formal rulemaking process. Additionally, she reported that staff recommended to establish the fees to review and approve an out-of-state Dental Hygiene Educational Program (DHEP) Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen (SLN) and for certification of out-of-state dental hygiene education in SLN at \$500 each to cover application processing, review, and issuance of approval.

Motion: Legislative and Regulatory Subcommittee motioned for the Full Board to Approve of Forms and Fee Resolution for Out-of-State Dental Hygiene Educational Programs and Individual Applicant's Review and Approval of Training in the Procedures of Soft Tissue Curettage, Local Anesthesia Administration, and Nitrous Oxide and Oxygen Analgesia

Discussion commenced regarding proposed revised regulatory language for CCR section 1105.2.

Amended motion following discussion: Garry Shay moved to table discussion on proposed regulatory amendments to 16 CCR section 1105.2 and bring back to the Board as a future agenda item.

Second: Nicolette Moultrie.

*Vote: Motion to Table Discussion on Proposed Regulatory Amendments to 16 CCR section 1105.2 and Bring Back to the Board as a Future Agenda Item.*

**Pass. 8:0:1.**

| Name              | Aye | Nay | Abstain    |
|-------------------|-----|-----|------------|
| Susan Good        | X   |     |            |
| Michelle Hurlbutt | X   |     |            |
| Noel Kelsch       | X   |     |            |
| Sandra Klein      | X   |     |            |
| Timothy Martinez  |     |     | X (absent) |

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

#### 4. Discussion and Possible Action on the Licensing and Examination Subcommittee Report

Sandra Klein, Chairperson of the Licensing and Examination Subcommittee, reported on the actions during the Licensing and Examination Subcommittee meeting.

Chairperson Klein reported that staff requested that the Licensing and Examination Subcommittee review the language in BPC section 1930 and add additional language to require RDHAPs to report a current relationship with a licensed dentist at every license renewal as well as to report any termination of an existing dentist relationship and identify the new dentist with whom the new relationship has been established for referral, consultation, and emergency services within 10 business days in the interest of consumer protection.

Motion: The Licensing and Examination Subcommittee motioned to adopt proposed revised statutory language for BPC section 1930 and direct staff to submit statutory language in the annual Omnibus Bill sponsored by the Legislature and any substantive changes unaccepted by the Omnibus Bill, proposed changes will be sought through sponsored legislation.

No Full Board or public discussion.

*Vote: Motion to Adopt Proposed Revised Statutory Language for BPC Section 1930 and Direct Staff to Submit Statutory Language in the Annual Omnibus Bill Sponsored by the Legislature and Any Substantive Changes Unaccepted by the Omnibus Bill, Proposed Changes will be Sought Through Sponsored Legislation.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Chairperson Klein reported that staff requested the Licensing and Examination Subcommittee to review the language in BPC section 1940 to determine if additional language is needed to limit the length of time for licensees to remain on an inactive status before possible remediation requirements are necessary to restore an active dental hygiene license in the interest of consumer protection. She informed the Board that the Subcommittee tabled the item to allow staff to return with statistics on how other California agencies work with inactive licenses.

Motion: Evangeline Ward motioned to approve the Licensing and Examination Subcommittee Report.

Second: Noel Kelsch.

*Vote: Motion to approve the Licensing and Examination Subcommittee Report.*

***Pass. 9:0:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |

| Name            | Aye | Nay | Abstain |
|-----------------|-----|-----|---------|
| Edcelyn Pujol   | X   |     |         |
| Garry Shay      | X   |     |         |
| Evangeline Ward | X   |     |         |

## 5. Election of New 2020 DHBC Officers

President Good conducted proceedings for election of officers.

| 2020 Officers  |                    |                   |                   |
|----------------|--------------------|-------------------|-------------------|
| Office         | Name               | Nominated         | Second            |
| President      | Timothy Martinez   | Michelle Hurlbutt | Garry Shay        |
| Vice President | Nicolette Moultrie | Michelle Hurlbutt | Garry Shay        |
| Secretary      | Garry Shay         | Noel Kelsch       | Michelle Hurlbutt |

*Vote: Motion to approve the 2020 Officers as nominated.  
Pass. 9:0:0.*

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

## 6. Update on 2019-2020 Legislation and Pending Regulatory Packages (Informational Only)

Dr. Adina Pineschi-Petty, DHBC Education, Legislative, and Regulatory Specialist, provided an update as to the status of 2019 Legislation of interest to the Board. Additionally, Dr. Pineschi-Petty provided an update as to the status of regulatory changes initiated by the Board with regard to 16 CCR § 1107. RDH Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage, 16 CCR § 1109. Approval of Curriculum Requirements for Radiographic Decision-Making and Interim Therapeutic Restoration Courses for the Registered Dental Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), and Registered Dental Hygienist in Extended Functions (RDHEF), 16 CCR § 1115. Retired Licensure, 16 CCR § 1116. Mobile Dental Hygiene Clinics; Issuance of Approval, and 16 CCR §§ 1135 – 1137. Substantial Relationship and Rehabilitation Criteria (AB 2138).

Discussion commenced regarding the regulatory process. Jason Hurtado, Legal Counsel for DHBC, explained the timeline for regulatory package submittals. Additionally, EO Lum informed the Board that all proposals for the Legislative Omnibus Bill will be due mid-January 2020.

Dr. Martinez stated that he is in favor of SB 66 as it will increase the public's access to care.

No further discussion.

## 7. Discussion and Possible Action on Proposal for 2020 Legislative Omnibus Bill

EO Lum requested that in addition to the Statutory changes reviewed within the Legislative and Regulatory Subcommittee, he requested the Board put forth any suggestions for Legislative changes for the 2020 Omnibus Bill.

Motion: Nicolette Moultrie motioned to approve submitted Omnibus changes to move forward in the Omnibus process.

Second: Edcelyn Pujol.

No further discussion or suggestions received.

*Vote: Motion to Approve Submitted Omnibus Changes to Move Forward in the Omnibus Process.*

***Pass. 9:0:0.***

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

#### 8. Update on the Status of Dental Hygiene Educational Programs (Informational Only)

Dr. Pineschi-Petty provided a status update to the review of RDH educational programs conducted by DHBC staff at Sacramento City College, Diablo Valley College, Cabrillo College, and San Joaquin Valley College – Visalia.

Discussion commenced regarding requests for extensions by Dental Hygiene Educational Programs (DHEPs). The Board was advised that extensions are granted depending on severity on a case by case basis by EO Lum.

No further discussion.

#### 9. Report on Licensing Statistics (Informational Only)

Traci Napper, DHBC Program Analyst, presented licensing statistics for the DHBC, as well as statistics for the Law and Ethics exam.

Discussion commenced regarding multiple attempts on the Law and Ethics exam. Multiple attempts for in-state candidates was a cause of concern for the Board. The Board discussed options for future types of the exam as well as to options to assist the student in preparation for the exam.

No further discussion.

## 10. Report on Enforcement Statistics (Informational Only)

Daniel Rangel, DHBC Special Investigator, presented current enforcement statistics for the DHBC. He informed the Board that the Enforcement Unit changed the way statistics were captured and explained the current process. Additionally, EO Lum informed the Board that due to passage of Assembly Bill 2138, the Board is limited to seven years with regard to considering past convictions.

Discussion commenced regarding the process to review past convictions and staff procedures with regard to probation testing.

No further discussion.

## 11. Discussion and Possible Action on Myofunctional Therapy: Is it Within the Dental Hygiene Scope of Practice [CCR 1088(c)(E)]?

EO Lum reported that at prior Board meeting, a member of the public requested to have myofunctional therapy placed on the agenda for the Board to discuss whether this treatment technique is within the scope of practice for dental hygienists. He reported that staff requested the Board to discuss and make a recommendation as to if ongoing myofunctional therapy treatments is within the dental hygiene scope of practice.

Motion: Susan Good motioned that Myofunctional Therapy is not currently within the dental hygiene scope of practice but Myofunctional Evaluation Is.

Second: Edcelyn Pujol.

Discussion commenced amongst the Board as to whether myofunctional therapy is within the scope of practice for dental hygienists. The Board decided to table the decision as to whether myofunctional therapy is within the scope of practice for dental hygienists and refer it back to staff to research and bring back to the Board as a future agenda item.

*Vote: Motion that Myofunctional Therapy is not Currently Within the Dental Hygiene Scope of Practice but Myofunctional Evaluation Is.*  
**Fail. 4:5:0.**

| Name              | Aye | Nay | Abstain |
|-------------------|-----|-----|---------|
| Susan Good        | X   |     |         |
| Michelle Hurlbutt |     | X   |         |
| Noel Kelsch       |     | X   |         |

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Sandra Klein       |     | X   |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie |     | X   |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         |     | X   |         |
| Evangeline Ward    | X   |     |         |

Motion: Noel Kelsch motioned for staff to research Myofunctional Therapy with respect to Dental Hygiene and bring forward the appropriate parties and their research to the Board as a future agenda item.

Second: Michelle Hurlbutt.

*Vote: Motion for Staff to Research Myofunctional Therapy with Respect to Dental Hygiene and Bring Forward the Appropriate Parties and Their Research to the Board as a Future Agenda Item.*

**Pass. 8:1:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         |     | X   |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

## 12. Public Comment for Items Not on the Agenda

None received.

### 13. Future Agenda Items

Informed Consent.

Membership and Board Representation in WREB and CRDTS.

Future Board Meetings:

Motion: Evangeline Ward motioned for the November 2020 Board Meeting to be moved to Sacramento and the July 2020 Meeting moved to Southern California.

Second: Michelle Hurlbutt.

*Vote: Motion for the November 2020 Board Meeting to be Moved to Sacramento and the July 2020 Meeting Moved to Southern California.*

**Pass. 9:0:0.**

| Name               | Aye | Nay | Abstain |
|--------------------|-----|-----|---------|
| Susan Good         | X   |     |         |
| Michelle Hurlbutt  | X   |     |         |
| Noel Kelsch        | X   |     |         |
| Sandra Klein       | X   |     |         |
| Timothy Martinez   | X   |     |         |
| Nicolette Moultrie | X   |     |         |
| Edcelyn Pujol      | X   |     |         |
| Garry Shay         | X   |     |         |
| Evangeline Ward    | X   |     |         |

Acknowledgements for the diligent work for all Board Members serving on the Board was expressed.

### 14. Adjournment of the November 23, 2019 DHBC Meeting

President Good adjourned the meeting at **1:50 p.m.**



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist |
| <b>SUBJECT</b> | <b>FULL 9: Status of Dental Hygiene Board of California (DHBC) Regulatory Packages</b>  |

| Rulemaking File   | Board Approved Language                     | In Progress | Initial Legal Review | Formal DCA Review                                  | DCA Director Review | Agency Review | OAL Notice | OAL Final |
|---|---|-------------|----------------------|--|---------------------|---------------|------------|-----------|
| <b>1135-1137</b><br>AB 2138                                       | X   | Complete    | 2-13-19              | 5-20-19  | 9-11-19             | 11-14-19      | 1-07-20    |           |
| <b>1115</b><br>Retired License                                    | For Board Re-review 5/2020                  | Complete    | 2-13-19              | 5-20-19  |                     |               |            |           |
| <b>1109</b><br>RDM/ITR  | X   | Complete    | 5-13-19              | 7-30-19  | 4-21-20             | 5-22-20       |            |           |
| <b>1107</b><br>SLN  | X   | Complete    | 7-26-19              | 9-26-19  | 4-21-20             | 5-13-20       |            |           |
| <b>1116</b><br>Mobile Dental Hygiene Clinics                      | X<br>Fees to be estab. by resolution 5/2020 | Complete    | 8-8-19               | 10-09-19<br>*HELD due to no authority for inspect. |                     |               |            |           |
| <b>1105.2</b> DHEP Required Curriculum                            | X<br>For Board Re-review 5/2020             | X           |                      |  |                     |               |            |           |
| <b>1104.3</b><br>Inspections, Cite, Fine, and Probation for DHEPs | For Board Re-review 5/2020                  | X           |                      |  |                     |               |            |           |
| <b>1105</b><br>Requirements for DHEPs                             | X   | Complete    | 04-30-20             |  |                     |               |            |           |

| <b>Rulemaking File</b>  | <b>Board Approved Language</b>          | <b>In Progress</b> | <b>Initial Legal Review</b> | <b>Formal DCA Review</b> | <b>DCA Director Review</b> | <b>Agency Review</b> | <b>OAL Notice</b> | <b>OAL Final</b> |
|---|---|--------------------|-----------------------------|--------------------------|----------------------------|----------------------|-------------------|------------------|
| <b>1103</b><br>Definitions  | For Board Review 5/2020                 |                    |                             |                          |                            |                      |                   |                  |
| <b>1104</b><br>Approval/<br>Continuation<br>of Approval of<br>New RDH<br>Programs | For Board Review 5/2020                 |                    |                             |                          |                            |                      |                   |                  |
| <b>1104.1</b><br>Process for<br>Approval of<br>New RDH<br>Program                 | In Progress.<br>Need Stat.<br>Authority |                    |                             |                          |                            |                      |                   |                  |

### Section 100 Regulations

| <b>DBC CCR Section</b> | <b>Title</b>                                   | <b>DHBC CCR/BPC Section</b> | <b>Action/Notes</b>  |
|------------------------|--|-----------------------------|--|
| Title 16               | Name change to Board                           |                             |  |
| 1073                   | Approval of RDHEF Educational Programs         | None                        | Section 100  |
| 1073.1                 | Requirements for RDHEF Educational Programs    | None                        | Section 100  |
| 1073.2                 | Approval of RDHAP Educational Programs         | None                        | Section 100  |
| 1073.3                 | Requirements for RDHAP Educational Programs    | None                        | Section 100  |
| 1075                   | List of Approved Programs                      | None                        | Section 100  |
| 1082.2                 | RDHEF Examination Requirements                 | None                        | Section 100  |
| 1083                   | Passing Grades                                 | 1917-1918*                  | *Does not specify the pass rate by 75%, just states satisfactory completion. |
| 1088                   | RDH Duties and Settings                        | 1907-1914                   | Section 100  |
| 1089                   | RDHEF Duties and Settings                      | 1907-1914, 1918, 1921       | Section 100  |
| 1090                   | RDHAP Duties and Settings                      | 1907-1914, 1921-1931        | Section 100  |
| 1149                   | Definitions – Sponsored Free Healthcare Events | 901 (repealed)              | Authority repealed. Section 100 to remove submitted to Director 5-4-20.      |

| <b>DBC CCR<br/>Section</b> | <b>Title</b>  | <b>DHBC<br/>CCR/BPC<br/>Section</b> | <b>Action/Notes</b>   |
|----------------------------|---|-------------------------------------|---|
| 1150                       | Sponsoring Entity Registration and Recordkeeping Requirements.  | 901 (repealed)                      | Authority repealed. Section 100 to remove submitted to Director 5-4-20. |
| 1151                       | Out-of-State Practitioner Authorization to Participate in Sponsored Event.  | 901 (repealed)                      | Authority repealed. Section 100 to remove submitted to Director 5-4-20. |
| 1152                       | Termination of Authorization and Appeal.  | 901 (repealed)                      | Authority repealed. Section 100 to remove submitted to Director 5-4-20. |
| 1153                       | Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events. | 901 (repealed)                      | Authority repealed. Section 100 to remove submitted to Director 5-4-20. |



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Legislative and Regulatory Subcommittee   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist   |
| <b>SUBJECT</b> | <b>FULL 10: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation.</b> |

### Background:

Pursuant to Business and Professions Code sections 141, 475, and 480, under existing law, boards may deny or discipline a license based upon discipline imposed by California, another state, an agency of the federal government, or another country for any act substantially related to the licensed profession.

Effective July 1, 2020, Assembly Bill 2138 (Chapter 995, Statutes of 2018) will require boards to amend their existing regulations governing substantially-related crimes or acts, and rehabilitation criteria.

Business and Professions Code section 480 presently authorizes boards to deny an application for licensure based on a conviction for a crime or act substantially related to the licensed business or profession. Likewise, section 490 authorizes boards to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession.

AB 2138 also specifies three criteria that boards must consider when evaluating whether a crime is "substantially related" to the regulated business or profession. The criteria shall include: (1) The nature and gravity of the offense; (2) The number of years elapsed since the date of the offense; and (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed. The Department of Consumer Affairs sent an all agency memorandum to assist the boards in crafting amendments to their regulations for consistency purposes. Dental Hygiene Board of California (Board) staff worked with its Legal Counsel to draft proposed

language for the Board's consideration to amend its substantial relationship criteria and rehabilitation criteria. The proposed amended language satisfies the provisions of AB 2138.

Additionally, on March 2, 2020 and May 18, 2020, the Board received comments on the Board's proposed regulations implementing Assembly Bill (AB) 2138. Staff has prepared the following document which summarizes the comments and proposes a response for the Board's approval.

### **Staff Recommendation:**

Staff recommends to the Board to consider and possibly approve the responses drafted to address comments received on March 2, 2020 and May 18, 2020 on the Board's proposed regulations implementing AB 2138.

Additionally, in response to changes in language that the Office of Administrative Law proposed to other boards, staff recommends to the Board to consider and possibly approve the amended proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Pros: If the Board approves the addressed comments, and as the proposed regulatory language fulfills the new requirements to evaluate applications with a criminal history as set forth in AB 2138 and if approved, the Board will meet the department's deadline to move the regulation forward with an expected implementation date of July 1, 2020.

Cons: If the proposed comments and regulatory language is not approved, the Board will not have adequate time for the regulation to proceed through the current regulatory process pursuant to the Administrative Procedures Act to be implemented by July 1, 2020.



(Proposed Deletion in Strikeout; Proposed Addition in Underline)

**Article 10. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Denials, Discipline, and Reinstatement**

**MODIFIED TEXT**

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

To add § 1135 in Article 10 of Division 11 of Title 16 of the California Code of Regulations to read as follows:

§ 1135. Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to Section 141, ~~or~~ Division 1.5 (commencing with Section 475), or Sections 1950, 1950.5, or 1952 of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions if, to a substantial degree, it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Dental Hygiene Board of California (Board) shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and

**Commented [RD1]:** The cited sections refer to grounds for discipline listed in the Board's practice act for "substantially related" offenses. It is proposed to be added here so that references to substantial relationship are addressed together in one regulation.

The OAL would view this change as substantial. This kind of change is subject to a 15-day notice and comment period, and would require a Board vote to approve it.

(3) The nature and duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions;

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of Chapter 1 of Division 2 (commencing with Section 500) of the Code.

(2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Dental Practice Act (Chapter 4 of Division 2, commencing with Section 1600, of the Code) or other state or federal laws governing the practice of dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

(3) Conviction or act involving fiscal dishonesty.

(4) Conviction or act involving child abuse.

(5) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.

(6) Conviction or act involving lewd conduct or sexual impropriety.

(7) Conviction or act involving assault, battery, or other violence.

(8) Any conviction, crime, professional misconduct, or act involving the use, sale, gift, administration, furnishing of narcotics, or dangerous drugs or dangerous devices Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public.

(9) Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 481, 493, 1905, and 1906, Business and Professions Code. Reference: Sections 141, 480, 481, 490, ~~and 493~~, 1950, 1950.5, and 1952, Business and Professions Code.



## Proposed Regulation for Rehabilitation Criteria for Denials and Reinstatements.

### MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

To add § 1136 in Article 10 of Division 11 of Title 16 of the California Code of Regulations to read as follows:

#### § 1136. Rehabilitation Criteria for Denials and Reinstatements.

(a) When considering the denial of a license under Section 480 of the Code on the ground that the applicant ~~was has been~~ convicted of a crime, the Dental Hygiene Board of California (Board) shall consider whether the applicant made a showing of rehabilitation ~~and is presently eligible for a license~~, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria:

- (1) The nature and gravity of the crime(s) under consideration.
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

**Commented [RD1]:** This change would be viewed as non-substantial.

**Commented [RD2]:** OAL believes that the term "eligible" is unclear, in that OAL believed it could be viewed as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure.

This change would be viewed as non-substantial.

(b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on Sections 1943 or 1958.1 of the code. If subdivision (a) is inapplicable, or the Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating an applicant's rehabilitation. The Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after consideration of the following criteria, the Board finds that the applicant is rehabilitated:

(1) The nature and severity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial under sections 480 or 1943 of the Code.

(3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subsection (b)(1) or (b)(2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of section 1957 of the Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

NOTE: Authority cited: Sections 480, 481, 482, 1905, and 1906, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 1943, and 1957, and 1958.1, Business and Professions Code.

**Commented [RD3]:** OAL viewed the stricken text highlighted in light blue to be unclear in specifying the circumstances when the regulation would apply. OAL changed the text from a catch-all approach to an approach where each application is specified in the regulation. OAL views the changes highlighted in blue to be non-substantial.

With respect to the portion highlighted in yellow, OAL views this as an expansion of the proposed regulation's application and, consequently, a substantial change. The cited code sections are in the Board's practice act and authorize the Board to deny a license.

**Commented [RD4]:** OAL viewed the addition of "professional misconduct" to be a non-substantial conforming change necessitated by the changes to paragraph (b).



## Proposed Regulation for Rehabilitation Criteria for Suspensions and Revocations.

### MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

To add §1137 in Article 10 of Division 11 of Title 16 of the California Code of Regulations to read as follows:

#### § 1137. Rehabilitation Criteria for Suspensions and Revocations.

(a) When considering the suspension or revocation of a license issued by the Dental Hygiene Board of California (Board) on the ground that a person holding a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation ~~and is presently fit for a license~~, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria:

- (1) The nature and gravity of the crime(s) under consideration.
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

**Commented [RD1]:** OAL believes that the term "eligible" is unclear, in that OAL believed it could be viewed as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure.

This change would be viewed as non-substantial.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) ~~If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 1949, 1950, 1952, 1955, or 1958.1 of the code. If subdivision (a) is inapplicable, or the Board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating a licensee's rehabilitation. The Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Board finds that the licensee is rehabilitated:~~

(1) The nature and severity of the act(s), ~~disciplinary action(s)~~, or crime(s) under consideration.

(2) The total criminal record.

(3) The time that has elapsed since commission of the act(s), ~~disciplinary action(s)~~, or crime(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.

(5) The criteria in subdivision (a)(1)-(5), as applicable

(6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.

(7) Evidence, if any, of rehabilitation submitted by the licensee.

NOTE: Authority cited: Sections 481, 482, 490, 1905, and 1906, Business and Professions Code. Reference: Sections 481, 482, 488, 490, 493, 1943, ~~1949, 1950, 1952, 1955, and 1957, and 1958.1~~, Business and Professions Code.

**Commented [RD2]:** The same rationale for the changes to section 1136 applies here. OAL views all of the underscore and strike through changes in blue highlight to paragraph (b) to be non-substantive.

With respect to the yellow highlighted portion, OAL views this as an expansion of the proposed regulation's application and, consequently, a substantial change. The cited provisions are an exhaustive list of the sections in the Board's practice act that authorize the Board to discipline a license.

**Commented [RD3]:** The same rationale for adding "professional misconduct" to section 1136 applies to the addition of "disciplinary action(s)" here.

OAL considered the addition of "disciplinary action(s)" to be a non-substantive conforming change necessitated by the changes to paragraph (b).



## **Summary of Comments to Proposed Title 16, California Code of Regulations, Sections 1135-1137**

- A.** On March 2, 2020, the Dental Hygiene Board of California (Board) received a letter from Root and Rebound (Comments) on the Board's proposed regulations implementing Assembly Bill (AB) 2138. Below are the Board's responses to the comments made therein.

### **Comment A-1**

#### **Comment Summary:**

This comment states that the proposed regulations leave some gaps in the regulatory scheme pursuant to the changes effected by Business and Professions Code (BPC) section 480, as modified by AB 2138. The comment states that the proposed regulations fail to meet and implement BPC section 480, and are not complete as written. Additionally, the comment states that the proposed regulations fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

#### **Response:**

The Board rejects this comment.

The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138 (BPC, § 481). Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **Comment A-2**

### **Comment Summary:**

This comment requests the proposed language include a “7-year washout period” for consideration of convictions or discipline which are not statutorily considered serious felonies under the Penal Code. (BPC, § 480, subd. (a)(1), effective July 1, 2020.)

### **Response:**

The Board rejects this comment.

Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).)

The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1), effective July 1, 2020. As this is already included in statute, adding this provision is duplicative of section 480(a)(1). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment A-3**

### **Comment Summary:**

This comment requests the proposed language provide that a denial cannot occur if it is based on an expunged conviction, if the person has provided evidence of rehabilitation, or was granted clemency/pardon or for an arrest that led to a disposition other than a conviction.

### **Response:**

The Board rejects this comment.

Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the basis of the underlying acts, if it has been dismissed pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these

provisions are already specifically addressed in statute, adding them again in regulation would be duplicative.

Accordingly, the Board is making no changes to the regulations in response to this comment.

#### **Comment A-4**

#### **Comment Summary:**

This comment states the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. This comment recommends the Board consider alternate forms of rehabilitation documentation beyond law enforcement supervision such as reviewing volunteer service, successful employment in a related field, unpaid work in the community, furthered education and other markers of rehabilitation.

#### **Response:**

The Board rejects this comment.

BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated.

The final text for proposed section 1136(a) and (b) articulates a two-step process for evaluating rehabilitation:

1. First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to section 1136(a) and (b) to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria include the nature and gravity of the crime(s) under consideration, the length(s) of the applicable parole or probation period(s), the extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. If the Board finds rehabilitation, no further information needs to be provided.
2. The second step, if rehabilitation is not demonstrated based on sentence completion, requires the Board consider certain other criteria to evaluate rehabilitation. This includes the nature and severity of the act(s), professional

misconduct, or crime(s) under consideration as grounds for denial, evidence of any act(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial, the time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (b)(1) or (b)(2), the extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant, and evidence, if any, of rehabilitation submitted by the applicant. A general category permitting submission of any rehabilitation evidence allows an applicant to demonstrate volunteer or charity work, furthered education, successful employment, or any other activities that they choose to submit to be considered by the Board. As the Board can and already does give serious consideration to these factors when considering whether an applicant or licensee is rehabilitated, the Board believes that the proposed language is consistent with legislative intent.

Accordingly, the Board will not be listing sample rehabilitation criteria in response to this comment.

#### **Comment A-5**

##### **Comment Summary:**

This comment states that the proposed regulation language does not mention that obtaining a certificate of rehabilitation, dismissal, or having arrest which merely led to an infraction/citation or juvenile adjudication means that a person shall not be denied a license.

##### **Response:**

The Board rejects this comment.

As noted in the response to Comment 3 above, BPC section 480(b), (c), and (d) expressly prohibit denial of a license in these circumstances. Stating these facts in the regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

#### **Comment A-6**

##### **Comment Summary:**

This comment states that the proposed regulations fail to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who

provided evidence of mitigation or rehabilitation, and the final disposition and demographic information.

**Response:**

The Board rejects this comment.

These requirements are already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

**Comment A-7**

**Comment Summary:**

This comment states that proposed section 1311 fails to state that the board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history.

**Response:**

The Board rejects this comment. There is no proposed section 1311. The Board has no authority to require disclosures above those authorized by statute. An applicant may disclose evidence of rehabilitation in section 1136 on a voluntary basis. Therefore, the Board is making no changes to the regulations in response to this comment.

**Comment A-8**

**Comment Summary:**

This comment states that proposed section 1132 maintains a request for an applicant to pay the costs for furnishing the request of disclosure for new conviction providing for an added burden to individuals who are applying for this license.

**Response:**

The Board rejects this comment.

There is no proposed section 1132 and there is no request for costs in the proposed regulations. Therefore, the Board is making no changes to the regulations in response to this comment.

## **Comment A-9**

### **Comment Summary:**

This comment states that the proposed regulation fails to state that the board shall notify the applicant in writing of denial, disqualifications, procedures in place for the applicant to challenge a decision or request consideration, that the applicant has a right to appeal the board's decision, and the process for requesting a complete conviction history.

### **Response:**

The Board rejects this comment.

BPC sections 480(f)(3), 485 through 487, and the Administrative Procedure Act, at Government Code section 11500, *et seq.*, already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment A-10**

### **Comment Summary:**

This comment states that the proposed language in section 1135(c) provides a list of presumptive convictions indicating a substantial relationship without the opportunity and true consideration of any evidence which could prove otherwise. The comment states that driving is not a necessary skill for the profession of dental hygiene so section 1135(c)(9) (which states that a conviction for driving under the influence of drugs or alcohol is substantially related to the qualifications, functions or duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions) should not be included. Additionally, the comment states that each of the crimes that are not referencing a direct violation of dental practice, such as subdivision (c)(2), should not be included because they are not necessarily related.

### **Response:**

The Board rejects this comment.

As explained below, the inclusion of each of these categories of conduct reflects a Board determination that they evidence the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by

the license or certificate. Passage of time does not lessen the qualitative nexus between a crime and a substantial relationship to the functions of a profession. While courts have looked to the type of work performed by a licensee in determining whether or not a nexus exists, they have not created time limits for when a crime becomes “no longer” related.

Proposed section 1135(c) contains types of crimes or conduct that the Board generally considers to be substantially related to the qualifications, functions or duties of the professions regulated by the Board.

These crimes or conduct include a conviction or act involving fiscal dishonesty, a conviction or act involving child abuse, a conviction requiring a person to register as a sex offender pursuant to Penal Code section 290, a conviction or act involving lewd conduct or sexual impropriety, a conviction or act involving assault, battery, or other violence, any conviction, crime, professional misconduct, or act involving the use, sale, gift, administration, furnishing of narcotics, or dangerous drugs or dangerous devices (Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public, and a conviction for driving under the influence of drugs or alcohol. (Proposed section 1135, subds. (c)(3)-(c)(9).)

1. Subdivision (c)(3), a conviction of act involving fiscal dishonesty.

Dental hygienists often work in dental offices that receive federal funding and/or deal with insurance companies on a regular basis. Licensees must accurately report services rendered. Conduct involving fiscal dishonesty erodes trust that the services will be accurately billed to the appropriate parties. To enhance trust in the profession, acts or crimes involving fiscal dishonesty are deemed substantially related to the duties of licensure. For instance, a conviction for tax evasion/income tax fraud was considered related to the practice of medicine in *Windham v. Bd. of Med. Quality Assurance* (1980) 104 Cal. App. 3d 461. Medi-Cal fraud by a dentist was upheld as cause for revocation in *Hanna v. Dental Bd. of California* (2012) 212 Cal. App. 4th 759, which cited a previous medical board action:

Convictions for Medi-Cal fraud are substantially related to a professional's fitness or capacity to practice her profession. (*Matanky v. Board of Medical Examiners* (1978) 79 Cal.App.3d 293, 305–306, 144 Cal.Rptr. 826 (*Matanky*) [“Intentional dishonesty ... demonstrates a lack of moral character and satisfies a finding of unfitness to practice medicine”].) (*Hanna*, 212 Cal. App. 4th 759, 765.)

2. Subdivision (c)(4), a conviction or act involving child abuse.
3. Subdivision (c)(5), a conviction requiring a person to register as a sex offender pursuant to Penal Code section 290.
4. Subdivision (c)(6), a conviction or act involving lewd conduct or sexual impropriety.

The Board has determined that these acts void trust, and licensees must be

trustworthy.

BPC section 726 was amended by AB 179 (Chapter 510, Statutes of 2015), to provide: “(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.” Dentistry and Dental Hygiene are chapters of the Healing Arts Division, and so the article on Unprofessional Conduct applies.

In *Green v. Board of Dental Examiners* (1996), 47 Cal.App.4th 786, a dentist’s sexual conduct with patients was substantially related to his functions and duties as dentist and thus warranted disciplinary action:

The disciplinary action against Green was premised on Section 726 which provided that “ ‘[t]he commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for which a license was issued constitutes unprofessional conduct and grounds for disciplinary action....’ ” (*Gromis v. Medical Board* (1992) 8 Cal.App.4th 589, 594.) “ ‘[S]ection 726, which is a licensing provision, allows the licensing authority to discipline a [dentist] who engages in sexual acts with a patient only if it is “substantially related to the qualifications, functions, or duties of the occupation for which a license was issued....” [Citation.]’ [Citation.]” (*Id.* at p. 597.)

[T]he statute does not bar all sexual relations with a patient—only activity which is ‘substantially related to the qualifications, functions, or duties of the occupation.’ ” (*Gromis* at p. 594, 10 Cal.Rptr.2d 452.) “Of course, nonconsensual sexual advances or touching has been upheld as a ground for discipline. [Citation.] Consensual sexual activity, too, has been found a legitimate basis for discipline when the sexual activity occurred under guise of treatment, as part of a physical examination, during psychiatric treatment or in exchange for drugs.” (*Id.* at p. 595, 10 Cal.Rptr.2d 452.) (*Green*, at pp. 800-801.)

In *Atienza v. Taub* (1987) 194 Cal.App.3d 388, the appellate court held:

...that a sexual relationship with a patient constitutes professional negligence ‘only if the physician engaged in the sexual conduct on the pretext that it was a necessary part of the treatment for which the patient has sought out the physician.’ [(*Atienza*, at p. 392, 239 Cal.Rptr. 454.)]” (*Gromis v. Medical Board*, *supra*, 8 Cal.App.4th at p. 596, 10 Cal.Rptr.2d 452.) (*Green*, at p. 802.)

Dental hygiene services are often performed in a private room, where the consumer is ensconced in a position of semi- or full recline. A hygienist has full movement around

the room and over the consumer. A hygienist is trusted to touch the consumer to perform hygiene-related services, such as draping (and removing) x-ray covers over a consumer, adjusting a consumer's head for teeth cleaning, or inserting instruments into a consumer's mouth for dental work. Acts of child abuse or sexual abuse are substantially related to qualifications, functions or duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions because of these professionals' position of trust and the closeness with which they work with patients.

5. Subdivision (c)(7), a conviction or act involving assault, battery, or other violence.
6. Subdivision (c)(8), citing any conviction, crime, professional misconduct, or act involving the use, sale, gift, administration, furnishing of narcotics, or dangerous drugs or dangerous devices Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public.

Healing arts are governed in principle by the Hippocratic oath ("Oath") to do no harm. The Board has determined that any conviction or act involving assault, battery, or other violence, or furnishing of dangerous drugs or devices, is substantially related to the covenant not to harm fellow persons. According to *Weissbuch v. Board of Medical Examiners* (1974) 41 Cal.App.3d 924, 929:

...conviction of a doctor for violation of the laws regarding narcotics and dangerous drugs or a doctor's personal non-prescribed use of such substances evidences a sufficient danger to the public that sanctions should be imposed regardless of the availability of evidence that such conduct in fact impaired the doctor's professional skill.

7. Subdivision (c)(9), a conviction for driving under the influence of drugs or alcohol.

The Board has determined that any licensee who drives under the influence of drugs or alcohol is presumed to understand the risk they pose to other members of society and thus violates the Oath.

In *Watson, supra*, 176 Cal.App.4th 1407, the Medical Board of California revoked the license of a physician based on four arrests for DUI. (*Id.* at pp. 1411-1412.) None of the arrests had resulted in a conviction, although criminal charges related to the most recent arrest were still pending at the time of the administrative hearing. (*Id.* at pp. 1413-1414.) On appeal, the physician asserted section 2239 permitted discipline based on the use of alcohol in a dangerous manner only if there was a separate finding establishing a nexus between such use and the physician's ability to practice medicine safely. (*Id.* at p. 1411.) The court determined the Legislature had made an implied finding that the use of alcohol in a dangerous manner was de facto unprofessional conduct that substantially related to the physician's fitness to practice medicine such that no further finding was required in an individual case, and that it was constitutional for the Legislature to establish the nexus in this manner. (*Id.* at pp. 1418-1424.)

In *Walker v. Physical Therapy Bd. of California* (2017), 16 Cal. App. 5th 1219, a single act (not a conviction) of intemperance formed the basis for discipline of a physical therapist. In *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, the court concluded that a nexus exists, given that driving under the influence “reflect[s] a lack of sound professional and personal judgment,” threatens the safety of the public, and demonstrates both a disregard of the medical knowledge of the effects of alcohol and the legal prohibitions against drinking and driving. (*Id.* at p. 770; see also, *Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195 [a nurse was disciplined for a single incidence of DUI].)

Additionally, registered dental hygienists in alternative practice are authorized to operate mobile dental hygiene clinics (MDHC) registered as a dental hygiene office or facility. (Bus. & Prof. Code, §§ 1926.1 & 1926.2.) The Board is presently developing regulations to govern MDHCs. Licensees operating MDHCs would need to drive to operate such clinics. Accordingly, driving is substantially related to this function of a licensee.

Accordingly, the Board is making no changes to the regulations in response to this comment.

#### **Comment A-11**

##### **Comment Summary:**

This comment states that the proposed language in section 1136(a)(4)-(5) should clarify that although probation and parole terms are relevant for those who are currently on supervision, this should not take hold of the analysis of the conviction for those who are no longer on supervision.

##### **Response:**

The Board rejects this comment.

BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated. The Board has determined that probation and parole terms and conditions are also relevant to those no longer on probation or parole because they are historical evidence of compliance with probation and parole.

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment A-12**

### **Comment Summary:**

This comment states that the Board should provide examples of evidence of mitigating circumstances and rehabilitation efforts to better define rehabilitation.

### **Response:**

The Board rejects this comment.

BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated. Sections 1136(b)(5) and 1137(b)(7) are catch-all categories for the licensee to provide evidence of rehabilitation. The Board prefers to articulate broad categories for this evidence, instead of articulating possible forms of such evidence, as listing particular examples or scenarios might be seen as a limitation to those types of evidence listed.

Accordingly, the Board is making no changes to the regulations in response to this comment.

**B.** On May 18, 2020, the Board received a joint letter from A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Community Legal Services in East Palo Alto, Criminal Justice Clinic, UC Irvine School of Law, Drug Policy Alliance, East Bay Community Law Center, Legal Aid at Work, Legal Services for Prisoners with Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Root and Rebound, Rubicon Programs, and Underground Scholars Initiative on the Board's proposed regulations implementing AB 2138. Below are the Board's responses to the comments made therein.

## **Comment B-1**

### **Comment Summary:**

This comment states that the proposed regulations leave some gaps in the regulatory scheme pursuant to the changes to BPC section 480, 481, 482, and 493 as modified by AB 2138. The comment states that the proposed regulations fail to meet and implement these statutes and are not valid. Additionally, the comment states that the proposed regulations fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

**Response:**

The Board rejects this comment.

The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138 (BPC, § 481). Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**Comment B-2****Comment Summary:**

Section 1135 states that certain violations are substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of BPC section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis.

Moreover, section 1135 fails to note that criminal history that resulted in the applicant obtaining a certificate of Rehabilitation, pardon, dismissal per Penal Code section 1203.4 et seq., or an arrest that resulted in a disposition other than a conviction shall not result in the denial of a license.

**Response:**

The Board rejects this comment.

As explained below, the inclusion of each of these categories of conduct reflects a Board determination that they evidence the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by the license or certificate. Passage of time does not lessen the qualitative nexus between a crime and a substantial relationship to the functions of a profession. While courts have looked to the type of work performed by a licensee in determining whether or not

a nexus exists, they have not created time limits for when a crime becomes “no longer” related.

Proposed section 1135(c) contains types of crimes or conduct that the Board generally considers to be substantially related to the qualifications, functions or duties of the professions regulated by the Board.

These crimes or conduct include a conviction or act involving fiscal dishonesty, a conviction or act involving child abuse, a conviction requiring a person to register as a sex offender pursuant to Penal Code section 290, a conviction or act involving lewd conduct or sexual impropriety, a conviction or act involving assault, battery, or other violence, any conviction, crime, professional misconduct, or act involving the use, sale, gift, administration, furnishing of narcotics, or dangerous drugs or dangerous devices (Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public, and a conviction for driving under the influence of drugs or alcohol. (Proposed section 1135, subds. (c)(3)-(c)(9).)

1. Subdivision (c)(3), a conviction of act involving fiscal dishonesty.

Dental hygienists often work in dental offices that receive federal funding and/or deal with insurance companies on a regular basis. Licentiates must accurately report services rendered. Conduct involving fiscal dishonesty erodes trust that the services will be accurately billed to the appropriate parties. To enhance trust in the profession, acts or crimes involving fiscal dishonesty are deemed substantially related to the duties of licensure. For instance, a conviction for tax evasion/income tax fraud was considered related to the practice of medicine in *Windham v. Bd. of Med. Quality Assurance* (1980) 104 Cal. App. 3d 461. Medi-Cal fraud by a dentist was upheld as cause for revocation in *Hanna v. Dental Bd. of California* (2012) 212 Cal. App. 4th 759, which cited a previous medical board action:

Convictions for Medi-Cal fraud are substantially related to a professional's fitness or capacity to practice her profession. (*Matanky v. Board of Medical Examiners* (1978) 79 Cal.App.3d 293, 305–306, 144 Cal.Rptr. 826 (*Matanky*) [“Intentional dishonesty ... demonstrates a lack of moral character and satisfies a finding of unfitness to practice medicine”].) (*Hanna*, 212 Cal. App. 4th 759, 765.)

2. Subdivision (c)(4), a conviction or act involving child abuse.
3. Subdivision (c)(5), a conviction requiring a person to register as a sex offender pursuant to Penal Code section 290.
4. Subdivision (c)(6), a conviction or act involving lewd conduct or sexual impropriety.

The Board has determined that these acts void trust, and licentiates must be trustworthy.

BPC section 726 was amended by AB 179 (Chapter 510, Statutes of 2015), to provide:

“(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.” Dentistry and Dental Hygiene are chapters of the Healing Arts Division, and so the article on Unprofessional Conduct applies.

In *Green v. Board of Dental Examiners* (1996), 47 Cal.App.4th 786, a dentist’s sexual conduct with patients was substantially related to his functions and duties as dentist and thus warranted disciplinary action:

The disciplinary action against Green was premised on Section 726 which provided that “ ‘[t]he commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for which a license was issued constitutes unprofessional conduct and grounds for disciplinary action....’ ” (*Gromis v. Medical Board* (1992) 8 Cal.App.4th 589, 594.) “ ‘[S]ection 726, which is a licensing provision, allows the licensing authority to discipline a [dentist] who engages in sexual acts with a patient only if it is “substantially related to the qualifications, functions, or duties of the occupation for which a license was issued....” [Citation.]’ [Citation.]” (*Id.* at p. 597.)

[T]he statute does not bar all sexual relations with a patient—only activity which is ‘substantially related to the qualifications, functions, or duties of the occupation.’ ” (*Gromis* at p. 594, 10 Cal.Rptr.2d 452.) “Of course, nonconsensual sexual advances or touching has been upheld as a ground for discipline. [Citation.] Consensual sexual activity, too, has been found a legitimate basis for discipline when the sexual activity occurred under guise of treatment, as part of a physical examination, during psychiatric treatment or in exchange for drugs.” (*Id.* at p. 595, 10 Cal.Rptr.2d 452.) (*Green*, at pp. 800-801.)

In *Atienza v. Taub* (1987) 194 Cal.App.3d 388, the appellate court held:

...that a sexual relationship with a patient constitutes professional negligence ‘only if the physician engaged in the sexual conduct on the pretext that it was a necessary part of the treatment for which the patient has sought out the physician.’ [(*Atienza*, at p. 392, 239 Cal.Rptr. 454.)]” (*Gromis v. Medical Board, supra*, 8 Cal.App.4th at p. 596, 10 Cal.Rptr.2d 452.) (*Green*, at p. 802.)

Dental hygiene services are often performed in a private room, where the consumer is ensconced in a position of semi- or full recline. A hygienist has full movement around the room and over the consumer. A hygienist is trusted to touch the consumer to perform hygiene-related services, such as draping (and removing) x-ray covers over a consumer, adjusting a consumer’s head for teeth cleaning, or inserting instruments into

a consumer's mouth for dental work. Acts of child abuse or sexual abuse are substantially related to qualifications, functions or duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions because of these professionals' position of trust and the closeness with which they work with patients.

5. Subdivision (c)(7), a conviction or act involving assault, battery, or other violence.
6. Subdivision (c)(8), citing any conviction, crime, professional misconduct, or act involving the use, sale, gift, administration, furnishing of narcotics, or dangerous drugs or dangerous devices Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public.

Healing arts are governed in principle by the Hippocratic oath ("Oath") to do no harm. The Board has determined that any conviction or act involving assault, battery, or other violence, or furnishing of dangerous drugs or devices, is substantially related to the covenant not to harm fellow persons. According to *Weissbuch v. Board of Medical Examiners* (1974) 41 Cal.App.3d 924, 929:

...conviction of a doctor for violation of the laws regarding narcotics and dangerous drugs or a doctor's personal non-prescribed use of such substances evidences a sufficient danger to the public that sanctions should be imposed regardless of the availability of evidence that such conduct in fact impaired the doctor's professional skill.

7. Subdivision (c)(9), a conviction for driving under the influence of drugs or alcohol.

The Board has determined that any licensee who drives under the influence of drugs or alcohol is presumed to understand the risk they pose to other members of society and thus violates the Oath.

In *Watson, supra*, 176 Cal.App.4th 1407, the Medical Board of California revoked the license of a physician based on four arrests for DUI. (*Id.* at pp. 1411-1412.) None of the arrests had resulted in a conviction, although criminal charges related to the most recent arrest were still pending at the time of the administrative hearing. (*Id.* at pp. 1413-1414.) On appeal, the physician asserted section 2239 permitted discipline based on the use of alcohol in a dangerous manner only if there was a separate finding establishing a nexus between such use and the physician's ability to practice medicine safely. (*Id.* at p. 1411.) The court determined the Legislature had made an implied finding that the use of alcohol in a dangerous manner was de facto unprofessional conduct that substantially related to the physician's fitness to practice medicine such that no further finding was required in an individual case, and that it was constitutional for the Legislature to establish the nexus in this manner. (*Id.* at pp. 1418-1424.)

In *Walker v. Physical Therapy Bd. of California* (2017), 16 Cal. App. 5th 1219, a single act (not a conviction) of intemperance formed the basis for discipline of a

physical therapist. In *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, the court concluded that a nexus exists, given that driving under the influence “reflect[s] a lack of sound professional and personal judgment,” threatens the safety of the public, and demonstrates both a disregard of the medical knowledge of the effects of alcohol and the legal prohibitions against drinking and driving. (*Id.* at p. 770; see also, *Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195 [a nurse was disciplined for a single incidence of DUI].)

Additionally, registered dental hygienists in alternative practice are authorized to operate mobile dental hygiene clinics (MDHC) registered as a dental hygiene office or facility. (Bus. & Prof. Code, §§ 1926.1 & 1926.2.) The Board is presently developing regulations to govern MDHCs. Licensees operating MDHCs would need to drive to operate such clinics. Accordingly, driving is substantially related to this function of a licensee.

Passage of time, instead, would be reflected as a factor in rehabilitation.

As for the comment in the second paragraph, please see response to Comment 5.

Accordingly, the Board is making no changes to the regulations in response to this comment.

#### **Comment B-3:**

##### **Comment Summary:**

Sections 1136 and 1137 rely too heavily on law enforcement’s reports and determination of the applicant’s progress. Rehabilitation can and does take many forms that the current language does not fully embrace. The comment refers to Comment 8 below for examples of rehabilitation to expand the proposed regulations.

##### **Response:**

The Board incorporates herein by reference its response to Comment 8.

#### **Comment B-4:**

##### **Comment Summary:**

This comment requests the proposed language include a “7-year washout period” for consideration of convictions or discipline which are not statutorily considered serious felonies under Penal Code section 1192.7. (BPC, § 480, subd. (a)(1), effective July 1, 2020.)

**Response:**

The Board rejects this comment.

Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).)

The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1)(A) and (B), effective July 1, 2020. As this is already included in statute, adding this provision is duplicative of section 480(a)(1). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the regulations in response to this comment.

**Comment B-5****Comment Summary:**

This comment states that the regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a certificate of rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. (BPC, § 480, subs. (b)-(d).)

**Response:**

The Board rejects this comment.

Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the basis of the underlying acts, if it has been dismissed pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these provisions are already specifically addressed in statute, adding them again in regulation would be duplicative.

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment B-6**

### **Comment Summary:**

This comment states that the regulations fail to state that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC, § 480, subd. (f)(2).)

### **Response:**

The Board rejects this comment.

Section 480(f)(2), effective July 1, 2020, provides that a board cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. As this is already provided by statute, adding this provision is duplicative of section 480(f)(2). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **Comment B-7**

### **Comment Summary:**

This comment states that the proposed language fails to include that the board must notify the applicant in writing if the applicant is denied a license or is disqualified from licensure. The comment states that the Board must provide procedures describing the process for an applicant to challenge a decision or request consideration, a procedure stating that the applicant has a right to appeal the Board's decision, and provide a process for requesting a complete conviction history. (BPC, § 480, subd. (f)(3).)

### **Response:**

The Board rejects this comment.

BPC sections 480(f)(3), 485 through 487, and the Administrative Procedure Act, at Government Code section 11500, *et seq.*, already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment B-8**

### **Comment Summary:**

This comment states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter states that rehabilitation can and does take many forms that extend beyond law enforcement supervision. Therefore, the letter recommends that the Board consider adding the following rehabilitation criteria:

- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinence from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
  - Personal testimony,
  - Evidence of rehabilitation submitted by the applicant,
  - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes; and
- Other markers of rehabilitation.

### **Response:**

The Board rejects this comment.

BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated. Sections 1136(b)(5) and 1137(b)(7) are catch-all categories for the licensee to provide evidence of rehabilitation. The Board prefers to articulate broad categories for this evidence, instead of articulating possible forms of such evidence, as listing particular examples or scenarios might be seen as a limitation to those types of evidence listed.

Accordingly, the Board is making no changes to the regulations in response to this comment.

## **Comment B-9**

### **Comment Summary:**

The comment states that the proposed regulations fail to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who provided evidence of mitigation or rehabilitation, and the final disposition and demographic information.

### **Response:**

The Board rejects this comment.

These requirements are already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.



March 2, 2020

California Department of Consumer Affairs  
Dental Hygiene Board of California  
Attn: Adina A. Pineschi-Petty DDS  
2005 Evergreen Street, Suite 2050  
Sacramento CA, 95815

Via email: [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov)

**RE: Comments in Response to Dept. of Consumer Affairs, Dental Hygiene Board**

Dear Ms. Pineschi-Petty,

Thank you for the opportunity to submit comments to the Department of Consumer Affairs, Dental Hygiene Board's, criteria for establishing a substantial relationship and rehabilitation for license denials, suspensions or revocations. We recommend further additions to Title 16, of the California Code of Regulations sections 1135, 1136, 1137 and the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" to reflect the passage of Assembly Bill 2138, Chiu, Chapter 995, Statutes of 2018 (AB 2138).

Root & Rebound is a reentry legal education and resource center based in Oakland, California that provides critical legal resources, education, and ongoing support to individuals, families, and communities most impacted by our criminal justice system. Root & Rebound's mission is to restore power and resources to the families and communities most harmed by mass incarceration through legal advocacy, public education, policy reform and litigation—a model rooted in the needs and expertise of people who are directly impacted.

Root & Rebound supports dozens of clients struggling to obtain occupational licensure. As one of a handful of legal organizations that supports this kind of work, we strive to provide guidance throughout the entire licensing process. This includes questions about eligibility, the initial application, response to appeals and license revocations. The lack of clarity in this process, leads many clients facing differing levels of adversity to give up entirely. We believe that our direct experience with clients who are undergoing this difficult process, along with our involvement in the drafting and passage of AB 2138, makes us equipped to understand the proper implementation of this bill into Title 16.

Thanks to the passage of AB 2138 in 2018, the roughly one in three Californians with arrest or conviction records will face fewer barriers to employment and will help to fill the much needed occupational employment gaps in the State. Root & Rebound commends the Board for its action to implement AB 2138 through suggested edits of the regulations and thereby reduce discrimination against people of color in California, who are disproportionately denied job opportunities because of occupational licensing-related conviction background checks.

**A-1**

However, these proposed regulations leave some gaps in the regulatory scheme under the changes to CA Business and Professions Code 480, as modified by AB 2138. These proposed regulations fail to meet and implement California Business & Professions Code 480, and are not, as written, complete. The proposed regulations also fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

We urge the Board to incorporate the full extent of AB 2138 by including the following provisions:

**A-2**

- The regulations must include the 7 year washout period for consideration of convictions or discipline which are not statutorily considered serious felonies under the Cal. Penal Code. See Cal Business and Professions Code 480(a)(1).

**A-3**

- The regulation language should provide that a denial cannot occur if it is based on an expunged conviction, if the person has provided evidence of rehabilitation, or was granted clemency/pardon or for an arrest that led to a disposition other than a conviction. See Cal Business and Professions Code 480(c).

Additionally, the board should clarify the following:

**A-4**

- The intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. Rather, rehabilitation can and does take many forms that extend beyond mere law enforcement supervision. For instance, the Board should consider reviewing volunteer service, successful employment in a related field, unpaid work in the community, furthered education and other markers of rehabilitation.

**A-5**

- The regulations do not mention that obtaining a COR, dismissal, or arrest which merely led to an infraction/citation or juvenile adjudication means that a person shall not be denied a license.

**A-6**

- The regulations fail to include any mention of requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial/disqualification of licensure, provided evidence of mitigation, rehabilitation and the final disposition of demographic information. See Cal Business and Professions Code 480(g)(1)(2).

**A-7**

- Section 1311 fails to include that the board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. See Cal Business and Professions Code 480(2).

**A-8**

- Section 1132 maintains a request for an applicant to pay the costs for furnishing the request of disclosure for new conviction providing for an added burden to individuals who are applying to this license. See Cal Business and Professions Code 480(f)(2).

**A-9**

- The regulations fail to include that the board shall notify the applicant in writing for denial, disqualifications, procedures in place for the applicant to challenge a decision or request



consideration, that the applicant has a right to appeal the board's decision and the process of requesting a complete conviction history. See Cal Business and Professions Code 480(3).

- A-10 • Section 1135(c) provides a list of presumptive convictions indicating a substantial relationship without the opportunity and true consideration of any evidence which could prove otherwise. Specifically, Section 1135(c)(9) mentions a crime related to driving which is not in any way a necessary skill to have for the profession of dental hygiene. However, each of the crimes that are not referencing a direct violation of dental practice, for example Section 1135(c)(2), are not necessarily related and should not be treated as such.
- A-11 • Section 1136(a)(4)-(5) should clarify that although probation and parole terms are relevant for those who are currently on supervision, this should not take hold of the analysis of the conviction for those who are no longer on supervision.
- A-12 • To better define rehabilitation, we recommend that the board provide examples of evidence of mitigating circumstances and rehabilitation efforts to assist both the Board and licensing applicants.

Adequate implementation of the changes to California Business and Professions Code 480 will go a long way toward restoring hope and opportunity for the nearly one in three Californians who have an arrest or conviction record. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Katcher", written over a horizontal line.

Katherine Katcher, Executive Director  
1730 Franklin St. Suite 300  
Oakland, CA 94612



May 18, 2020

#### Via Email

California Department of Consumer Affairs  
Dental Hygiene Board of California  
ATTN: Adina A. Pineschi-Petty and Anthony Lum  
2005 Evergreen St., Ste. 2050  
Sacramento, CA 95815  
Email: [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov)  
[anthony.lum@dca.ca.gov](mailto:anthony.lum@dca.ca.gov)

**RE: Comments in Response to Dept. of Consumer Affairs, Dental Hygiene Board of California Regulatory Action Concerning the Implementation of AB 2138, Proposal to Amend Sections 1135, 1136, and 1137 of Article 10 of Division 11 of Title 16 of the California Code of Regulations**

Dear Adina A. Pineschi-Petty and Anthony Lum:

Thank you for the opportunity to submit comments to the Department of Consumer Affairs (“DCA”), Dental Hygiene Board of California (“Board”) regarding proposed regulations to implement AB 2138.

Assembly Bill 2138 was authored by Assemblymembers David Chiu and Evan Low to help formerly incarcerated people have a fair chance at obtaining occupational licensure. AB 2138 was sponsored by the Anti-Recidivism Coalition, East Bay Community Law Center, Legal Services for Prisoners with Children, Root & Rebound and supported by a coalition of 50 organizations. Thanks to the passage of AB 2138 in 2018, the roughly 1 in 3 California adults or 8 million Californians with arrest or conviction records will face fewer barriers to employment and will help to fill the much needed occupational employment gaps in the State.

Formerly incarcerated workers strive to obtain permanent, stable, and living wage jobs, however around 30% of jobs require licensure, clearance, or oversight by a governing body. This oversight, while intended to protect public safety, disproportionately impacts people of color, low-income, and indigent communities of people. These communities have been disproportionately impacted by over-policing and over-criminalization resulting in contacts with law enforcement that bar these applicants from later obtaining the licensure they require to pursue employment under DCA’s regulation. Moreover, applicants have been deterred by the lengthy process, lack of clarity, and obstacles to obtaining licensure – problems that AB 2138 seeks to rectify to offer a fair chance to all people.

However, across the state of California, there are only a handful of organizations that support low-income and indigent people seeking occupational licensure. Licensure applicants look for help answering questions about general eligibility, the initial application, appeals, probationary and restricted licenses, and license revocations or suspensions. The lack of clarity in this process and lack of low-cost or free service providers, leads many people facing differing levels of adversity to give up entirely. We believe that our direct experience with clients who are undergoing this difficult process, along with our involvement in the drafting and passage of AB 2138, makes us equipped to understand the proper implementation of this bill.

The undersigned organizations commend the Board for its action to implement AB 2138 and thereby reduce discrimination against people of color in California, who are disproportionately denied job opportunities because of occupational licensing-related conviction background checks. We support amendments to Sections 1135, 1136, and 1137 of Article 10 of Division 11 of Title 16 of the California Code of Regulations to reflect the passage of Assembly Bill 2138, Chiu, but believe the proposed amendments should be clarified and go further in order to fully implement the intention and spirit of the AB 2138 text.

**B-1**

The proposed regulations leave some gaps in the regulatory scheme under the changes to CA Business and Professions Code sections 480, 481, 482, and 493 as modified by AB 2138. These proposed regulations fail to meet and implement CA B&P Code sections 480, 481, 482, and 493 and are not, as currently written, valid. The proposed regulations also fall short of the intent of the bill, which includes combating discrimination against people with records that have demonstrated rehabilitation and seek to establish themselves professionally.

Specifically, the proposed regulations do not comply with AB 2138 as follows:

**B-2**

- Section 1135 states that certain violations are substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of AB 2138 Business and Professions Code section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis. Moreover, section 1135 fails to note that criminal history that resulted in the applicant obtaining a Certificate of Rehabilitation, pardon, dismissal per Penal Code section 1203.4 *et seq.*, or an arrest that resulted in a disposition other than a conviction **shall** not be denied a license. See Business and Professions Code section 480(b)-(d).

**B-3**

- Sections 1136 and 1137, as written, rely too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. Please see number 5 below for examples of rehabilitation to expand the proposed regulations.

Further, we urge the Board to incorporate the full extent of AB 2138 by including the following provisions:

**B-4**

1. The proposed regulations should include the 7 year washout period for consideration of convictions or discipline which are not statutorily considered serious felonies under the Cal. Penal Code. 1192.7. See Cal Business and Professions Code section 480(a).

**B-5**

2. The proposed regulations should provide that a person with a criminal history **shall not** be denied a license if the applicant has obtained a Certificate of Rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. See Cal Business and Professions Code section 480(b)-(d).

**B-6**

3. The proposed regulations fail to include that the board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. See Cal Business and Professions Code section 480(f)(2).

**B-7**

4. The proposed regulations fail to include that the board shall notify the applicant in writing if the applicant is denied or disqualified from licensure. The Board must provide procedures describing the process for the applicant to challenge the decision or to request reconsideration, that the applicant has a right to appeal the board's decision, and the process of requesting a complete conviction history. See Cal Business and Professions Code section 480(f)(3).

**B-8**

5. The intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. Merely looking to law enforcement will not adequately show how an applicant would do on the job. Rather, rehabilitation can and does take many forms that extend beyond mere law enforcement supervision. To better define rehabilitation, we recommend that the board provide examples of evidence of mitigating circumstances and rehabilitation efforts to assist both the Board and licensing applicants.

For instance, the Board should consider adding the following rehabilitation criteria:

- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinence from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
  - Personal testimony,
  - Evidence of rehabilitation submitted by the applicant,

- Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes, and;
- Other markers of rehabilitation.

**B-9**

6. The proposed regulations fail to include any mention of requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial/disqualification of licensure, provided evidence of mitigation or rehabilitation, the final disposition of the application, and demographic information. See Cal Business and Professions Code section 480(g).

Adequate implementation of the changes to California Business and Professions Code sections 480, 481, 482, and 493 will go a long way toward restoring hope and opportunity for the nearly 1 in 3 California adults or 8 million Californians who have an arrest or conviction record. Thank you for your consideration.

If you have any questions regarding the content of these comments, please contact Faride Perez-Aucar (Root and Rebound) or Vinuta Naik (Community Legal Services in East Palo Alto).

Sincerely,

*/s/ Faride Perez-Aucar*

*/s/ Vinuta Naik*

Faride Perez-Aucar

510-279-4662

[fperez@rootandrebound.org](mailto:fperez@rootandrebound.org)

Vinuta Naik

650-326-6440

[vnaik@clsepa.org](mailto:vnaik@clsepa.org)

**Organizations:**

A New Way of Life Reentry Project  
Californians for Safety and Justice  
Center for Employment Opportunities  
Center for Living and Learning  
Community Legal Services in East Palo Alto  
Criminal Justice Clinic, UC Irvine School of Law  
Drug Policy Alliance  
East Bay Community Law Center  
Legal Aid at Work

Legal Aid Foundation of Los Angeles  
Legal Services for Prisoners with Children, All of Us or None  
Los Angeles Regional Reentry Project  
National Association of Social Workers, California Chapter  
National Employment Law Project  
REDF  
The Record Clearance Project, San Jose State University  
Root and Rebound  
Rubicon Programs  
Underground Scholars Initiative



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist |
| <b>SUBJECT</b> | <b>FULL 11: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1103. Definitions.</b>        |

### Background:

The Board began oversight of California Dental Hygiene Educational Programs (DHEPs) in January 2016. The enforcement of the laws and regulations for DHEPs continues with ongoing reviews of certain sections that may be considered by the Board for revision or clarification. Once Board approved, the revisions are proposed for approval as quickly as possible to minimize the time to implement the changes so that references and the law remain current and applicable.

Section 1103 of Title 16 of the California Code of Regulations (CCR) gives definitions applicable to DHEPs to provide clarity to sections found within the regulations.

### Staff Recommendation:

Staff recommends to the Board to approve the proposed amended language in the attached document to clarify language found within 16 CCR section 1103 applicable to definitions for DHEPs, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1103 as noticed.

**Pros:** By approving staff's recommendation, the Board will provide clarity to language found within 16 CCR section 1103 to definitions applicable to DHEPs.

**Cons:** If the Board does not approve the recommended amendments to the regulatory language found in 16 CCR section 1103 for clarity, the regulation will continue to be open to (possibly incorrect) interpretation.

**TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
PROPOSED LANGUAGE**

**Amend § 1103 of Title 16 of the California Code of Regulations (CCR) to read as follows:**

**§ 1103. Definitions.**

For purposes of this division, the term:

(a) "Academic year" means a period of education consisting of a minimum of forty-five (45) quarter units, or thirty (30) semester units within a twelve-month period or three quarters or two semesters within a 12-month period, or a duration deemed equivalent thereto by the ~~Committee~~ Dental Hygiene Board.

(b) "Analgesia" means a state of decreased sensibility to pain, such as that produced by using nitrous oxide and oxygen with or without local anesthesia.

(c) "Approved accreditation standards" means ~~for the purposes of this section those standards contained in the issued by the Commission on Dental Accreditation's "Accreditation Standards for Dental Hygiene Education Programs (as last revised February 6, 2015)" which is hereby incorporated by reference and~~ Accreditation (<https://www.ada.org/en/coda>) and referenced throughout this article.

(d) "Clinical instruction" means instruction in which students receive supervised patient care experiences in performing procedures in a clinical setting to achieve safe and effective clinical outcomes. The instructor to student ratio shall meet approved accreditation standards, ~~as referenced in subsection (c) of section 1103 of this article.~~

(e) "Clinical practice" means the planned learning experiences with patients designed for students to apply dental hygiene knowledge and skills to meet course objectives in a variety of ~~Committee- Dental Hygiene Board-~~ approved clinical settings. Clinical practice may include learning experiences provided in various settings, including, but not limited to, dental hygiene ~~skills labs, simulation labs, and computer labs,~~ clinics, extramural clinical facilities, as well as health care agencies.

(f) "Clinical setting" means a setting that accommodates patient care.

(g) "Clinical outcome" is the result derived from a specific intervention or treatment.

(h) "Competencies" means statements describing the abilities needed to practice dental hygiene, including skills, understanding, and professional values that are performed independently in realistic settings.

(i) “Competent” means possessing the knowledge, skills and values required in the dental hygiene process of care to practice dental hygiene or provide instruction within a dental hygiene educational program.

(j) “Curriculum” means an organized set of courses of learning which are prerequisite to the award of a degree or diploma.

(k) “Dental hygiene process of care” means the application of scientific, evidence-based knowledge in the identification and treatment of actual or potential patient health problems as related to oral health.

The dental hygiene process of care shall meet approved accreditation standards and includes:

(1) Comprehensive collection of patient data to identify the physical and oral health status;

(2) Analysis of assessment findings and use of critical thinking in order to address the patient's dental hygiene treatment needs;

(3) Establishment of a dental hygiene care plan that reflects the realistic goals and treatment strategies to facilitate optimal oral health;

(4) Provision of patient-centered treatment and evidence-based care in a manner minimizing risk and optimizing oral health;

(5) Measurement of the extent to which goals identified in the dental hygiene care plan are achieved;

(6) Complete and accurate recording of all documentation relevant to patient care.

~~These standards are located in the approved accreditation standards incorporated by as referenced in section 1103(c) of this article.~~

(l) “Didactic instruction” means instruction through lectures, seminars or demonstrations, as distinguished from clinical or laboratory instruction.

(m) “Distance education” means education to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and instructor, either synchronously or asynchronously using one or more of the following technologies:

(1) the Internet;

(2) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite or wireless communication devices;

(3) audio conferencing;

(4) video cassettes, DVDs, and CD-ROMS, if the cassettes, DVDs or CD-ROMS are used in a course in conjunction with any of the technologies listed in (1)(1-3).

(n) "Educational program" means a progressive or planned system of training, instruction or study.

(o) "Goal" means an intention or expectation that requires several tasks to produce the desired result.

(p) "Graduate" means a dental hygiene student who has completed all required studies within a dental hygiene educational program and has obtained a degree.

(q) "Homebound" means a person who is unable to receive care in a dental office or clinic due to a disabling physical or mental condition.

(r) "Laboratory instruction" means instruction designed to perform procedures using instructional materials in which students receive supervised experience performing procedures. The instructor to student ratio shall meet approved accreditation standards ~~referenced in subsection (c) of section 1103 of this article.~~

(s) "Learning experience" means those activities planned for students by the faculty that are designed to meet the objectives of the required course of instruction, including the basic standards of competent performance.

(t) "Learning outcomes" are statements that clearly state the expected knowledge, skills, values and competencies that students are expected to acquire in both didactic and clinical coursework.

(u) "Local anesthesia" is the temporary loss of sensation, such as pain, in the oral cavity, produced by an injected anesthetic agent without inducing loss of consciousness.

(v) "Mission" means an institution's stated educational reasons to exist. The mission shall have all of the following characteristics:

(1) It shall include the institution's goals concerning the education which students will receive, including the acquisition of the body of knowledge presented in the educational program, the development of intellectual, analytical, and critical abilities, and the fostering of values such as a commitment to pursue lifelong learning;

(2) It shall relate to the educational expectations of the institution's students and faculty and the community which the institution serves.

(w) "Nitrous Oxide-Oxygen" is an inhalation agent used to achieve analgesia.

(x) "Outcomes assessment" means an ongoing process aimed at improving student learning that includes a profile of measures evaluating the effectiveness of the program in meeting its goals and learning outcomes.

(y) "Preclinical instruction" means instruction in which students receive supervised experience using instructional materials to prepare them for clinical experiences to achieve safe and effective clinical outcomes. Preclinical instruction may include supervised learning experiences provided in various settings, including, but not limited to, dental hygiene skills labs, simulation labs, and computer labs. The instructor to student ratio shall meet approved accreditation standards ~~referenced in subsection (e) of section 1103 of this article.~~

(z) "Quarter" means at least ten (10) weeks of instruction.

(aa) "Quarter unit" means at least ten (10) hours of college or university level instruction during a quarter. Additional time outside of instruction may be required for a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects.

(ab) "Remedial education" means education designed to achieve competency required for initial, continuation, or reinstatement of licensure, and may be required for purposes of discipline. Remedial Education is the act or process of correcting a deficiency and its intent is to restore skills to competency.

(ac) "Semester" means at least fifteen (15) weeks of instruction.

(ad) "Semester unit" means at least fifteen (15) hours of college or university level instruction during a semester. Additional time outside of instruction may be required for a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects.

(ae) "Service learning" is a teaching and learning experience that combines community service with academic preparation. Students engaged in service learning learn about their roles as dental professionals through provision of patient care and related services in response to community-based problems.

(af) "Sponsoring institution" means an institution of higher education approved or who has applied for approval for a dental hygiene educational program. If the sponsoring

institution has more than one campus, the campus where the physical location of the educational program exists shall be deemed the sponsoring institution.

(ag) “Staff” means professional, technical, and clerical employees of the institution to support its educational program.

(ah) “Technology” means equipment, tools, and devices that are used to facilitate and support teaching and learning.

(ai) “Wet laboratory” is a term used to distinguish classical benchtop experiments handling biological material from computer analysis or other theoretical work.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum, Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist  |
| <b>SUBJECT</b> | <b>FULL 12: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104. Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs.</b> |

### Background:

The Board began oversight of California Dental Hygiene Educational Programs (DHEPs) in January 2016. The enforcement of the laws and regulations for DHEPs continues with ongoing reviews of certain sections that may be considered by the Board for revision or clarification. Once Board approved, the revisions are proposed for approval as quickly as possible to minimize the time to implement the changes so that references and the law remain current and applicable.

Section 1104 of Title 16 of the California Code of Regulations (CCR) provides the regulations for approval of new DHEPs and for continuation of approval for approved DHEPs.

### Staff Recommendation:

Staff recommends to the Board to approve the proposed amended language in the attached document to clarify language found within 16 CCR section 1104 applicable to approval of new DHEPs and for continuation of approval for approved DHEPs, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1104 as noticed.

**Pros:** By approving staff's recommendation, the Board will provide clarity to language found within 16 CCR section 1104 for approval of new DHEPs and for continuation of approval for approved DHEPs.

**Cons:** If the Board does not approve the recommended amendments to the regulatory language found in 16 CCR section 1104 for clarity, the regulation will continue to be open to (possibly incorrect) interpretation.

**TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
PROPOSED LANGUAGE**

**Amend §1104 of Title 16 of the California Code of Regulations (CCR) to read as follows:**

**§ 1104. Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs.**

- (a) A new educational program shall obtain ~~Committee~~ Dental Hygiene Board approval prior to admission of students.
- (b) The ~~Committee~~ Dental Hygiene Board shall review the approval of all approved educational programs in accordance with accreditation renewal standards set by the Commission on Dental Accreditation of the American Dental Association (CODA), or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board. In the event that an equivalent body has not been established by the ~~Committee~~ Dental Hygiene Board, the standards shall be set by CODA.
  - (1) All educational programs accredited by CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board, shall submit to the ~~Committee~~ Dental Hygiene Board after each accreditation site visit an electronic copy of the Self-Study Report in accordance with the requirements specified in CODA's "Self-Study Guide for the Evaluation of a Dental Hygiene Education Program" (As Last Revised: January 1, 2016); by CODA (<https://www.ada.org/en/coda>) or an equivalent accrediting body, as determined by the Dental Hygiene Board, ~~which is hereby incorporated by reference~~, and a copy of the final report of the findings within thirty (30) days of the final report issuance.
  - (2) If the educational program is granted CODA's, or an equivalent accrediting body's, as determined by the ~~Committee~~ Dental Hygiene Board, status of "Approval with Reporting Requirements", the program shall submit to the ~~Committee~~ Dental Hygiene Board copies of any and all correspondence received from or submitted to CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board, until such time as the status of "Approval without Reporting Requirements" is granted.
  - (3) If the educational program is granted CODA's, or an equivalent accrediting body's, as determined by the ~~Committee~~ Dental Hygiene Board, status of "Approval with Reporting Requirements with Intent to Withdraw", the program shall notify the ~~Committee~~ Dental Hygiene Board within ten (10) days, and the ~~Committee~~ Dental Hygiene Board shall withdraw approval until such time as the status of "Approval without Reporting Requirements" is granted. Students enrolled in a program where approval has been withdrawn will not be considered graduates of an approved program and shall be ineligible for

- licensure. The program shall notify the students of the withdrawal of approval and the potential for ineligibility for licensure on the basis of not having graduated from an approved program. The program shall copy the Committee on the notification to students and any correspondence submitted to CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board, regarding accreditation status.
- (4) If the educational program is withdrawn from accredited status by CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board, the program shall notify the ~~Committee~~ Dental Hygiene Board in writing of such status within 10 days and the ~~Committee~~ Dental Hygiene Board shall withdraw approval. The program shall submit copies of any and all correspondence received from or submitted to CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board. Students enrolled in a program where accreditation has been withdrawn will not be considered graduates of an accredited program and shall be ineligible for licensure.
- (5) Continuation of approval of all educational programs shall be contingent upon compliance with the requirements described in this Article. Written notification of continuation of approval shall be provided.
- (c) All ~~Committee-approved~~ Dental Hygiene Board-approved programs shall maintain current accreditation by CODA, or an equivalent accrediting body, as determined by the ~~Committee~~ Dental Hygiene Board.
- (d) All ~~Committee-approved~~ Dental Hygiene Board-approved sponsoring and affiliated institutions shall maintain current institutional accreditation pursuant to Business and Professions Code section 1941(c).
- (e) A material misrepresentation of fact by a new educational program or an approved educational program in any information required to be submitted to the ~~Committee~~ Dental Hygiene Board is grounds for denial of approval or revocation of the program's approval.

Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1905 and 1941, Business and Professions Code.



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist   |
| <b>SUBJECT</b> | <b>FULL 13: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104.3. Reviews, Site Visits, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs.</b> |

## BACKGROUND

Business and Professions Code (BPC) section 1941.5 states:

- (a) The hygiene board shall renew approval of educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that certify to the hygiene board on a form prescribed by the hygiene board that the program continues to meet the requirements prescribed by the hygiene board.
- (b) The hygiene board may conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions to ensure continued compliance of educational program requirements and Commission on Dental Accreditation standards for continued approval.
- (c) An existing or new educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that is found to be noncompliant with the educational program requirements and Commission on Dental Accreditation standards may be placed on probation with terms, issued a citation and fine, or have its approval withdrawn if compliance is not met within reasonable specified timelines.
- (d) The hygiene board, or through an authorized representative, may issue a citation containing fines and orders of abatement for any approved educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions for any violation of this section or the regulations adopted pursuant to this section.

At the November 23, 2019 Full Board meeting, the Board approved the proposed regulatory language to implement section 1941.5 of the BPC. However, during the rulemaking process, substantive changes were made to the Board-approved draft regulatory language for Title 16, section 1104.3 of the California code of Regulations (CCR).

Therefore, Board staff has developed the attached amended draft regulatory language of 16 CCR section 1104.3 to implement the provisions of BPC section 1941.5.

**Staff Recommendation:**

In response to comments made from the review by the Department of Consumer Affairs (DCA), staff recommends to the Board to re-review the proposed language in the attached document, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1104.3.

**Pros:** In order to implement the provisions of BPC §1941.5 to allow 16 CCR §1104.3 to move forward in the regulatory process, regulatory language must be approved by the Board.

**Cons:** If the proposed language and fines for review of DHEPs are not approved, the Board would not have a clear and consistent process for cites, fines, and probation of DHEPs.

**TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA DEPARTMENT OF  
CONSUMER AFFAIRS**

**PROPOSED LANGUAGE**

Adopt Section 1104.3 of Title 16 of the California Code of Regulations (CCR) to read  
as follows:

**§1104.3 Reviews, Site Visits, Cite and Fine, and Probationary Status for Dental  
Hygiene Educational Programs**

(a) Program Reviews and Site Visits

A dental hygiene educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions (collectively DHEPs) shall provide access during business hours to the program's records and premises to the Dental Hygiene Board of California (Board) or its authorized representative(s) to review the DHEP for compliance with all laws, regulations, and standards applicable to a DHEP including, but not limited to, the Business and Professions Code, the California Code of Regulations (CCR), the Commission on Dental Accreditation Standards of the American Dental Association, Occupational Safety and Health Administration, Health and Safety Code, Centers for Disease Control and Prevention, and the Health Insurance Portability and Accountability Act (HIPAA). For the purpose of this subdivision, "records" shall include, but are not limited to, course records, student records, faculty and staff records, and patient records.

(b) Cite and Fine

- (1) If the Board or its authorized representative determines that a DHEP is in violation of any law, regulation, or standard applicable to a DHEP, the DHEP shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.
- (2) If the Board or its authorized representative orders an administrative fine for violation(s) of any law, regulation, or standard applicable to a DHEP, the DHEP shall pay the required fine within the amount of time specified in the order.

(c) Probationary Status of a DHEP

- (1) If the Board places a DHEP on probation, the DHEP is required to disclose their probationary status in writing to its students within fifteen (15) business days of being placed on probation. In addition, the DHEP shall advise each potential student applicant to the DHEP before offering to enroll the applicant. The DHEP shall provide the Board with written proof of compliance with this subdivision as a condition for removal from probationary status.
- (2) A DHEP on probationary status shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.
  - (A) If the DHEP on probation demonstrates that it has corrected the violation(s) and meets all requirements for approval set forth in 16 CCR section 1104, the DHEP shall be removed from probationary status.
  - (B) If the DHEP on probation fails to demonstrate to the Board by the end of its probationary period that the DHEP has corrected all violation(s) and met the requirements for approval set forth in 16 CCR section 1104, the Board will revoke approval of the DHEP.

Note: Authority cited: Sections 1905, 1906, and 1941.5, Business and Professions Code.

Reference cited: Sections 1941.5, Business and Professions Code.



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Legislative and Regulatory Subcommittee  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist    |
| <b>SUBJECT</b> | <b>FULL 14: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1105.2. Required Curriculum.</b> |

### Background:

At the November 23, 2019 Full Board meeting, the Board tabled addressing proposed regulatory package and related forms of 16 CCR §1105.2 Required Curriculum and requested to be placed on the agenda of the next scheduled Board meeting. The question that arose is whether the DHBC has jurisdiction to approve out-of-state Dental Hygiene Educational Programs (DHEPs) with regard to Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Sedation (SLN).

Currently, within 16 CCR §1105.2 it states:

*Curriculum relating to the administration of local anesthetic agents, administration of nitrous oxide-oxygen analgesia, and performance of periodontal soft tissue curettage shall meet the requirements contained in Title 16, Division 11, section 1107 of the California Code of Regulations.*

*Out-of-state dental hygiene programs that are accredited by the Commission on Dental Accreditation or an approved accrediting body and who provide instruction according to this subdivision may be approved by the Committee to meet the requirements set forth in Business and Professions Code section 1909.*

### Staff Recommendation:

In response to the public comment that was made at the prior meeting regarding the Board's authority to approve and oversee out-of-state dental hygiene programs or specifically, the SLN education and training, the intent in following the law is to ensure that the SLN education and training obtained in an out-of-state dental hygiene program is equivalent to or surpasses the SLN education and training students receive in California. The Board does not have the authority or resources to oversee out-of-state educational programs; however, must create a method to be able to review and approve the education and training that is certified by the respective program to be comparable to California's SLN education and training. This method of additional required

documentation review will be used for both out-of-state dental hygiene educational programs that request Board approval and to individual out-of-state applicants whose educational programs have not requested Board SLN approval. SLN programs within California may be subject to additional oversight measures like site visits to check issues such as infection control because the Board does have direct authority over these programs.

Staff recommends to the Board to re-review the related forms and proposed language in the attached document, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 §1105.2 as noticed.

**Pros:** In order to allow 16 CCR §1105.2 to move forward in the regulatory process, regulatory language and fees must be approved by the Board. Additionally, updating language to the current CODA Standards as well as to improve clarification to current regulations would provide members of the educational community clear and consistent information required by the Board for DHEPs.

**Cons:** If the proposed language and fees are not approved, 16 CCR §1105.2 will not progress in the regulatory process and a clear process for implementing the regulation would not be available to DHEPs.

### **Key to Forms:**

1. DHBC SLN-03 (09/2019): Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report
  - This form is to be used by an out-of-state dental hygiene educational program to continue to confirm their SLN curriculum as acceptable to the DHBC.
2. DHBC SLN-04 (04/2020): Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)
  - This form is to be used by an out-of-state dental hygiene educational program to approve their SLN curriculum as acceptable to the DHBC.
3. DHBC SLN-05 (04/2020): Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)
  - This form is to be used for individual RDH applicants for approval of out-of-state education in SLN duties.

4. DHBC SLN-06 (04/2020): Certification of Competency in Performance of Periodontal Soft Tissue Curettage, Local Anesthesia, And Nitrous Oxide-Oxygen Analgesia (SLN)
  - This form is to be used for individual RDH applicants for certification by their of out-of-state dental hygiene educational program that they have completed all SLN requirements as prescribed by 16 CCR §1107 and have been deemed competent in SLN duties.

**TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
PROPOSED LANGUAGE**

**Amend §1105.2 of Title 16 of the California Code of Regulations (CCR) to read as follows:**

**§1105.2 Required Curriculum.**

- (a) The curriculum of an educational program shall meet the requirements of this section.
- (b) The curriculum shall include education in the dental hygiene process of care and shall define the competencies graduates are to possess at graduation, describing
  - (1) the desired combination of foundational knowledge, psychomotor skills, communication skills, and professional behaviors and values required,
  - (2) the standards used to measure the students' independent performance in each area, and
  - (3) the evaluation mechanisms by which competence is determined.
- (c) The organization of the curriculum shall create opportunities for adjustments to and research of, advances in the practice of dental hygiene to ensure that graduates will have the knowledge, skills, and abilities to function within the dental hygiene scope of practice.
- (d) The content of the curriculum shall include biomedical and dental sciences and dental hygiene sciences and practice. This content shall be of sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the educational program's standard of competency.
  - (1) Biomedical and Dental Sciences Content
    - (A) Cariology
    - (B) Dental Materials
    - (C) General and Maxillofacial Pathology and/or Pathophysiology
    - (D) Head, Neck and Oral Anatomy
    - (E) Immunology
    - (F) Oral Embryology and Histology
    - (G) Oral Pathology
    - (H) Pain management
    - (I) Periodontology
    - (J) Pharmacology
    - (K) Radiography
    - (L) Dental Anatomy and Morphology

- (2) Dental Hygiene Sciences and Practice Content
- (A) Community Dental Health
  - (B) Dental Hygiene Leadership
  - (C) Evidence-based Decision Making and Evidence-based Practice
  - (D) Health Informatics
  - (E) Health Promotion
  - (F) Infection and Hazard Control Management
  - (G) Legal and Ethical Aspects of Dental Hygiene Practice
  - (H) Medical and Dental Emergencies
  - (I) Oral Health Education and Preventive Counseling
  - (J) Patient Management
  - (K) Preclinical and Clinical Dental Hygiene
  - (L) Provision of Services for and Management of Patients with Special Needs
  - (M) Research
  - (N) Provision of Oral Health Care Services to Patients with Bloodborne Infectious Diseases
- (3) Approved educational programs shall, at a minimum, specifically include instruction in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage in accordance with the provisions of this subdivision.
- (A) An educational program shall provide faculty, infection control equipment according to the requirements of California Code of Regulations (CCR), Title 16, Division 10, Chapter 1, Article 1, Section 1005, and staff who have taken a board-approved eight (8) hour course in infection control or possess a current California registered dental assistant (RDA) or registered dental assistant in extended functions (RDAEF) license.
- (B) An educational program shall provide at least one complete nitrous oxide-oxygen unit for each six (6) students enrolled in the course and shall include a fail-safe flowmeter, functional scavenger system and disposable or sterilizable nasal hoods for each laboratory partner or patient. All tubing, hoses and reservoir bags shall be maintained and replaced at regular intervals to prevent leakage of gases. When not attached to a nitrous oxide-oxygen unit, all gas cylinders shall be maintained in an upright position, secured with a chain or in a cart designed for storage of gas cylinders.
- (C) An educational program shall comply with local, state, and federal health and safety laws and regulations.

- (i) All students shall have access to the program's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.
- (ii) All students shall have access to the program's clinic and radiation hazardous communication plan.
- (iii) All students shall receive a copy of the program's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.

(D) General Curriculum Content. Areas of didactic, preclinical and clinical instruction shall include:

- (i) Indications and contraindications for all patients of:
  - 1. periodontal soft tissue curettage;
  - 2. administration and reversal of local anesthetic agents;
  - 3. nitrous oxide-oxygen analgesia agents
- (ii) Head and neck anatomy;
- (iii) Physical and psychological evaluation procedures;
- (iv) Review of body systems related to course topics;
- (v) Theory and psychological aspects of pain and anxiety control;
- (vi) Selection of pain control modalities;
- (vii) Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents and nitrous oxide-oxygen analgesia;
- (viii) Recovery from and post-procedure evaluation of periodontal soft tissue curettage, local anesthesia and nitrous oxide/oxygen analgesia;
- (ix) Complications and management of periodontal soft tissue curettage, local anesthesia and nitrous oxide-oxygen analgesia emergencies;
- (x) Armamentarium required and current technology available for local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;
- (xi) Techniques of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and performance of periodontal soft tissue curettage;
- (xii) Proper infection control procedures according to the provisions of ~~Title 16, Division 10, Chapter 1, Article 1, section 1005 of the California Code of Regulations 16 CCR section 1005;~~
- (xiii) Patient documentation that meets the standard of care, including, but not limited to, computation of maximum recommended dosages for local anesthetics and the tidal volume, percentage and amount of the gases and duration of administration of nitrous oxide-oxygen analgesia;

- (xiv) Medical and legal considerations including patient consent, standard of care, and patient privacy.

(E) Specific Curriculum Content.

Curriculum relating to the administration of local anesthetic agents, administration of nitrous oxide-oxygen analgesia, and performance of periodontal soft tissue curettage shall meet the requirements contained in Title 16, Division 11, section 1107 of the California Code of Regulations 16 CCR section 1107.

Out-of-state dental hygiene programs that are accredited by the Commission on Dental Accreditation or an approved accrediting body and who provide instruction according to this subdivision may be approved by the ~~Committee~~ Board to meet the requirements set forth in Business and Professions Code (BPC), section 1909 and shall submit:

- i. An "Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)" DHBC SLN-04 (10/2019) hereby incorporated by reference; and
- ii. A certified SLN course syllabus (to include individual SLN requirements) for the out-of-state RDH educational program; and
- iii. Payment of an application fee of \$500 due to the Board.
- iv. Each approved course shall submit a biennial report "Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report" (DHBC SLN-03 9/2019) hereby incorporated by reference.

**Commented [PA1]:** Current language. Allowing application allows for an approval of equivalence.

(F) An out-of-state applicant for dental hygiene licensure may be certified by the Board that they have met current California SLN requirements pursuant to 16 CCR section 1107. In addition to all requirements required by the Board to be licensed as a dental hygienist in California, out-of-state applicants shall submit:

- i. An "Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)" DHBC SLN-05 (04/2020) hereby incorporated by reference; and
- ii. A certified SLN course syllabus (to include individual SLN requirements) for the RDH educational program of which the applicant is a graduate; and
- iii. A "Certification of Completion of SLN Course Requirements" DHBC SLN-06 (04/2020) hereby incorporated by reference, from the RDH educational program of which the applicant is a graduate; and
- iv. Payment of an application fee of \$500 due to the Board.

(4) Requirements for Radiation Safety and Radiography Techniques Instruction.  
Approved educational programs shall, at a minimum, specifically include instruction in radiation safety and radiography techniques and shall comply with the requirements in accordance with the provisions of this subdivision in order to secure and maintain approval by the Board. The course of instruction in radiation safety and radiography techniques offered by a dental hygiene educational program (DHEP) approved by the Board for instruction in dental hygiene shall be deemed to be an approved radiation safety course if the DHEP has submitted evidence satisfactory to the Board that it meets all the requirements set forth below.

(A) A DHEP shall provide infection control equipment and follow infection control procedures according to the requirements of 16 CCR section 1005, in addition to complying with all federal and state laws, rules, regulations, and all approved national and state accreditation standards established by the Department of Health Care Services (DHCS), Occupational Safety and Health Administration (OSHA), and the Commission on Dental Accreditation (CODA).

(B) Facilities.

There shall be a sufficient number of safe, adequate, and educationally conducive lecture classrooms, radiography operatories, developing/processing facilities or digital equipment, and viewing spaces for mounting, viewing and evaluating radiographs. Adequate sterilizing facilities shall be provided and all disinfection and sterilization procedures and shall comply with 16 CCR section 1005, in addition to all applicable accreditation standards, and state and federal laws, rules, and regulations.

(i) A radiographic operator shall be deemed adequate if it fully complies with the California Radiation Control Regulations (17 CCR commencing with section 30100), is properly equipped with supplies and equipment for practical work and includes for every five students at least one functioning radiography machine which is adequately filtered and collimated in compliance with DHCS regulations and which is equipped with the appropriate position-indicating devices for each technique being taught.

(ii) The developing or processing facility shall be deemed adequate if it is of sufficient size, based upon the number of students, to accommodate

students' needs in learning processing procedures and is properly equipped with supplies and equipment for practical work using manual, automatic, or digital equipment.

- (iii) Radiology areas shall provide protection to patients, students, faculty, and observers in full compliance with all applicable state and federal laws, rules, and regulations.

(C) Program Content.

Sufficient time shall be available for all students to obtain laboratory and clinical experience to achieve minimum competence in the various protocols used in the application of dental radiographic techniques.

- (i) A detailed course outline shall be provided to the students which clearly states curriculum subject matter and specific instructional hours in the individual areas of didactic, laboratory, preclinical, and clinical instruction.
- (ii) General program objectives and specific instructional unit objectives shall be stated in writing and shall include theoretical aspects of each subject as well as practical application. The theoretical aspects of the program shall provide the content necessary for students to make judgments regarding dental radiation exposure. The course shall assure that students who successfully complete the course can expose, process and evaluate dental radiographs with minimum competence.
- (iii) Objective evaluation criteria shall be used for measuring student progress toward attainment of specific course objectives. Students shall be provided with specific unit objectives and evaluation criteria that will be used for all aspects of the curriculum including written, practical and clinical competencies and examinations.
- (iv) Areas of instruction shall include at least the following as they relate to exposure, processing and evaluations of dental radiographs:
  - (1) Radiation physics and biology;
  - (2) Radiation protection and safety;
  - (3) Recognition of normal anatomical landmarks and abnormal conditions of the oral cavity as they relate to dental radiographs;
  - (4) Radiograph exposure and processing techniques using manual, automatic, and computerized digital methods;

- (5) Radiograph mounting and/or sequencing, and viewing, including anatomical landmarks of the oral cavity;
- (6) Intraoral techniques and dental radiograph armamentaria, including holding devices;
- (7) Interproximal examination including principles of exposure, methods of retention and evaluation;
- (8) Intraoral examination including, principles of exposure, methods of retention and evaluation;
- (9) Identification and correction of faulty radiographs;
- (10) Infection control in dental radiographic procedures; and
- (11) Radiographic record management.

(D) Radiation Safety.

Sufficient hours of didactic and laboratory instruction shall be provided to ensure that a student successfully demonstrates competency in radiation safety. Successful completion of a radiation safety competency must be achieved at a minimum of 75% and shall be required prior to utilization of radiographic techniques in laboratory and clinic.

(E) Laboratory Instruction.

Sufficient hours of laboratory instruction shall be provided to ensure that a student successfully completes on a radiology manikin at a minimum the procedures set forth below. A procedure has been successfully completed only if each radiograph is of diagnostic quality.

- (i) Two (2) full mouth periapical series, consisting of at least eighteen (18) radiographs each, four (4) of which must be bitewings;
- (ii) Two (2) bitewing series, consisting of at least four (4) radiographs each; and
- (iii) Developing or processing and mounting of analog exposed radiographs, or computer digital exposure and sequencing may be utilized.
- (iv) Student and instructor written evaluation of radiographs.

(F) Clinical Experience.

There shall be sufficient clinical experiences as part of an organized program of instruction, to obtain clinical competency in radiographic techniques. Clinical instruction shall include clinical experience on four (4) different patients with one (1) of the four (4) patients to be utilized for clinical competency. Clinical experience shall include:

- (i) Successful completion of a minimum of four (4) full mouth periapical series, consisting of at least eighteen (18) radiographs each, four (4) of which must be bitewings. Such radiographs shall be of diagnostic quality. All exposures made on patients shall only be made for diagnostic purposes and shall in no event exceed three (3) additional exposures per patient. If traditional film packets are utilized, they must be double film.
- (ii) All clinical procedures on patients shall be performed under the general supervision of a licensed dentist in accordance with H & SC section 106975.
- (iii) Developing or processing and mounting of analog exposed radiographs or computer digital exposure and sequencing may be utilized.
- (iv) Student and instructor written evaluation of radiographs.

(G) Clinical Facilities.

Clinical facilities shall have the necessary equipment and accessories appropriate for the procedures to be performed and that such equipment and accessories are in safe operating condition. Such clinical facilities shall be subject to the same requirements as those specified in subdivision (F).

(H) Length of Instruction.

Instruction shall be of sufficient duration for the student to develop minimum competence in the radiation safety techniques and shall in no event be less than thirty-two (32) clock hours, including at least eight (8) hours of didactic instruction, at least twelve (12) hours of laboratory instruction, and at least twelve (12) hours of clinical instruction.

(e) An educational program shall provide for breadth of experience and student competency in patient experiences in all classifications of periodontal disease including mild, moderate, and severe involvement.

(f) An educational program shall provide for breadth of experience and student competency in providing patient experiences in dental hygiene care for the child, adolescent, adult, geriatric, and special needs patients.

*Note: Authority cited: Sections 1905, ~~and~~ 1906, 1909, 1914, 1941, and 1950.5, Business and Professions Code and Section 106975, Health and Safety Code. Reference: Sections 1905, 1914 ~~and~~ 1941, and 1950.5 Business and Professions Code, and Section 106975, Health and Safety Code.*



**Periodontal Soft Tissue Curettage, Local Anesthesia,  
and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report**

|  |              |   |
|--|--------------|---|
| <u>Date</u>  |              |   |
| <u>SLN Course Provider Name</u>                            |              | <u>CA Continuing Education (CE) Provider Number</u> |
| <u>Name and Title of SLN Course Director</u>               |              | <u>SLN Course Provider Email</u>                    |
| <u>Affiliated Dental Hygiene or Dental Program</u>         |              | <u>SLN Course Provider Phone</u>                    |
| <u>Mailing Address of SLN Course Provider*</u>             |              |   |
| <u>City</u>  | <u>State</u> | <u>Zip</u>  |
| <u>Clinical Facility Address (if different from above)</u> |              |   |
| <u>City</u>  | <u>State</u> | <u>Zip</u>  |
| <u>Name of SLN Course</u>                                  |              |   |

\*The SLN Course provider mailing address is public. If you wish to provide a P.O. Box, you must also provide a physical address and be sure to specify that the physical address is not to be used as the address of record.

**Requirements for SLN Course Approval:**

Each SLN Course approved by the Dental Hygiene Board of California (Board) must submit a biennial report pursuant to the California Code of Regulations, Title 16, section 1107, subdivision (a)(5). SLN Course records shall be subject to inspection by the Board at any time. The Board may withdraw approval at any time that it determines that a SLN Course does not meet the requirements of the law. SLN Course providers must inform the Board of any changes to course content, faculty and physical facilities within 10 days.

| <u>Dates of Course Offered in the Past Two -Year Reporting Period</u> | <u>Number of Faculty involved in Each Course</u> | <u>Number of Attendees per Course</u> |
|---|--|---------------------------------------|
|   |  |                                       |
|   |  |                                       |
|   |  |                                       |

| <u>Dates of Course Offered in the Past Two -Year Reporting Period</u> | <u>Number of Faculty involved in Each Course</u> | <u>Number of Attendees per Course</u> |
|---|--|---------------------------------------|
|   |  |                                       |
|   |  |                                       |
|   |  |                                       |

**HAVE THERE BEEN ANY CHANGES TO THE FOLLOWING:**

|  |  |
|--|--|
| <b>1. <u>SLN Course Policies and/or Procedures?</u></b> If yes, please describe and include updated policies and/or procedures.  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Explain</u></b> (if additional room is needed, please state "See Attached" and number your response in an attached explanation):   |  |
| <b>2. <u>SLN Course Faculty?</u></b> If yes, please describe and include a current DHBC Biosketch Form and proof of current Educational Methodology for each faculty member.   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Explain</u></b> (if additional room is needed, please state "See Attached" and number your response in an attached explanation):   |  |
| <b>3. <u>SLN Course Facilities or Equipment?</u></b> If yes, please describe and include updated facility map and/or equipment list.   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Explain</u></b> (if additional room is needed, please state "See Attached" and number your response in an attached explanation):   |  |
| <b>4. <u>SLN Course Curriculum including syllabi, course hours, student evaluation mechanisms including clinical skills and competency assessment forms, remediation policies and procedures, and didactic, preclinical, and clinical schedules?</u></b> If yes, please describe and include a copy of the new curriculum and schedules. | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Explain</u></b> (if additional room is needed, please state "See Attached" and number your response in an attached explanation):   |  |

**HAVE THERE BEEN ANY CHANGES TO THE FOLLOWING:**

**5. SLN Course Student Attendee Applicant Form?** If yes, please describe and include updated form.

Yes ☐ No ☐

**Explain** (if additional room is needed, please state "See Attached" and number your response in an attached explanation):

**6. SLN Course Certificate of Completion?** If yes, please describe and include updated certificate.

Yes ☐ No ☐

**Explain** (if additional room is needed, please state "See Attached" and number your response in an attached explanation):

**In utilizing this report form, please consult the regulations governing courses in Local Anesthesia, Nitrous Oxide, and Periodontal Soft Tissue Curettage in Title 16, section 1107 of the California Code of Regulations.**

**Certification:**

**I certify under the penalty of perjury under the laws of the State of California that the statements made in this biennial report are true and correct.**

\_\_\_\_\_  
Signature of Program Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of SLN Course Director

\_\_\_\_\_  
Date

**INFORMATION COLLECTION AND ACCESS**

The information requested herein is mandatory and is maintained by the Dental Hygiene Board of California, 2005 Evergreen Street, Suite 2050, Sacramento, CA 95815, Executive Officer, 916-263-1978, in accordance with Business & Professions Code, §1900 et seq. The information requested will be used to determine eligibility. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. Each individual has the right to review his or her own personal information maintained by the agency as set forth in the Information Practices Act unless the records are exempt from disclosure. Applicants are advised that the names(s) and address(es) submitted may, under limited circumstances, be made public.



**Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)**

Business & Professions Code (BPC) §1909, California Code of Regulations (CCR) Title 16, §§1105.2, 1107

**Non-Refundable Fee: \$500**  
**(Must accompany application)**

| <b>DHBC USE ONLY</b> |               |
|----------------------|---------------|
| <u>Receipt</u>       | <u>RC</u>     |
| <u>Date Filed</u>    | <u>\$</u>     |
| <u>Approved</u>      | <u>Denied</u> |
| <u>RP#</u>           |               |

PLEASE TYPE OR PRINT LEGIBLY.

|   |              |                                    |
|---|--------------|------------------------------------|
| <u>Date</u>   |              |                                    |
| <u>Dental Hygiene Educational Program (DHEP) Name</u>           |              | <u>DHEP Phone Number</u>           |
| <u>DHEP Director</u>  |              | <u>DHEP Program Director Email</u> |
| <u>DHEP SLN Course Director</u>                                 |              | <u>DHEP Course Director Email</u>  |
| <u>DHEP Address</u>   |              |                                    |
| <u>City</u>   | <u>State</u> | <u>Zip</u>                         |
| <u>DHEP Clinical Facility Address (if different from above)</u> |              |                                    |
| <u>City</u>   | <u>State</u> | <u>Zip</u>                         |

**Requirements for Course Approval:**

An Out-of-State Dental Hygiene Educational Program (DHEP) Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) must be approved prior to acceptance of SLN course requirements for out-of-state Registered Dental Hygienist (RDH) applicants. Each approved course must submit a biennial report. Course records shall be subject to inspection by the Dental Hygiene Board of California (Board) at any time. The Board may withdraw approval at any time if it determines that a course does not meet the requirements of the law. Course providers must inform the Board of any changes to course content, faculty and physical facilities within 10 days.

**Course Faculty Information\***

| <b><u>Faculty Name</u></b> | <b><u>License Type</u></b> | <b><u>License # and State Issued</u></b> | <b><u>License Expiration Date</u></b> | <b><u>Date of latest Educational Methodology</u></b> |
|----------------------------|----------------------------|--|---------------------------------------|--|
|                            |                            |  |                                       |  |
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|                            |                            |  |                                       |  |
|                            |                            |  |                                       |  |

\*Course director and clinical and preclinical faculty must possess a valid, active dental hygiene/dental license in the state where instruction is being provided for at least two years prior to teaching periodontal soft tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia (SLN) curriculum. A license certification is required. Attach copies of each license and proof of education in educational methodology for all faculty (**Label as Exhibit A**) along with a faculty calibration plan (**Label as Exhibit B**).

| <b><u>Please answer the following:</u></b>  |  |
|---|--|
| 1. <u>Will the course provide instruction in administration of local anesthetic agents limited to the oral cavity, administration of nitrous oxide-oxygen used as an analgesic utilizing fail-safe type machines containing no other general anesthetic agents, and periodontal soft tissue curettage?</u><br>• <u>Include a copy of your curriculum including syllabi, student evaluation mechanisms including clinical skills and competency assessment forms, remediation policy and procedures, and didactic, pre-clinical, and clinical schedules (<b>Label as Exhibit C</b>).</u> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 2. <u>Will there be a lecture classroom, patient clinic area and radiology area for use by students?</u><br>• <u>Attach a facility site map indicating each of these areas (<b>Label as Exhibit D</b>).</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 3. <u>Will all students have access to equipment necessary to develop dental hygiene skills in the duties being taught?</u><br>• <u>Attach a list of equipment available for the students. (<b>Label as Exhibit E</b>).</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |

|  |  |
|--|--|
| <b><u>Please answer the following:</u></b>   |  |
| <p>4. <u>Will all students have access to the hazardous waste management plan for disposal of needles, cartridges, medical waste, storage of nitrous oxide and oxygen tanks and the course's clinic and radiation hazardous communication plan?</u></p> <ul style="list-style-type: none"> <li>• <u>Attach a copy of both the program's hazardous waste management plan (Label as Exhibit F) and hazardous communication plan (Label as Exhibit G).</u></li> </ul>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <p>5. <u>Will all students receive a copy of the bloodborne and infectious diseases exposure control plan including emergency needlestick procedures?</u></p> <ul style="list-style-type: none"> <li>• <u>Attach a copy as provided to students. (Label as Exhibit H).</u></li> </ul>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <p>6. <u>Will the course clearly state curriculum subject matter, specific instruction hours in the individual areas of didactic, pre-clinical and clinical instruction, and include written course and specific instructional learning outcomes that will be accomplished within the framework of the course, including theoretical aspects of each subject as well as practical application in accordance with Title 16, California Code of Regulations §1107 and a copy be provided to students?</u></p>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <p>7. <u>Will the course's duration allow a student to develop competence in administration of local anesthesia, administration of nitrous oxide-oxygen analgesia, and performance of periodontal soft tissue curettage?</u></p>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Periodontal Soft Tissue Curettage Requirements:</u></b>  |  |
| <p>8. <u>Will instruction in periodontal soft tissue curettage include at least six (6) hours of instruction, including at least three (3) hours of didactic and preclinical instruction and at least three (3) hours of clinical instruction which includes at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine clinical competency in the course and the competency evaluation for this procedure will be achieved at a minimum of 75%?</u></p>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b><u>Local Anesthesia Requirements:</u></b>   |  |
| <p>9. <u>Will instruction in the administration of local anesthetic agents include at least thirty (30) hours of instruction, including at least fifteen (15) hours of didactic and preclinical instruction and at least fifteen (15) hours of clinical instruction?</u></p>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <p>10. <u>Will curriculum include maxillary and mandibular anesthesia techniques for local infiltration, field blocks and nerve blocks to include anterior superior alveolar (ASA), middle superior (MSA), anterior middle superior alveolar (AMSA), posterior superior alveolar (PSA), greater palatine, suprapariosteal, inferior alveolar (IA), lingual, and buccal injections? Will preclinical instruction of the aforementioned injections include a minimum of two (2) experiences per injection, which may be on another student? Will clinical instruction include at least four (4) clinical experiences per injection to include two (2) experiences on the right side of a patient and two (2) experiences on the left side of a patient, of which only one (1) may be on another student?</u></p> | Yes <input type="checkbox"/> No <input type="checkbox"/> |

**Please answer the following:**

11. Will clinical instruction for the mental and incisive injections include at least two (2) clinical experiences per injection to include one (1) experience on the right side of a patient and one (1) experience on the left side of a patient, of which only one (1) may be on another student? Will clinical instruction for the nasopalatine injection include four (4) clinical experiences, of which only one (1) may be on another student?

Yes ☐ No ☐

**Nitrous Oxide-Oxygen Requirements:**

12. Will instruction in the administration of nitrous oxide-oxygen include at least eight (8) hours of instruction, including at least four (4) hours of didactic and preclinical instruction and at least four (4) hours of clinical instruction to include at least two (2) preclinical experiences on patients, both of which may be on another student, and at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine clinical competency in the course? Will each clinical experience include the performance of a dental hygiene procedure while administering at least twenty (20) minutes of nitrous oxide-oxygen analgesia from the beginning of titration of nitrous oxide-oxygen to the discontinuation of nitrous oxide and beginning of final oxygenation?

Yes ☐ No ☐

13. Specify the **total number of hours** for all three areas within the course that will be taught in the categories listed below:

Didactic: \_\_\_\_\_ Pre-Clinical: \_\_\_\_\_ Clinical: \_\_\_\_\_

14. Will you retain for at least 5 years copies of curriculum, syllabi, exams, sample test questions, clinic rubrics, copies of faculty credentials, faculty calibration plan and individual student records including-evaluations and summations thereof pursuant to 16 CCR §1107(b)(6)?

Yes ☐ No ☐

15. Will each student be issued a certificate of successful completion after achievement of a minimum of 75% in each clinical competency and has been deemed competent in each of the three (3) procedures?

Yes ☐ No ☐

**Acknowledgement:**

16. Will the DHEP inform the Board of any changes to the course content, physical facilities, and faculty within ten (10) business days of such changes?

Yes ☐ No ☐

17. Have you reviewed Business & Professions Code (B & PC) §1909 and Title 16, Division 11 of the CCR?

Yes ☐ No ☐

18. Do you agree to abide by the statutory and regulatory requirements set forth in B & PC §1909, and Title 16, Division 11 of the CCR **AND** do you acknowledge that failure to do so may result in loss of course approval?

Yes ☐ No ☐

**The Board may approve or deny approval of any course. If the Board denies approval of a course, the reasons for denial will be provided in writing within 90 days.**

**Certification:**

**I certify under the penalty of perjury under the laws of the State of California that the statements made in the application are true and correct.**

---

Signature of Program Director

Date

---

Signature of Course Director

Date

**INFORMATION COLLECTION AND ACCESS**

The information requested herein is mandatory and is maintained by the Dental Hygiene Board of California, 2005 Evergreen Street, Suite 2050, Sacramento, CA 95815, Executive Officer, 916-263-1978, in accordance with Business & Professions Code, §1900 et seq. The information requested will be used to determine eligibility. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. Each individual has the right to review his or her own personal information maintained by the agency as set forth in the Information Practices Act unless the records are exempt from disclosure. Applicants are advised that the names(s) and address(es) submitted may, under limited circumstances, be made public.

## **Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)**

Business & Professions Code (BPC) §1909, California Code of Regulations (CCR) Title 16, §§1105.2, 1107

**Non-Refundable Fee: \$500**  
**(Must accompany application)**

**DHBC USE ONLY**

|                   |               |
|-------------------|---------------|
| <u>Receipt</u>    | <u>RC</u>     |
| <u>Date Filed</u> | <u>\$</u>     |
| <u>Approved</u>   | <u>Denied</u> |

**PLEASE TYPE OR WRITE LEGIBLY**

|  |              |                                  |
|--|--------------|----------------------------------|
| <u>Date</u>  |              |                                  |
| <b><u>Registered Dental Hygienist (RDH) SLN Certification Applicant Information:</u></b> |              |                                  |
| <u>Name</u>  |              | <u>Phone Number</u>              |
| <u>Address</u>   |              | <u>Email Address</u>             |
| <u>City</u>  | <u>State</u> | <u>Zip</u>                       |
| <b><u>Dental Hygiene Educational Program (DHEP) Information:</u></b>                     |              |                                  |
| <u>DHEP Name</u>   |              | <u>Phone Number</u>              |
| <u>Program Director</u>  |              | <u>Program Director Email</u>    |
| <u>SLN Course Director</u>   |              | <u>SLN Course Director Email</u> |
| <u>DHEP Address</u>  |              |                                  |
| <u>City</u>  | <u>State</u> | <u>Zip</u>                       |

**Requirements for SLN Course Certification Acceptance:**

An Out-of-State Dental Hygiene Educational Program (DHEP) Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) must be reviewed prior to acceptance of SLN course requirements for out-of-state Registered Dental Hygienist (RDH) applicants. Applicant records shall be subject to inspection by the Dental Hygiene Board of California (Board).

|   |  |
|---|--|
| <b>Please answer the following:</b>   |  |
| 1. <u>Did the course provide instruction in administration of local anesthetic agents limited to the oral cavity, administration of nitrous oxide-oxygen used as an analgesic utilizing fail-safe type machines containing no other general anesthetic agents, and periodontal soft tissue curettage? <b><i>Include a copy of your SLN curriculum to include syllabi and student evaluation mechanisms (clinical skills and competency assessment forms, remediation policy and procedures).</i> (Label as Exhibit A).</b></u>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 2. <u>Did the course's duration allow for the development of competence in administration of local anesthesia, administration of nitrous oxide-oxygen analgesia, and performance of periodontal soft tissue curettage? <b><i>Include a copy of your didactic, pre-clinical and clinical schedules.</i> (Label as Exhibit B)</b></u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b>Periodontal Soft Tissue Curettage Requirements:</b>  |  |
| 3. <u>Did instruction in periodontal soft tissue curettage include at least six (6) hours of instruction, including at least three (3) hours of didactic and preclinical instruction and at least three (3) hours of clinical instruction which included at least three (3) clinical experiences on patients, of which only one was on another student and one of which was used to determine clinical competency in the course and the competency evaluation for this procedure was achieved at a minimum of 75%?</u>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| <b>Local Anesthesia Requirements:</b>   |  |
| 4. <u>Did instruction in the administration of local anesthetic agents include at least thirty (30) hours of instruction, including at least fifteen (15) hours of didactic and preclinical instruction and at least fifteen (15) hours of clinical instruction?</u>  | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 5. <u>Did curriculum include maxillary and mandibular anesthesia techniques for local infiltration, field blocks and nerve blocks to include anterior superior alveolar (ASA), middle superior (MSA), anterior middle superior alveolar (AMSA), posterior superior alveolar (PSA), greater palatine, suprapariosteal, inferior alveolar (IA), lingual, and buccal injections? Did preclinical instruction of the aforementioned injections include a minimum of two (2) experiences per injection, which may have been on another student? Did clinical instruction include at least four (4) clinical experiences per injection which included two (2) experiences on the right side of a patient and two (2) experiences on the left side of a patient, of which only one (1) may have been on another student?</u> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 6. <u>Did clinical instruction for the mental and incisive injections include at least two (2) clinical experiences per injection which included one (1) experience on the right side of a patient and one (1) experience on the left side of a patient, of which only one (1) may have been on another student? Did clinical instruction for the nasopalatine injection include four (4) clinical experiences, of which only one (1) may have been on another student?</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |

|   |  |
|---|--|
| <b><u>Nitrous Oxide-Oxygen Analgesia Requirements:</u></b>  |  |
| 7. <u>Did instruction in the administration of nitrous oxide-oxygen analgesia include at least eight (8) hours of instruction, including at least four (4) hours of didactic and preclinical instruction and at least four (4) hours of clinical instruction which included at least two (2) preclinical experiences on patients, both of which may have been on another student, and at least three (3) clinical experiences on patients, of which only one may have been on another student and one of which was used to determine clinical competency in the course?</u> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 8. <u>Did each clinical experience include the performance of a dental hygiene procedure while administering at least twenty (20) minutes of nitrous oxide-oxygen analgesia from the beginning of titration of nitrous oxide-oxygen to the discontinuation of nitrous oxide and beginning of final oxygenation?</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 9. <u>Specify the <b>total number of hours</b> for all three areas within the course that was taught in the categories listed below:</u><br>Didactic: _____ Pre-Clinical: _____ Clinical: _____   |  |
| <b><u>Acknowledgement:</u></b>  |  |
| 10. <u>Did you successfully complete the course after achievement of a minimum of 75% in each clinical competency and are deemed competent in each of the three (3) procedures?</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 11. <u>Have you reviewed California Business &amp; Professions Code (BPC) section 1909 and California Code of Regulations (CCR) title 16, sections 1105.2 and 1107?</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 12. <u>Do you certify that the course you completed meets all requirements of BPC section 1909 and 16 CCR sections 1105.2 and 1107?</u>   | Yes <input type="checkbox"/> No <input type="checkbox"/> |

**The Board may approve or deny acceptance of any course. If the Board denies acceptance of a course, the reasons for denial will be provided in writing within 90 days.**

## **Certification:**

**I certify under the penalty of perjury under the laws of the State of California that the statements made in the application are true and correct.**

\_\_\_\_\_  
Signature of SLN Certification Applicant

\_\_\_\_\_  
Date

### **INFORMATION COLLECTION AND ACCESS**

The information requested herein is mandatory and is maintained by the Dental Hygiene Board of California, 2005 Evergreen Street, Suite 2050, Sacramento, CA 95815, Executive Officer, 916-263-1978, in accordance with Business & Professions Code, §1900 et seq. The information requested will be used to determine eligibility. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. Each individual has the right to review his or her own personal information maintained by the agency as set forth in the Information Practices Act unless the records are exempt from disclosure. Applicants are advised that the names(s) and address(es) submitted may, under limited circumstances, be made public.



**CERTIFICATION OF COMPETENCY IN PERFORMANCE OF  
 PERIODONTAL SOFT TISSUE CURETTAGE, LOCAL  
 ANESTHESIA, AND NITROUS OXIDE-OXYGEN ANALGESIA  
 (SLN)**

**PLEASE TYPE OR PRINT LEGIBLY**

|   |                     |  |                      |
|---|---------------------|--|----------------------|
| <u>Date</u>   |                     |  |                      |
| <b><u>Registered Dental Hygienist (RDH) Applicant Information</u></b> |                     |  |                      |
| <u>Last Name</u>  | <u>First Name</u>   | <u>Middle Name</u>                         | <u>Date of Birth</u> |
| <u>Address</u>  |                     |  |                      |
| <u>City</u>   |                     | <u>State</u>                               | <u>Zip Code</u>      |
| <u>Home Phone</u>   | <u>Mobile Phone</u> | <u>Email Address</u>                       |                      |
| <b><u>Dental Hygiene Educational Program (DHEP) Information</u></b>   |                     |  |                      |
| <u>DHEP Name</u>  |                     |  |                      |
| <u>Dates of Attendance by RDH Applicant</u>                           |                     | <u>Date of Graduation of RDH Applicant</u> |                      |
| From  | To                  |  |                      |
| <u>DHEP Director</u>  |                     | <u>DHEP Director Email Address</u>         |                      |
| <u>Address</u>  |                     |  |                      |
| <u>City</u>   |                     | <u>State</u>                               | <u>Zip Code</u>      |
| <u>DHEP Phone Number</u>  |                     | <u>DHEP Director Phone Number</u>          |                      |

| <u>Injection</u>   | <u>Required Preclinical Injections</u><br><br><u>Injections may be on another student</u> | <u>Required Clinical Injections:</u><br><u>Injections to include two (2) experiences on the right side of a patient and two (2) experiences on the left side of a patient,</u><br><br><u>Only one (1) injection may be on another student.</u> | <u>DHEP Director:</u><br><u>Please initial below as to the completion of each requirement</u> |
|--|---|--|---|
| <u>Anterior Superior Alveolar (ASA)</u>  | <u>2</u>  | <u>4</u>   |   |
| <u>Middle Superior Alveolar (MSA)</u>  | <u>2</u>  | <u>4</u>   |   |
| <u>Anterior Middle Superior Alveolar (AMSA)</u>  | <u>2</u>  | <u>4</u>   |   |
| <u>Posterior Superior Alveolar (PSA)</u>   | <u>2</u>  | <u>4</u>   |   |
| <u>Greater Palatine (GP)</u>   | <u>2</u>  | <u>4</u>   |   |
| <u>Supraperiosteal</u>   | <u>2</u>  | <u>4</u>   |   |
| <u>Inferior Alveolar (IA)</u>  | <u>2</u>  | <u>4</u>   |   |
| <u>Lingual</u>   | <u>2</u>  | <u>4</u>   |   |
| <u>Buccal</u>  | <u>2</u>  | <u>4</u>   |   |
| <u>Competency evaluations for each of the above injections and techniques were achieved at a minimum of 75%.</u> |   |  |   |

| <u>Injection</u>    | <u>Required Preclinical Injections</u><br><br><u>Injections may be on another student</u> | <u>Required Clinical Injections</u>  | <u>DHEP Director:</u><br><u>Please initial below as to the completion of each requirement.</u> |
|---------------------|---|--|--|
| <u>Nasopalatine</u> | <u>2</u>  | <u>4</u>   |  |
| <u>Mental</u>       | <u>2</u>  | <ol style="list-style-type: none"> <li>1. <u>One (1) experience on the right side of a patient</u></li> <li>2. <u>One (1) experience on the left side of a patient</u></li> <li>3. <u>Only one (1) injection may be on another student.</u></li> </ol> |  |

| <u>Injection</u>   | <u>Required Preclinical Injections</u><br><br><u>Injections may be on another student</u> | <u>Required Clinical Injections</u>  | <u>DHEP Director: Please initial below as to the completion of each requirement.</u> |
|--|---|--|--|
| <u>Incisive</u>  | <u>2</u>  | <ol style="list-style-type: none"> <li>1. <u>One (1) experience on the right side of a patient</u></li> <li>2. <u>One (1) experience on the left side of a patient</u></li> <li>3. <u>Only one (1) injection may be on another student.</u></li> </ol> |  |
| <u>Competency evaluations for each of the above injections and techniques were achieved at a minimum of 75%.</u> |   |  |  |

| <u>Nitrous Oxide-Oxygen Sedation</u>  | <u>Required Preclinical Experiences</u>   | <u>Required Clinical Experiences</u>   | <u>DHEP Director: Please initial below as to the completion of each requirement.</u> |
|---|---|--|--|
|   | <ol style="list-style-type: none"> <li>1. <u>Minimum two experiences.</u></li> <li>2. <u>Both experiences may be on another student.</u></li> </ol> | <ol style="list-style-type: none"> <li>1. <u>Minimum three (3) experiences.</u></li> <li>2. <u>One experience may be on another student.</u></li> <li>3. <u>One experience must be used to determine competency.</u></li> <li>4. <u>Minimum of 20 minutes of nitrous oxide-oxygen exposure for each experience.</u></li> </ol> |  |
| <u>Competency evaluation for the Nitrous Oxide-Oxygen Sedation experience was achieved at a minimum of 75%.</u> |   |  |  |

### **SLN CERTIFICATION:**

**I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE CALIFORNIA RDH APPLICANT ABOVE SUCCESSFULLY COMPLETED AND DEMONSTRATED CLINICAL COMPETENCY IN THE ABOVE LISTED DUTIES PURSUANT TO CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 11 §1107(b)(8-9).**



\_\_\_\_\_  
**PRINTED NAME OF PROGRAM DIRECTOR**

\_\_\_\_\_  
**SIGNATURE OF PROGRAM DIRECTOR** **DATE**



## **DENTAL HYGIENE BOARD OF CALIFORNIA RESOLUTION TO ADOPT PROPOSED FEES**

Whereas, section 1944 of the Business and Professions Code (BPC), where the Dental Hygiene Board of California (Board) shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist (RDH), registered dental hygienist in alternative practice (RDHAP), and a registered dental hygienist in extended functions (RDHEF).

Whereas the following fees to be adopted by resolution by the Board:

- The fee for an “Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)” shall be five hundred dollars (\$500).

THEREFORE, BE IT RESOLVED that the Board hereby adopts by resolution the above fee.

Adopted this 29 day of May, 2020 by:

---

Timothy Martinez DMD

cc: Anthony Lum, DHBC Executive Officer



## **DENTAL HYGIENE BOARD OF CALIFORNIA RESOLUTION TO ADOPT PROPOSED FEES**

Whereas, section 1944 of the Business and Professions Code (BPC), where the Dental Hygiene Board of California (Board) shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist (RDH), registered dental hygienist in alternative practice (RDHAP), and a registered dental hygienist in extended functions (RDHEF).

Whereas the following fees to be adopted by resolution by the Board:

- The fee for an “Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)” shall be five hundred dollars (\$500).

THEREFORE, BE IT RESOLVED that the Board hereby adopts by resolution the above fee.

Adopted this 29 day of May, 2020 by:

---

Timothy Martinez DMD

cc: Anthony Lum, DHBC Executive Officer



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Legislative and Regulatory Subcommittee   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist |
| <b>SUBJECT</b> | <b>FULL 15: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1115. Retired Licensure.</b>  |

### Background:

At the January 29, 2019 Full Board Teleconference, the Board approved proposed language relative to the implementation of retired licensure for RDHs, RDHAPs, and RDHEFs, and directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorized the Executive Officer to make any non-substantive changes to the rulemaking package.

### Staff Recommendation:

In response to comments made from the review by the Department of Consumer Affairs (DCA), staff recommends to the Board to re-review the proposed language in the attached document, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115.

**Pros:** In order to allow 16 CCR section 1115 to move forward in the regulatory process, regulatory language must be approved by the Board to allow implementation of retired licensure for RDHs, RDHAPs, and RDHEFs.

**Cons:** If the proposed language is not approved, 16 CCR section 1115 will not be able to progress in the regulatory process to implement retired licensure for RDHs, RDHAPs, and RDHEFs.



## **Proposed Regulation for Retired Licensure**

(All language is new and proposed to be adopted.)

California Code of Regulations, Title 16, Division 11, Article 4, §1115. Retired Licensure.

(a) A retired license shall be issued to a registered dental hygienist (RDH), registered dental hygienist in alternative practice (RDHAP), or registered dental hygienist in extended functions (RDHEF) if the licensee meets the following requirements:

- (1) Holds an active or inactive license issued by the Board that is not expired, suspended, revoked, placed on inactive status for disciplinary reasons, or otherwise subjected to current discipline; and
- (2) Has been licensed in California for a minimum of ten (10) years to practice as an RDH, RDHAP, or RDHEF; and
- (3) Submit to the Board a completed "Application for a Retired RDH, RDHAP, or RDHEF License" DHBC RLC-01 (01/19), hereby incorporated by reference; and
- (4) Submit an \$80 fee to the Board.

(b) A retired license may be issued to an RDH, RDHAP, or RDHEF who has been deemed permanently disabled if the licensee meets the following requirements:

- (1) Holds an active or inactive license issued by the Board that is not expired, suspended, revoked, placed on inactive status for disciplinary reasons, or otherwise subjected to current discipline; and
- (2) Has been licensed in California to practice as an RDH, RDHAP, or RDHEF; and
- (3) Submit to the Board a completed "Application for a Retired RDH, RDHAP, or RDHEF License" DHBC RLC-01 (01/19), hereby incorporated by reference; and
- (4) Submit documents from a licensed physician to the satisfaction of the Board and signed under penalty of perjury, certifying that the licensee is permanently disabled and unable to practice dental hygiene; and
- (5) Submit an \$80 fee to the Board.

(c) Once the Board has issued a retired license, the holder of a retired license shall:

- (1) Be exempt from continuing education requirements;
- (2) Be exempt from renewal of the retired license; and
- (3) Utilize his or her professional title only with the unabbreviated word “retired” preceding or after the professional designation.
- (d) The holder of a retired license shall not engage in any activity for which an active RDH, RDHAP, or RDHEF license is required.
- (e) The Board shall not be prevented from investigating violations or taking action against a retired license for violations of laws governing the practice of dental hygiene.
- (f) To restore a license to active status, the holder of a retired license shall comply with the following requirements:
  - (1) Request to restore his or her license to active status within three (3) years of issuance of the retired license; and
  - (2) Submit a completed “Application for Reactivation of a Retired RDH, RDHAP, or RDHEF License” DHBC RLC-02 (01/19), hereby incorporated by reference; and
  - (3) Payment of a \$160 fee as required by the Board; and
  - (4) Submit proof of completion of current continuing education requirements pursuant to 16 CCR sections 1017 (a) and section 1017 (c); and
  - (5) Comply with fingerprint submission requirements pursuant to 16 CCR section 1132.
  - (6) If retired license status was issued due to a permanent disability, the retired licensee must submit documents from a licensed physician to the satisfaction of the Board and signed under penalty of perjury, that the retired licensee’s disability no longer exists or no longer affects his or her ability to safely practice dental hygiene.
- (g) A licensee may be granted a retired license pursuant to this section on no more than two (2) separate occasions and may only apply to restore his or her retired license to active status one (1) time.

Note: Authority cited: Sections 464, 1905, 1906, and 1944 Business and Professions Code. Reference cited: Sections 464, 1906, and 1944 Business and Professions Code.



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum, Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist                    |
| <b>SUBJECT</b> | FULL 16: Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1116 Mobile Dental Hygiene Clinic Fee Resolutions |

### Background:

Pursuant to Business & Professions Code (BPC) section 1944, subdivision (a) the Board shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist (RDH), a registered dental hygienist in alternative practice (RDHAP), and a registered dental hygienist in extended functions (RDHEF). The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of RDHs, RDHAPs, and RDHEFs and shall remain in effect until modified by the Board. The fees are subject to the following limitations:

Section 1944, subdivision (g) states: "The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150)." Additionally, section 1944, subdivision (h) states: "The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250)."

On August 6, 2019, the Board established by resolution the fee for initial MDHC permits at \$150 and the fee for biennial MDHC permit renewals at \$250 each to cover application processing and permit issuance. It has been brought to staff's attention by the Budget Office that the initial fees established were insufficient to cover the cost expenditure for issuance of MDHC initial and renewal permits.

**Staff Recommendation:** Staff recommends to establish by resolution the fee for initial MDHC permits at \$150 and biennial MDHC permit renewals at \$250 each to cover application processing and permit issuance.

**Pros:** In order to allow 16 CCR section 1116 to move forward in the regulatory process, fees for MDHC permits must be established by resolution.

**Cons:** If the fees are not established for the initial MDHC permits, as well as the fee for MDHC biennial permit renewal, the Board may not issue MDHC permits prohibiting RDHAPs from utilizing MDHCs to provide needed care to the citizens of California, especially those who live in underserved communities.



## **DENTAL HYGIENE BOARD OF CALIFORNIA RESOLUTION TO ADOPT PROPOSED FEES**

Whereas, section 1944 of the Business and Professions Code (BPC), where the Dental Hygiene Board of California (Board) shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist (RDH), registered dental hygienist in alternative practice (RDHAP), and a registered dental hygienist in extended functions (RDHEF).

Whereas the following fees to be adopted by resolution by the Board:

- The fee for registration of a mobile dental hygiene clinic shall be one hundred and fifty dollars (\$150).
- The biennial renewal fee for a mobile dental hygiene clinic shall be two hundred and fifty dollars (\$250).

THEREFORE, BE IT RESOLVED that the Board hereby adopts by resolution the above fees.

Adopted this 29 day of May, 2020 by:

---

Timothy Martinez DMD

cc: Anthony Lum, DHBC Executive Officer



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist          |
| <b>SUBJECT</b> | <b>FULL 17: Discussion and Possible Action on the Following Proposed 1 CCR Section 100 Package: Business and Professions Code Section 901.</b> |

### Background:

The Board has ongoing reviews of regulatory sections that may be considered by the Board for revision, clarification, or omission. Once Board approved, the revisions are proposed for approval as quickly as possible to minimize the time to implement the changes so that references and the law remain current and applicable.

The underlying statutory authority for sections 1149, 1150, 1151, 1152, and 1153 [collectively, Article 13 of Division 11 of Title 16 of the California Code of Regulations (CCR)], which was formerly Business and Professions Code (BPC) section 901, has been repealed by Assembly Bill 512 (Chapter 111, Statutes of 2013, section 1), operative January 1, 2018 (copy attached). Subdivision (l) of section 901 extended a previous sunset date from 2014 to 2018, but there have been no further extensions [(l) 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]. As such, these regulatory sections must be repealed pursuant to Article 2 of Division 1 of Title 1, section 100, subdivision (a)(2) of the CCR).

### Staff Recommendation:

Staff recommends to approve the Section 100 change request and direct staff to take all steps necessary to initiate the rulemaking process and authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process,

**Pros:** By approving staff's recommendation, the Board will have the ability to remove expired regulatory language in the CCR to avoid misleading the public with expired regulatory language which no longer applies.

**Cons:** If the Board does not approve the recommended Section 100 change, by leaving expired regulatory language in the CCR it would be misleading to the public due to the fact that the regulatory language no longer applies.

## Dental Hygiene Board of California

### Deletion of Article 13, Sponsored Free Health Care Events - Requirements for Exemption

Title 16, California Code of Regulations (CCR)  
Sections 1149, 1150, 1151, 1152, and 1153

Legend: Deleted text is indicated by ~~strikeout~~

**Delete Sections 1149, 1150, 1151, 1152, and 1153 of Article 13, Division 11, of Title 16, CCR:**

#### **~~Article 13, Sponsored Free Health Care Events - Requirements for Exemption~~**

##### **~~§ 1149. Definitions.~~**

~~For the purposes of section 901 of the Code:~~

~~(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.~~

~~(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of dental hygiene but who holds a current active and valid license or certificate in good standing in another state, district, or territory of the United States to practice dental hygiene.~~

~~(c) The term "in good standing" means the applicant:~~

~~(1) Has not been charged with an offense for any act substantially related to the practice of dental hygiene for which the applicant is licensed by any public agency;~~

~~(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice relating to dental hygiene, including any voluntary surrender of a license;~~

~~(3) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Committee determines constitutes evidence of a pattern of negligence or incompetence.~~

Note: Authority cited: Sections 901 and 1906, Business and Professions Code.  
Reference: Section 901, Business and Professions Code.

**~~§ 1150. Sponsoring Entity Registration and Recordkeeping Requirements.~~**

~~(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the Committee not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Committee or its delegatee by submitting to the Committee a completed "Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2014 - revised), which is hereby incorporated by reference.~~

~~(b) Determination of Completeness of Form. The Committee may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process "Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2014 - revised) on behalf of the Committee. The Committee or its delegatee shall inform the sponsoring entity within 15 calendar days of receipt of "Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2014 - revised) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Committee or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.~~

~~(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the Committee to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the Committee at the time of registration, as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Committee.~~

~~(d) Requirement for Prior Committee Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the Committee.~~

~~(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Committee summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:~~

~~(1) The date(s) of the sponsored event;~~

~~(2) The location(s) of the sponsored event;~~

~~(3) The type(s) and general description of all health care services provided at the sponsored event; and~~

~~(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.~~

~~Note: Authority cited: Sections 901 and 1906, Business and Professions Code.  
Reference: Section 901, Business and Professions Code.~~

#### **~~§ 1151. Out-of-State Practitioner Authorization to Participate in Sponsored Event.~~**

~~(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Committee to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Committee to provide those services. An applicant shall request authorization by submitting to the Committee a completed "Request for Authorization to Practice Without a License at a Registered Free Health Care Event" Form DHCC 901-B (07/2012), which is hereby incorporated by reference, accompanied by a nonrefundable, nontransferable processing fee of \$86.00. The applicant shall also furnish electronic fingerprints to establish the identity of the applicant and to permit the Committee to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check.~~

~~(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the Committee shall notify the sponsoring entity or local government entity administering the sponsored event whether that request is approved or denied.~~

~~(c) Denial of Request for Authorization to Participate.~~

~~(1) The Committee shall deny a request for authorization to participate if:~~

~~(A) The submitted "Request for Authorization to Practice Without a License at a Registered Free Health Care Event" Form DHCC 901-B (07/2012) is incomplete and the applicant has not responded to the Committee's request for additional information within 7 days of such a request.~~

~~(B) The applicant does not possess a current active and valid license in good standing.~~

~~(C) The applicant has not satisfactorily completed a course of instruction, approved by the Committee in accordance with Business and Professions Code Section 1909, in the following procedures, if these procedures are to be performed, or the sponsoring entity will not be providing an appropriately licensed or authorized dentist for direct supervision of these procedures:~~

~~(i) Periodontal Soft-tissue curettage.~~

~~(ii) Administration of local anesthetic agents.~~

~~(iii) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.~~

~~(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the Committee.~~

~~(E) The Committee has been unable to obtain a report from a criminal history records check at least 7 working days before the date of the event.~~

~~(F) The applicant was previously denied an application to practice dentistry, dental hygiene or dental assisting in this state.~~

~~(2) The Committee may deny a request for authorization to participate if:~~

~~(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin.~~

~~(B) The applicant has been previously denied a request for authorization by the Committee to participate in a sponsored event.~~

~~(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Committee.~~

~~(D) The applicant has participated in three (3) or more sponsored events during the 12-month period immediately preceding the current application.~~

~~(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1152(d)-(e).~~

~~Note: Authority cited: Sections 901 and 1906, Business and Professions Code.  
Reference: Section 901, Business and Professions Code.~~

**~~§ 1152. Termination of Authorization and Appeal.~~**

~~(a) Grounds for Termination. The Committee may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:~~

~~(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the Committee.~~

~~(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Committee.~~

~~(3) The Committee has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.~~

~~(b) Notice of Termination. The Committee shall provide both the sponsoring entity or a local government entity administering the sponsored event and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Committee may provide the notice to any representative of the sponsored event on the premises of the event.~~

~~(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination. Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Committee shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.~~

~~(d) Appeal of Termination. An out-of-state practitioner may appeal the Committee's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.~~

~~(e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an agency conference with the executive officer~~

~~regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an agency conference with the out-of-state practitioner. At the conclusion of the agency conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the agency conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an agency conference. If the termination is dismissed after the agency conference, the request for a hearing shall be deemed to be withdrawn.~~

~~Note: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.~~

**~~§ 1153. Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events.~~**

~~(a) Each out-of-state practitioner authorized to participate in a sponsored event and provide dental hygiene services at the sponsored event pursuant to section 1154 shall provide a written notice to each patient or prospective patient prior to performing any services. This notice shall be in at least 12 point font, and include, at a minimum, the following information:~~

~~(1) The state, district, or territory where the out-of-state practitioner is licensed in good standing;~~

~~(2) The name of each governmental agency that has issued the out-of-state practitioner a license to practice dental hygiene and the effective dates of each license;~~

~~(3) The out-of-state practitioner's license number(s);~~

~~(4) The dates the out-of-state practitioner is authorized to practice by the Committee; and,~~

~~(5) A disclosure that states: "The Dental Hygiene Committee of California has only authorized me to provide services under my license from another state and only at this free health care event for a period not to exceed ten (10) days."~~

~~(b) This notice required by this Section shall be provided separate and apart from all other notices or authorizations that a patient may be given or required to sign and shall be retained by the patient.~~

~~Note: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.~~

## Assembly Bill No. 512

### CHAPTER 111

An act to amend Section 901 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 16, 2013. Filed with  
Secretary of State August 16, 2013.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 512, Rendon. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

Existing law provides, until January 1, 2014, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. Existing law also requires an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board.

This bill would delete the January 1, 2014, date of repeal, and instead allow the exemption to operate until January 1, 2018.

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

SECTION 1. Section 901 of the Business and Professions Code is amended to read:

901. (a) For purposes of this section, the following provisions apply:

(1) “Board” means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) “Health care practitioner” means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) “Sponsored event” means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) “Sponsoring entity” means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) “Uninsured or underinsured person” means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she does all of the following:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (d).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(l) 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.

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## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer   |
| <b>SUBJECT</b> | <b>FULL 18: Discussion and Possible Action on Temporary Modification for WREB Clinical Examination to a Written Format and Request for the DCA Office of Professional Examination Services (OPES) to Review.</b> |

### Background

The Board has been receiving numerous inquiries regarding possible clinical exam options, particularly from the Class of 2020, for the completion of licensing requirements due to the Coronavirus (COVID-19) pandemic. The clinical exams nationwide have been suspended or rescheduled for a later date due to the pandemic. As the dental hygiene clinical exam involves close in-person contact to treat patients as part of the requirements for the clinical exam, concerns have arisen as to the feasibility of administering this type of exam during the pandemic. By law, the Board cannot waive licensure requirements unless a mandate, provision or waiver is approved by the administration.

On April 21, 2020, The Western Regional Examining Board (WREB) sent information to the Board regarding a Dental Hygiene Objective Structured Clinical Examination (OSCE) as an alternative to the traditional patient-based exam for temporary consideration by the Board.

### Staff Recommendation

Staff requests the Board to review and discuss WREB's OSCE clinical examination option to temporarily change from a patient-based, in-person clinical exam to a written exam for all applicants to complete licensure requirements due to the pandemic. If approved, the change in format would be temporary with a finite date, unless extended. Staff also recommends for the DCA Office of Professional Examination Services (OPES) to review the proposed examination for compliance with Business and Professions Code section 139 to protect the Board. This section of the code addresses compliance with the Board's laws to ensure examination validation and that it's psychometrically sound as a replacement for the current patient-based clinical examination.

### Pros:

If the Board temporarily allows for an alternative testing option to the traditional patient-based clinical exam for the completion of licensing requirements due to the COVID-19 pandemic, applicants will be able to continue their pursuit of a dental hygiene license and eventually become productive contributors to California's workforce.

### Cons:

If the Board does not allow for an alternative testing option to the traditional patient-based exam for the completion of licensing requirements due to the pandemic, applicants will be delayed from obtaining their licenses until the resumption of the patient-based clinical examinations are resumed.

## **WREB Dental and Dental Hygiene Licensing Examination COVID-19 Options for 2020**

WREB is an independent testing agency that develops, administers, and reports the outcome of practical clinical examinations administered to candidates for licensing in dentistry and dental hygiene. While aware of the needs of students and dental education programs, WREB's sole purpose is to provide state boards with examinations that have high reliability and are supported by a strong validity argument—examinations state boards can rely on to inform licensing decisions. For this reason, WREB is highly responsive to the needs and wishes of state boards that recognize its examinations.

- WREB Dental Examination options are described below (pp. 1-4).
- WREB Dental Hygiene Examination options are described on pp. 5-6.

### **WREB Dental Licensing Examination COVID-19 Options for 2020**

Following are options state boards could consider in response to COVID-19:

#### Dental Examination without Change

WREB's standard dental examination which includes two simulations (Endodontics and Prosthodontics) and two patient-based sections (Operative Dentistry and Periodontics) in addition to the Comprehensive Treatment Planning (CTP) section will continue to be offered as soon as test sites again are able to schedule this type of examination. This option may not address the needs of state boards attempting to respond to the concerns of dental candidates and schools who wish to complete the licensure process within the next several months. Even when re-established, examination administration may be subject to interim restrictions. States that specifically require two patient-based restorative procedures and wish to reduce the burden on licensure candidates imposed by COVID-19 could safely accept WREB's Operative Section as it is scored and validated, which has demonstrated that candidate competency can be reliably assessed with more than 40% fewer patient-based procedures.<sup>i</sup>

#### CTP Only

WREB's CTP (Comprehensive Treatment Planning) Section<sup>ii</sup> is an ASCE (Authentic Simulated Clinical Examination) which requires the candidate to construct responses (as opposed to an OSCE in which the candidate selects responses from options, locations, or choices provided). The CTP ASCE is open-ended and graded by independent, anonymous examiners. It reveals candidate thinking and requires candidates to perform tasks that dentists perform and to make decisions that dentists make, all without choices they can select or cues of any kind. If acceptance of only an OSCE examination is being considered, then acceptance of WREB's CTP ASCE which is an even more authentic demonstration of relevant candidate knowledge, skill, and ability, should be considered.

### COVID-19 Alternative Performance-based Simulation

Patient-based assessment has high fidelity. WREB is not abandoning patient-based assessment but continues to evaluate the validity and viability of assessment alternatives, including simulation. WREB has been developing simulations that soon may be able to replace patient-based assessment for Operative Dentistry and Periodontics, the last two patient-based sections of its current dental examination. These simulations are in development and undergoing review.

In the meantime, the advent of COVID-19 has placed students and their education programs in a difficult and frustrating position. Students need to graduate, move on, obtain employment, or begin their advanced dental education residencies; their education programs need them to graduate and move on in order accept a new entering class and appropriately advance the classes below them. COVID-19 associated risk and social distancing currently completely obstruct student ability to challenge the traditional, patient-based examination. While WREB understands that COVID-19 is creating a crisis for students, for dental education programs, and even for the profession, its singular purpose is to support the needs of state boards in their regulatory role and charge to protect the public.

Students and program directors recently have appealed to state boards and, not knowing exactly how long COVID-19 risk and need for social distancing might continue, state boards in a few states now have appealed to WREB for potential solutions they might consider along with suggestions they've received that include waiving clinical examination requirements altogether, waiving the patient-based sections of the clinical examination, granting a provisional license until the applicant is able to complete the full examination, acceptance of the DLOSCE in lieu of a practical demonstration of clinical skills, and variations of these.

In response and in addition, WREB has field-tested an alternative, performance-based simulation that could be required in lieu of its traditional patient-based Operative Section. This alternative included the field-testing of social distancing for both candidates and examiners.

In the simulation, each candidate is required to successfully perform both preparation and finish of a conventional Class II restoration on a molar and a Class III restoration on a central incisor. All procedures are performed, like they are for the Endodontics and Prosthodontics sections, in full simulation and with rubber-dam isolation. Results are assessed using established Operative Section criteria. Certain critical errors are preserved, and the passing cut-point remains unchanged. The simulation involves social distancing for both candidates and examiners and uses materials (simulation teeth and arches) which are readily available and with which candidates and their programs already are familiar.

This alternative for the Operative Section is intended to be a provisional solution for 2020 (COVID-19) only and is intended neither to replace WREB's patient-based Operative Section in 2020 for states that continue to require it nor to be the simulation WREB intends to offer in the future

when social distancing is not a concern and the validity of a more realistic and involved simulation can be demonstrated.

The second patient-based section of the current WREB dental examination is the Periodontics Section. This section assesses a candidate's understanding of periodontal diagnosis and ability to physically perform initial periodontal therapy (periodontal scaling and root-planing). However, this section already is elective, is not required for licensing in some states, and tests a physical skill that, increasingly, dentists do not themselves perform.<sup>iii</sup> The Periodontics Section, while valued by many states, is, by far, the least discriminating section of the entire examination.<sup>iv</sup> Also, important aspects of periodontal diagnosis and treatment decision-making (things dentists do and are expected to know how to do) already are well covered in the unique CTP Section of WREB's dental examination. State boards may decide to waive or postpone the patient-based Periodontics section until such time as it again may become available to applicants.

These are dental examination options that WREB currently is making available for state board consideration in this highly unusual year. It is assumed that any waiver or exception a state grants due to COVID-19 might be restricted to matriculated students of CODA accredited dental education programs graduating in the spring of 2020 and would not necessarily set a precedent for future years or apply to any other group of applicants. WREB recognizes that all these and related decisions reside with the state and depend on the Board or on the Board's advice to the state authority empowered to grant a variance due to current, emergent COVID-19 circumstances.

Logistic detail regarding the implementation of WREB's dental examination or any of the described alternatives depends on the capacity, limitations, and COVID-19 restrictions imposed by or on any host site where an examination is conducted.

WREB's standard dental examination which includes the fidelity associated with two simulations (Endodontics and Prosthodontics) and two patient-based sections (Operative Dentistry and Periodontics) in addition to CTP will continue to be offered as soon as test sites again are able to host this type of examination.

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<sup>i</sup> Fewer patient-based procedures were required to determine 4,457 candidate pass/fail outcomes for the Operative Section in 2018 (42.0% fewer) and 2019 (41.1% fewer). No significant difference was found between first and second procedure performance for candidates who scored at or above the cut-score on the first procedure. The second procedure added no significant contribution to the assessment of these candidates. Only four of these candidates failed the section despite demonstrating competence on the first procedure; all four scored close to the cut-score and three have already passed upon retake.

<sup>ii</sup> The CTP Section is the most comprehensive section of the WREB Dental Examination. It tests candidate knowledge, skills and abilities that cannot be readily sampled in other ways and includes assessment of meaningful aspects of every other section of the Examination. The CTP Section is designed to integrate the disciplines of dentistry in a practical, clinical way. The construction of appropriately sequenced treatment plans and item responses requires broad understanding of diagnostic, preventive and restorative dentistry, of endodontics, periodontics, and prosthodontics, as well as oral surgical, radiological, pediatric dentistry, and patient-management procedures, and understanding of the relationships between these procedures and their clinical application under various patient conditions.

The CTP Section is open-ended; it's an authentic simulated clinical examination (ASCE)—a practical, performance-based examination. It requires candidates to construct their responses unaided by cues, choices, or locations they can select. In many instances it requires candidates to perform the very tasks dentists perform and, for this reason, has extraordinary fidelity for a computer-based examination. Rigorous examiner training and calibration contributes to high outcome reliability for the CTP examination. And the large reservoir of examination cases, frequent case modification, and the permutation of cases in the forms used every year significantly enhance test security for the CTP examination. All combine to create a strong validity argument for using results of WREB's CTP examination to inform licensing decisions.

<sup>iii</sup> In 2013 74.6% of general practitioners in solo practice employed one or more dental hygienists. For general practitioners in nonsolo practice (including various forms of group practice, "corporate" practice, etc.) 92.2% work in situations where dental hygienists perform scaling and root-planing services. -ADA, Science and Research – Health Policy Institute, Data Center, Dental Practice.

Authors Thomas Wall, M.A., M.B.A.; Albert H. Guay, D.M.D. in their article *Very Large Dental Practices Seeing Significant Growth in Market Share*. Health Policy Institute – Research Brief. August 2015. Point out that:

- From 2002 to 2012, market share increased for dental firms with 20 employees or more, while dental firms with fewer than five employees experienced a decline in market share.
- During the same period, very large dental firms – those with 500 employees or more – also saw increases in number of establishments, number of employees and annual receipts.

The national 2018 Dental Practice Analysis conducted jointly by WREB and CRDTS suggests that dentists, themselves, now are performing very few scaling and root-planing procedures compared to dental hygienists. The 2017 Dental Hygiene Practice Analysis survey specifically asked how often certain procedures were performed by the dentist and 84.6% of respondents said the dentist performed these tasks Rarely or Never.

The average of all general dentists employing dental hygienists in 2013 was 77.2%. From 1990 to 2013 the average number of dental hygienists per dentist in the primary practice (among dentists employing dental hygienists) steadily increased. This trend has been continuing. More and more dentists are having dental hygienists perform basic periodontal services and are using more dental hygienists per capita to do this. Dentists, themselves, are doing fewer and fewer of these tasks. Assessing these skills for dentists, now, may not be supported by the practice (task) analyses that underpin the design of a valid dental licensing examination.

<sup>iv</sup> Evidence in favor of non-requirement includes exceptionally high proportions of candidates performing extremely well on the Periodontics section. Most of the candidates who do fail the Periodontics section multiple times have also failed at least one other section multiple times. Only four (4) out of almost 13,000 (i.e., 0.03%) candidates from 2011 to 2016 remained unsuccessful due to Periodontics Section failure.

## **WREB Dental Hygiene Licensing Examination COVID-19 Options for 2020**

The following are options state boards could consider in response to COVID-19:

### Dental Hygiene Clinical Examination (patient-based)

WREB's standard dental hygiene examination includes the following components:

- Patient Qualification
- Extraoral/Intraoral Examination
- Calculus detection and removal
- Tissue Management
- Periodontal Assessment
- Professional judgment

Many Candidates are still faced with completing educational requirements and CODA has approved alternative methods to have students complete their didactic and clinical requirements. The COVID-19 pandemic has touched everyone; however, some dental hygiene programs are seeing more restrictive state policies being implemented than similar programs in other states. Because of these inconsistencies, the time period for completion of dental hygiene requirements will vary by state; some programs are being postponed for several weeks and others for several months.

In the interim, and at the request of educators, WREB has rescheduled all Dental Hygiene, Local Anesthesia, and Restorative examinations. Taking a clinical examination is still a viable option, as WREB anticipates Candidates will still want an examination that allows them greater portability than licensure in a single state.

WREB is acutely aware of the risks associated with COVID-19 but is well prepared and capable of adjusting our exam protocol to adhere to national and state regulations without risking the integrity of the exam or the safety of the candidates, patient, and examiners.

### Comprehensive Written Dental Hygiene OSCE Component

WREB understands that for many states, the current patient-based clinical examination may not fit the current needs of state boards seeking alternative pathways for dental hygiene licensure. COVID-19 associated risks along with social distancing, impede a student's ability to challenge the traditional, patient-based examination. WREB understands that COVID-19 is creating a crisis for students, for dental hygiene education programs, and even for the profession, and is prepared to serve as a resource for our member state boards and committees during this crisis and provide alternative testing methods while still maintaining the fidelity of our examinations.

WREB is developing a dental hygiene written OSCE that includes dental hygiene components that are essential for safe practice while testing a candidate's knowledge about dental hygiene care. This examination is an accumulation of beta-tested dental hygiene items that have been used in

other WREB examinations and are psychometrically sound. The examination may serve as an alternative to a patient-based examination for licensure. WREB is prepared to administer this examination on site at each school with our own equipment utilizing social distancing protocols. Utilizing testing centers will not be necessary.

The process of treating a patient's oral health not only requires good instrumentation skills, but also possessing an aptitude for making correct treatment decisions. Critical thinking skills are important in the assessment of the patient's needs and to accurately develop a care plan that reflects a patient's individualized care. These steps form the foundation for dental hygiene treatment which ultimately leads to healthy outcomes and improvement in health.

The WREB Dental Hygiene OSCE is a multiple-choice written component that assesses these multi-faceted components of dental hygiene care. This is a comprehensive overview of dental hygiene knowledge, radiographic interpretation, AAP staging and grading, extra and intra oral assessment and risk assessment, care plan development, and assessment and treatment of the periodontium. The exam is an avenue to test the skills of an entry-level student, either replacing the current clinical examination or in conjunction with a clinical licensure exam should a state board want an additional assessment examination.

### WREB Dental Examination Options Under COVID-19

| Option  | Exam Type   | Description   | Availability   |
|---|---|---|--|
| WREB Comprehensive Treatment Planning Exam        | Written Authentic Simulated Clinical Examination(ASCE)  | Constructed response exam requiring students to perform tasks and make decisions with high fidelity to dental practice. For states considering an OSCE examination only as a pathway to licensure WREB's CTP ASCE is a more authentic demonstration of relevant candidate knowledge.  | Most candidates completed this exam in the Fall of 2019. For those that have not, they can complete it as soon as Prometric Testing Centers open again. Projected to be May 1, 2020.     |
| Traditional WREB Patient Based Examination        | Traditional exam requiring demonstration of skills on a mannikin for Endodontic and Prosthodontics and on a patient for Periodontics and Operative and the written CTP (ASCE) exam. | Although many states require completing two procedures for the Operative section WREB has demonstrated that candidate competency can reliably assessed with 1 patient. For states that require 2 procedures currently they could relax the requirement to require only one procedure.   | Depends on the event line of COVID-19; circumstances will vary widely across sites and require willing patients and available volunteers, freedom of air travel, available lodging, etc. |
| COVID-19 Alternative Performance Based Simulation | Written Authentic Simulated Clinical Examination(ASCE) exam and mannikin based Operative, Endodontics and Prosthodontics sections   | Candidate is required to successfully perform both preparation and finish of a conventional Class II restoration on a molar and a Class III restoration on a central incisor. All procedures are performed, like they are for the Endodontics and Prosthodontics sections, in full simulation and with rubber-dam isolation. Results are assessed using established Operative Section criteria. Certain critical errors are preserved, and the passing cut-point remains unchanged. | Can begin as soon as June depending on CDC recommendations, local conditions, etc. Will be administered utilizing appropriate social distancing protocols                                |

### WREB Dental Hygiene Examination Options Under COVID-19

| Option                              | Exam Type                 | Description   | Availability   |
|-------------------------------------|---------------------------|---|--|
| Dental Hygiene Clinical Examination | Patient Based Examination | WREB's standard dental hygiene examination includes the following components: Patient Qualification; Extraoral/Intraoral examination, Calculus detection and removal, Tissue Management, Periodontal Assessment and Professional Judgment.  | Depends on the event line of COVID-19; circumstances will vary widely across sites and require willing patients and available volunteers, freedom of air travel, available lodging, etc. |
| Comprehensive Dental Hygiene OSCE   | Written Exam              | The WREB Dental Hygiene OSCE is a multiple-choice written component that assesses these multi-faceted components of dental hygiene care. This is a comprehensive overview of dental hygiene knowledge, radiographic interpretation, AAP staging and grading, extra and intra oral assessment and risk assessment, care plan development, and assessment and treatment of the periodontium. The exam is an avenue to test the skills of an entry-level student, either replacing either replacing the current clinical examination or to be administered in conjunction with a clinical licensure exam should a state board want an additional assessment examination. | Can be administered beginning in June of 2020.   |

## Interim Dental Hygiene Comprehensive OSCE for COVID-19

Hello Dental Hygiene Directors and Educators,

Many of you have reached out to WREB requesting information about the WREB Dental Hygiene Objective Structured Clinical Examination (OSCE), and specific content of the examination. WREB is working on finalizing a Candidate Guide that will be available for educators and students.

The WREB OSCE has been developed to address the need for an alternative to the patient-based clinical examination, in response to the COVID-19 pandemic. A Candidate should confirm that the OSCE is a pathway for licensure in the state where they are seeking employment.

This multiple-choice written examination will be administered onsite by WREB personnel at designated dental hygiene schools. Proctoring the examination at a school will allow Candidates to take the examination earlier and also eliminate the burden of having to register and travel to a testing center. Social distancing and infection prevention protocols will be followed in the exam's administration.

The WREB base fee for the examination is \$450.00. In addition to the base fee, each school may also assess a school use fee, which may be different site to site. Candidates already registered for the patient-based exam will receive a refund of the difference in fees. If not registered, Candidates will need to email the WREB office ([hygieneinfo@wreb.org](mailto:hygieneinfo@wreb.org)) to assist them with registration. WREB staff will send notifications via email with details regarding their schools schedule and testing session information.

The exam will be administered in sessions, with the actual examination time scheduled for two hours. Initially, results will not be available onsite. Candidates will generally have access to their results within a few days after completing the examination. **However, the timing for receiving results may be 4-8 weeks longer in the earliest part of the examination season, until a sufficient quantity of data has been collected to confirm the adequacy of equating, which ensures fairness across multiple test forms.** Candidates will receive an email notification that results have been posted to their confidential profile.

### CONTENT

The OSCE is comprised of multiple-choice items that include dental hygiene components that are essential for safe practice. The topics tested are based on the protocols and concepts required as educational and performance standards by the American Dental Association, the American Dental Hygiene Association and the Council on Dental Accreditation. A Candidate should be familiar with these principles and be able to demonstrate entry-level competency in identifying common intraoral conditions, as well as the extent and severity of bone loss.

Treating a patient's oral health not only requires good instrumentation skills, but also possessing an aptitude for making correct treatment decisions. Critical thinking skills are important in the assessment of the patient's needs and to accurately develop a care plan that reflects a patient's individualized care. The following categories (including an overview of topics within the categories) reflect the components of dental hygiene care that are important and tested on the examination.

| Category  |
|---|
| <b>Medical History</b> <ul style="list-style-type: none"> <li>• Interpretation of medical history and systemic conditions</li> <li>• Systemic conditions (i.e., diabetes, heart)</li> </ul>   |
| <b>Risk Assessment</b> <ul style="list-style-type: none"> <li>• ASA Classifications</li> <li>• Caries</li> <li>• Risk factors</li> </ul>  |
| <b>Extraoral and Intraoral Assessment (Images)</b> <ul style="list-style-type: none"> <li>• Recognition of oral conditions</li> </ul>   |
| <b>Periodontal Assessment</b><br><b>Periodontal Evaluation</b> <ul style="list-style-type: none"> <li>• AAP (staging and grading)</li> <li>• Classification of furcation</li> <li>• Clinical attachment loss</li> <li>• Types of gingival diseases</li> </ul> <b>Dentition Evaluation</b> <ul style="list-style-type: none"> <li>• Abscesses</li> <li>• Occlusal trauma</li> </ul> <b>Radiographic Interpretation (Images)</b> <ul style="list-style-type: none"> <li>• Recognition of types of bone loss</li> <li>• Extent of bone loss</li> </ul> |
| <b>Dental Hygiene Care Plan</b><br><b>Dental Hygiene Diagnosis</b> <ul style="list-style-type: none"> <li>• Documentation</li> <li>• Patient recare</li> <li>• Dental hygiene aids</li> <li>• Non-surgical periodontal treatment</li> <li>• Outcomes</li> <li>• Fluoride, fluoride varnish</li> <li>• Local anesthesia</li> <li>• Teeth whitening</li> </ul>  |
| <b>Instrumentation</b> <ul style="list-style-type: none"> <li>• Instrumentation technique</li> <li>• Ultrasonic instrumentation</li> <li>• Implants</li> <li>• Air and rubber cup polishing</li> </ul>  |
| <b>Tissue Management</b>  |



**WREB**

A National Dental and Dental Hygiene Testing Agency

2020

**Dental Hygiene  
Objective Structured Clinical  
Examination (OSCE)  
Candidate Guide**





The Mission of WREB is to develop and administer competency assessments for state agencies that license dental professionals.

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## GENERAL EXAMINATION POLICIES

The following information and policies apply to all WREB exam types unless otherwise noted.

### Philosophy Statement

The WREB examination (exam) has been developed, administered, and reviewed in accordance with applicable guidelines from the American Dental Association, the American Association of Dental Boards, the American Psychological Association, the National Council on Measurement in Education and the American Educational Research Association. The exams were developed to provide a reliable clinical assessment for state dental licensing agencies' use in making valid licensing decisions.

WREB seeks educational diversity in the makeup of the exam review committees, including practitioners and educators who evaluate test content and develop the scoring criteria.

### WREB Examination Security and Identification Verification

You **MUST** present acceptable and valid identification (ID), as described below, in order to be admitted to an examination. If you have questions about the following identification requirements, contact the WREB Dental Hygiene Department **before** attending the exam.

During the exam registration process, you submit a personal photo. This becomes a component of your individual Candidate Profile at WREB and will be included on all score reports to schools and state licensing boards. Your profile photo is used to create an individual Candidate ID Badge for the exam. Your profile photo and identification verification document will be validated at the exam site by WREB personnel.

At the examination, you must appear in person and provide **two (2) original, valid, non-expired forms of identification; one of which must be primary, and one may be secondary.** All forms of identification must indicate the same name that was submitted to the WREB office during registration.

Primary IDs must display your name, photo and signature. Acceptable forms of valid primary ID are:

- Government-issued driver's license
- Passport
- Military ID
- Alien registration card
- Government-issued ID
- Employee ID
- School ID (must have either an expiration date and be current or have a current date of school year)

Secondary IDs must display your name and signature. Acceptable forms of valid secondary ID are:

- Social Security card
- Bank credit card
- Bank ATM card
- Library card

Admittance to the examination does not imply that the identification you presented was valid. If it is determined that your ID was fraudulent or otherwise invalid, WREB will report to the appropriate governing agencies or board any Candidate or other individual who has misreported information or altered documentation in order to fraudulently attempt an examination.

## Examination Policies

1. The WREB Candidate ID Badge, provided at the exam site, must be worn and remain visible during the examination. The badge cannot be worn outside the exam site and must be surrendered upon completion of your examination at each site. Official exam results will be withheld if the badge is not returned upon exam completion.

At any time during the examination, you may be asked and should be prepared to present your primary ID and WREB Candidate ID Badge to a School Coordinator, Site Coordinator or Chief Examiner.

2. Electronic devices are not to be activated or used by you during any aspect of the examination. This includes but is not limited to, smart phones, watches or devices that can photograph, record, or transmit a signal.
3. You may not wear earplugs or any type of listening device during any aspect of the Written examination.
4. WREB does not sponsor nor endorse examination preparation courses. You bear all risk for any misunderstanding resulting from the use of or reliance on unofficial information or material.

## Testing Candidates with Disabilities

The WREB examination is designed to provide an equal opportunity for all Candidates to demonstrate their knowledge and clinical abilities. The examination is administered to accurately reflect an individual's aptitude, or other skills measured by the examination, rather than an individual's impaired sensory, manual, or speaking skills, except where those skills are the factors the examination purports to measure.

WREB makes every reasonable effort to accommodate persons with disabilities. If special accommodations or alternate arrangements are required, WREB will attempt to make the necessary provisions, unless providing such would fundamentally alter the measurement of skills and knowledge the examination is intended to test, would result in an undue burden, or would provide an unfair advantage to the Candidate with a disability.

The appropriate professional (physician, psychologist, etc.) must complete Sections 5, 6 and 7 of the *Special Accommodations Request Form* obtained on the *Policies & Procedures* page from the WREB website, specifying what special accommodation is requested and attesting to the need for the accommodation. This must be received in the WREB office no less than 45 days prior to the examination.

WREB reserves the right to authorize the use of any modifications in such a way as to maintain the integrity and security of the examination.

## Remediation

Candidates who have multiple unsuccessful examination attempts are required to obtain remediation in the areas of deficiency prior to receiving permission to re-attempt an exam. For more information, refer to the appropriate remediation policy available on the *Policies & Procedures* page of the WREB website.

WREB policy requires remediation after the following:

- Three (3) unsuccessful attempt(s) of the Interim Dental Hygiene Objective Structured Clinical Examination (OSCE) and/or the standard Dental Hygiene Clinical Examination, if applicable.

Prior to beginning the remediation process, Candidates are encouraged to contact their state board or licensing agency for clarification regarding additional remediation requirements or acceptable programs.

## **Irregularities and Appeals**

The purpose of the WREB Exam is to provide dental licensing boards with information regarding the Candidate's competence in performing certain sampled skills that comprise part of the domain of skills needed to safely practice dentistry (dental hygiene) at an entry level. Accordingly, all Candidates are expected to pass the WREB Exam on their own merit without assistance.

An irregularity is a situation that raises a question regarding whether exam results are valid and accurately reflect the skills and abilities of a Candidate.

For example, such questions could arise when:

- unauthorized assistance occurs,
- there is evidence of the presence of an exam administration irregularity,
- there is disruption of exam administration, including by natural disasters and other emergencies, or
- there is any other information indicating that exam results might not be valid.

When an irregularity occurs, results for the Candidate(s) are withheld or voided. The Candidate is notified in writing and provided with information regarding WREB's Appeals Policy. Results remain withheld or voided pending WREB investigation of the irregularity or resolution of the corresponding appeal. If WREB determines that withholding or voiding results is not warranted, then results will be released. If an appeal is denied or no appeal is filed, then exam results for the involved Candidate(s) could remain withheld or voided and other remedies imposed.

WREB will void previously released exam results when there is a reasonable and good faith basis to do so and will notify the parties to whom the results have been released.

WREB attempts to conduct the investigation of any irregularity in a professional, fair, objective, and, insofar as possible, a confidential manner. However, WREB considers irregularities, other than natural disasters or emergencies beyond the control of the Candidate, to be a serious breach of the examination process that may have consequences beyond the withholding or voiding of results as, for example, may occur if information surfaces during investigation or is brought to the attention of school authorities or regulatory agencies by other sources.

A Candidate may elect to appeal their results upon failure of the examination. Prior to contacting the WREB office, visit the *Appeals Process* section of the *Policies & Procedures* page of the WREB website for information regarding the appellate process.

## **Dismissal for Improper Performance or Unethical Conduct**

Dismissal, failure of the examination or a reduction in an examination score may result for improper performance or unethical conduct (relative to procedural skills, professional judgment, or both as defined below).

**Improper Performance** includes, but is not limited to:

- Failure to adhere to examination site protocol for social distancing and infection prevention, if applicable.
- Failure to adhere to published WREB guidelines.
- Unprofessional, unkempt, or unclean appearance.
- Rude, abusive, uncooperative, or disruptive behavior.

**Unethical Conduct** includes, but is not limited to:

- Copying test information from another Candidate.
- Disseminating written test item information to other Candidates, individuals, or agencies.
- Receiving coaching from anyone during the examination.
- Using unauthorized aids or reference material(s) during the examination.
- Any conduct that compromises the standards of professional behavior or care.
- Falsification of an examination application.
- Discrepancy in identification or attempted falsification of identification.
- Dishonesty.

If a Candidate is found to have engaged in Improper Performance or Unethical Conduct prior to, during or after the examination, WREB reserves the right to take any reasonable action WREB deems appropriate, including, but not limited to, reporting the Candidate to (i) the various state licensing boards, (ii) the Candidate's school, (iii) other dental or dental hygiene testing organizations, or (iv) other professional organizations.

If a Candidate engages in improper performance or unethical conduct, the Candidate must obtain permission from the WREB Board of Directors before retaking the exam at a later date.

### **WREB Contact Information**

The WREB office is the only official source for examination information. Questions regarding WREB procedures and policies should be addressed to the WREB office and not to schools, state boards, state board members, or Examiners.

WREB Dental Hygiene Department

Phone: 623-209-5400, Option 2

Fax: 602-371-8131

E-mail: [hygieneinfo@wreb.org](mailto:hygieneinfo@wreb.org)

Website: [wreb.org](http://wreb.org)

### **Licensing Information**

To determine if a state accepts the Interim WREB Dental Hygiene Objective Structured Clinical Examination (OSCE), please contact the individual state board directly. Visit the *About Us* page of the WREB website for state board contact information.

# PREPARING FOR THE DENTAL HYGIENE OSCE EXAMINATION

## General Information

The Interim WREB Dental Hygiene Objective Structured Clinical Examination (OSCE), is a multiple-choice written examination that assesses the multi-faceted components of dental hygiene care. This is a comprehensive overview of dental hygiene knowledge that a clinician should possess to safely treat a Patient in a clinical setting.

Multiple choice items are discipline based. Each item has only one correct response. Approximately 5% of test questions are field-test questions that will not be scored.

Multiple test forms are used to ensure the integrity and security of the examination. To address any possible variation in difficulty level among the various examination forms, equating procedures are used to ensure that Candidates of comparable competency will be equally likely to pass the examination.

**Examination Schedules.** Approximately three-weeks prior to the exam you will receive your individual test session schedule.

## Examination Content

| Categories                             | Percentage |
|--|------------|
| Medical History                        | 13%        |
| Risk Assessment                        | 12%        |
| Extraoral and Intraoral Examination    | 6%         |
| Periodontal Assessment                 | 30%        |
| Dental Hygiene Treatment and Care Plan | 20%        |
| Instrumentation                        | 19%        |

### Medical History

Medical history interpretation, recognition of systemic conditions (i.e. diabetes, autoimmune diseases) blood pressure guidelines, HbA1c values, and chief complaint.

### Risk Assessment

Prevention, recognition and management of possible complications, and risk factors (smoking, caries). ASA Classification of Disease.

### Extraoral and Intraoral Assessment

Rationale for completing an assessment, recognition of normal and atypical conditions; including proper recording and documentation. Candidates will assess intraoral findings utilizing images and test items.

### Periodontal Assessment

Application of 2017 AAP guidelines for Staging and Grading, periodontal and peri-implant diseases, and conditions (modifying and non-modifying). Identification and classification of furcation and mobility, generalized and localized conditions, clinical attachment, and utilization of local anesthesia during non-surgical periodontal therapy.

Assessment of periodontal probe measurements utilizing intraoral images. Candidates must be familiar with the University of North Carolina (UNC) 1-12 mm periodontal probe.

### Dentition Evaluation

Recognition of factors contributing to occlusal trauma. Etiologies of abscesses.

## **Radiographic Interpretation**

Identifying severity and types of interproximal radiographic bone loss. Candidates will assess radiographic findings utilizing images.

## **Dental Hygiene Treatment and Care Plan**

Dental Hygiene Diagnosis and rationale, recommendation, and implementation of treatment (dental hygiene care plan, non-surgical periodontal therapy, surgical phase). Recommendation of interdental aids, desensitizing agents, fluoride, and tooth whitening. Assessment and documentation of outcomes and proper referral.

## **Instrumentation**

Basic instrumentation and ultrasonic technique (correct adaptation, activation). Correct power settings, cavitation of power units. Implementation and rationale for implant scalers (types) air and rubber cup polishing.

Self-assessment and management of tissue during dental hygiene treatment.

## **Sample Test Items**

### **Intraoral**

1. Identify the condition located on the gingiva apical to #30.

- A. Localized trauma
- B. Aphthous ulcer
- C. Oral Herpetic lesion
- D. Fistula

Answer: D

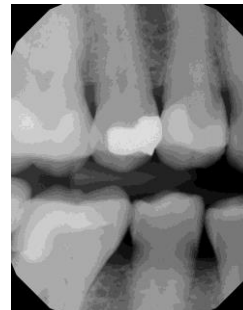


## **Radiographic Interpretation**

1. Evaluate the upper right premolars.  
What type of interproximal bone loss is present?

- A. No bone loss
- B. Horizontal
- C. Vertical
- D. Horizontal and Vertical

Answer: B



## **Dental Hygiene Care Plan**

1. What is the goal of non-surgical periodontal therapy?
  - A. Control of biofilm, mechanical irritants
  - B. Comprehensive assessment of the periodontium
  - C. Mechanical removal of biofilm and calculus
  - D. Improve tissue health and use of interdental aid

Answer: A

## Instrumentation

1. Cementum can be altered by which of the following?
  - A. Interproximal over angulation of the probe
  - B. Clinical migration of the epithelial attachment
  - C. Incorrect adaptation of scaling instruments

Answer: C

2. Evaluate #19 Facial.  
What is the correct probe measurement?

- A. 2mm
- B. 3mm
- C. 4mm

Answer: B



## Examination Results

Examination results are scaled so that 100 points is the maximum possible score. A final score of 75.00 or higher is required to pass the examination.

It is WREB policy to notify Candidates via email once official examination results are available, generally within 72 hours of exam completion. However, the timing for receiving results may be delayed in the earliest part of the examination season. A sufficient quantity of data must be collected to confirm the adequacy of equating, which ensures fairness across multiple test forms. Once equated, official results will be provided via email.

**Examination Retakes.** Eligible Candidates may apply online for a retake examination via the WREB website.

## Social Distancing and Infection Prevention Protocol

Preventing infection by COVID-19 that may arise from airborne transmission or contact with potentially virulent surfaces is critical to ensuring the safety of candidates, school personnel, examiners, and agency personnel during examination and examination-related activities. Protocols must be followed to ensure that a) individuals participating in the examination are sufficiently distant from each other at all times, b) individuals use appropriate Personal Protective Equipment, and c) materials and surfaces remain clean and disinfected.

The exam site host (school) provides expendable materials for Candidate use during the examination i.e. masks, hand sanitizer, necessary barriers, etc. The school is responsible for any deviation from this list. Materials provided are the brands used by the school. If you wish to use a specific brand, you must bring it with you.

## Day of the Exam

### Exam Procedures

Arrive onsite and be prepared thirty (30) minutes prior to your scheduled test session to accommodate check-in procedures. Time extensions are not permitted; arrive early.

You **MUST** present acceptable and valid identification (ID), as described, in order to be admitted to the examination. You will be provided with your Candidate ID Badge prior to entrance, assigned an iPad and be directed to your test area.

- Prior to entry, you will be required to raise your pants legs above your ankles, empty and turn all pockets inside-out, and raise shirt sleeves above your wrists. Eyewear, hair accessories and ties are subject to inspection. Violation of security protocol may result in the confiscation of prohibited devices and termination of your exam.
- No personal items are permitted in the testing room. Personal items include cellular phones, cameras, hand-held computers, PDAs or other electronic devices, pagers, watches, wallets, purses, hats, bags, coats, books, and notes.
- Breaks are not permitted, under any circumstances, during the examination. If you leave the testing room prior to completion, your examination will end immediately.
- A WREB representative will assign you to a workstation and log you on to the computer which starts the exam.
- **Countdown Clock.** On screen clock displays time remaining for each section.
  - **Introduction.** You have up to two (2) minutes to review the introduction.

- **Terms and Conditions.** You have up to three (3) minutes to review and accept the non-disclosure terms and conditions. Refusal to accept the terms and conditions within the allotted time will result in **forfeiture of your exam attempt and fees.**
- **Timed Exam.** You will have up to 2-hours to complete the exam.
- **Exam Items.** Multiple choice items are discipline based. Some items utilize images. All items have only one correct response.
- **Exam Security.** The testing area is monitored continuously by WREB representatives. Notify them immediately for assistance with any computer-related issues. They cannot answer questions related to exam content.

## Completion of Examination

After completion of the exam, return your Candidate ID Badge to the designated area. Official examination results will be withheld if not returned.

## References



University of North Carolina (UNC) 1-12 MM Probe

American Academy of Periodontology (2017). American Academy of Periodontology Task Force Report on the update to the 1999 Classification of Periodontal Diseases and Conditions. *Journal of Periodontology*, Vol. 86(7), 835-837.

American Heart Association, American Stroke Association.

<https://www.heart.org/en/about-us/statements-and-policies/american-heart-association-and-american-stroke-association-linking-policy>

American Society of Anesthesiologists (2014, amended 2019). ASA Physical Status Classification System.

<https://www.asahq.org/standards-and-guidelines/asa-physical-status-classification-system>

Boyd, L.D., Mallonee, L.F., & Wyche, C.J. (2020). *Wilkins' Clinical Practice of the Dental Hygienist* (13<sup>th</sup> ed.). Jones & Bartlett Learning.

Gehrig, J., Willmann, D.E., & Shin, D.E. (2019). *Foundations of Periodontics for the Dental Hygienist* (5<sup>th</sup> ed.). Wolters, Kluwer, Philadelphia.

Mayhew, D., Mendonca, V., Murthy B.V.S. (March 2019). A Review of Physical Status-historical perspectives and modern developments. *Anesthesia*, 74:373-379.

**2020 Dental Hygiene Objective Structured Clinical Examination (OSCE) Candidate Guide**  
**Copyright © 2020 WREB**

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***hygieneinfo@wreb.org***



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer  |
| <b>SUBJECT</b> | <b>FULL 19: Discussion and Possible Action on Program Completion Requirements During the COVID-19 Pandemic.</b> |

### Background

The Board has been receiving numerous inquiries from both dental hygiene educational programs (DHEP) and students regarding program completion requirements due to campus closures of clinical facilities and alternate educational delivery methods during the Coronavirus (COVID-19) pandemic. This is a unique and unprecedented situation, as the curriculum involves close, in-person clinical contact as a main part of the requirements for DHEPs by the Board and Commission on Dental Accreditation (CODA) which is the exact opposite of the administration's social distancing order to inhibit the spread of the virus.

On April 14, 2020, CODA issued a notification on "Additional Post-CODA Meeting Guidance on Interruption of Education Related to COVID-19 for the Class of 2020". In the correspondence, CODA provides a link to a temporary flexibility guidance document for the use of dental hygiene educational programs ("Guidance Document: Temporary Flexibility in Accreditation Standards to Address Interruption of Education Reporting Requirements Resulting From COVID-19 for the Class of 2020"  
[https://www.ada.org/~media/CODA/Files/Dental\\_Hygiene\\_Flexibility\\_4\\_20.pdf?la=en](https://www.ada.org/~media/CODA/Files/Dental_Hygiene_Flexibility_4_20.pdf?la=en)).

Therefore, if the DHEPs choose to apply the discipline-specific temporary flexibility guidance provided by CODA because the school determines a student's competency, each DHEP has the obligation and responsibility to ensure that the revised assessment and evaluation of students utilizing the temporary flexible standards ensures that those standards do not compromise educational objectives, including clinical education and training, and that each student is competent prior to graduating from the program.

Additionally, CODA recognized and reminded DHEPs that there may be licensure or other credentialing implications as a result of the program's temporary curricular modifications, which must be considered by the DHEP and educational institution and outside of CODA's purview.

In the California Code of Regulations (CCR), there are three specific educational requirements that have been brought to the Board's attention which may pose difficulty with flexibility guidelines:

1. 16 CCR section 1105, subdivision (b)(3) requires the length of instruction in dental hygiene educational programs to be two academic years of fulltime

instruction at the postsecondary college level or its equivalent, and a minimum of 1,600 clock hours.

2. 16 CCR section 1107 requires specific experience on patients to complete requirements for clinical education in local anesthesia, nitrous oxide-oxygen analgesia, and periodontal soft tissue curettage.
3. 16 CCR section 1105, subdivision (f)(1)(C) requires completion of college-level biomedical science courses, in which each require a 'wet laboratory' component and advises each DHEP to review prerequisite courses of the future applicant for appropriate wet laboratory course completion. The modifications to the delivery methods of prerequisite biological sciences courses for entrance into DHEPs is due to the pandemic and closures of campuses.

As the Board's laws do not provide any provision for temporary modification without authorization, the Board must take these specific regulations into consideration when considering alternatives to DHEP completion requirements in the interest of consumer protection. The Board assembled an education taskforce consisting of several DHEP Directors which met on May 21, 2020 to provide ideas and information for Board consideration.

### **Staff Recommendation**

Staff requests the Board to review and discuss the following:

1. Possible solutions for students deficient in clinical education or practice hours for the DHEP to deem them "competent" for graduation. This could be extra clinical hours when appropriate or online term for students to complete the required competencies and make up the deficient hours or other suggested solution.
2. Consider temporary programmatic changes as suggested by the Education Taskforce for DHEPs affected by the COVID-19 pandemic. Changes could provide temporary flexibility without compromising consumer protection. If the Board determines it is necessary to accept modifications in DHEPs due to the pandemic, waivers could be requested for temporary acceptance of the modifications. One example could be the change in the prerequisite biological science online coursework delivery methods which is already occurring in place of in-person wet labs.

### **Pros:**

Because the DHEPs determine competency of the students for graduation, the Board may:

1. Request to temporarily consider a curriculum change through virtual or online methods that allows the student to complete the program or clinical hours for the DHEP to determine whether the student is competent. Those students not deemed competent will need to continue in the DHEP.
2. The Board may also consider approval of staff's recommendation to accept prerequisite biological science course modifications (i.e., virtual labs, online learning, combination, or other) already in effect at many educational institutions due to the COVID-19 pandemic. The Board would direct staff to request

temporary waivers to be submitted for review and approved by the administration. If the waiver(s) are approved, staff will notify the DHEPs to inform them of the temporary changes and end date, unless extended.

**Cons:**

If the Board does not authorize staff to request temporary waivers to request for deficiencies in education or clinical hours, DHEPs will not be able to graduate their existing Class of 2020 students.

If the Board does not accept the prerequisite biological sciences coursework modifications already occurring at educational institutions, DHEPs may not be able to accept new cohorts for the 2021 and 2022 classes to their programs until the prerequisite coursework can be completed in the traditional manner.

**Guidance Document: Temporary Flexibility in Accreditation Standards to Address Interruption of Education Reporting Requirements Resulting From COVID-19 for the Class of 2020**

Below is the *temporary flexibility* guidance on select Accreditation Standards. Only those Accreditation Standards which include *temporary flexibility* are included, all others have been retained as written in the current published Accreditation Standards document.

**Dental Hygiene Education**

**Alternative Assessment Methods (for example, patient vs simulation)**

Students should have sufficient patient experiences prior to graduation. Programs may use alternative instructional and assessment methods, including distance education, virtual simulations, Objective Structured Clinical Examinations (OSCE), case studies, and other appropriate methods determined by the program to enable the program to continue to provide curricular content and evaluation of student competence. The program is responsible to ensure the competence of its graduates and to document that the assessment methods used provide a sound measure of competence.

**Modification/Reduction of Curriculum Content or Curriculum Requirements (for example, modification/reduction of program-dictated requirements, CODA competency requirements, and/or CODA quantitative numbers-based requirements)**

Although there are no (0) CODA-specified quantitative numbers-based requirements for dental hygiene education programs, programs need to affirm competence of the graduates. A program may have flexibility to modify or reduce its own curricular requirements as long as the program can assure its graduates are competent. The Commission does not dictate the requirements for a dental hygiene program; the Accreditation Standards are competency based.

**Program Length or Program Component Length (for example, rotations, services, etc.)**

Programs may use alternative educational delivery and assessment methods to ensure continued compliance with the CODA Standard requiring that dental hygiene education programs be two (2) academic years of full-time study or its equivalent. Each dental hygiene education program may have program-specific time or patient requirements for clinical experience, although these are not dictated by the Accreditation Standards. Programs may modify specific program-prescribed requirements as long as the program assures its graduates are competent. It is up to the program to determine when its students have fulfilled the program's curricular and assessment requirements and are competent to graduate. Additionally, licensure requirements should be considered by the program when determining modifications in program length or curricular content, including areas of allowable duties dictated by a state licensing agency.

**Accreditation Standards for Dental Hygiene Education Programs**

**Dental Hygiene Standard 2-1**

**The curriculum must include at least two academic years of full-time instruction or its equivalent at the postsecondary college-level. The scope and depth of the curriculum must reflect the objectives and philosophy of higher education. The college catalog must list the degree awarded and course titles and descriptions.**

Temporary Guidance: For the Class of 2020, temporary flexibility is permitted such that programs may use alternative educational delivery and assessment methods to ensure continued compliance with the CODA Standard requiring that dental hygiene education programs be two (2) academic years of full-time study or its equivalent. Licensure requirements should be considered by the program when determining modifications in program length or curricular content.



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS,<br>Education, Legislative, and Regulatory Specialist                                   |
| <b>SUBJECT</b> | <b>FULL 20: Discussion and Possible Action on the Commission on Dental Accreditation (CODA) Proposed Accreditation Standards for Dental Hygiene Educational Programs</b> |

### Background

The Commission on Dental Accreditation (CODA) has proposed new Accreditation Standards for Dental Hygiene Educational Programs. Communities of interest may submit written comments to CODA on the proposed standards revisions until the comment due date of December 1, 2020.

The changes of concern to the Board are as follows:

### Standard 2-10

- 26 **2-10** ~~The number of hours of clinical practice scheduled must ensure that students~~  
 27 ~~attain clinical competence and develop appropriate judgment.~~ Clinical  
 28 practice experience must be distributed throughout the curriculum and  
 29 include the following to ensure students attain clinical competence:  
 30 a) minimum of 6 hours of preclinical experience per week, with a minimum  
 31 of 90 hours total;  
 32 b) minimum of 8 hours of clinical experience per week for first year dental  
 33 hygiene students, with a minimum of 120 hours total; and  
 34 c) minimum of 12 hours of clinical experience per week for second and/or  
 35 final year dental hygiene students, with a minimum of 360 hours total.

Language is vague and misleading.

By changing clinical “practice” to “experience” CODA does not provide a definition for “experience” and leaves requirements open to interpretation.

The DHBC defines “Clinical practice” in the California Code of Regulations section 1103, subdivision (e) as:

(e) “Clinical practice” means the planned learning experiences designed for students to apply dental hygiene knowledge and skills to meet course objectives in a variety of Committee-approved clinical settings. Clinical practice may include learning

experiences provided in various settings, including, but not limited to, dental hygiene skills labs, simulation labs, and computer labs, as well as health care agencies.

By not providing a definition of what experience entails, CODA leaves the standard open to interpretation and therefore students may not be provided with appropriate clinical practice time to become competent in necessary clinical skills.

#### Standard 2-18:

36 Where graduates of a CODA accredited dental hygiene program are  
39 ~~as defined by the program's state specific dental board or~~  
~~regulatory agency, and the program has chosen to include those functions in~~  
41 ~~program curriculum, the program~~ must include content at the level,  
42 depth, and scope required by the state. ~~Further, curriculum content must~~  
43 ~~include didactic and laboratory/preclinical/clinical objectives for the~~  
44 ~~additional dental hygiene skills and functions. Students must demonstrate~~  
45 ~~laboratory/preclinical/clinical competence in performing these skills.~~  
46 Students must be informed of the duties for which they are educated within  
the program.

Language is vague and misleading.

For example, as the DHBC requires periodontal soft tissue curettage, local anesthesia, and nitrous-oxide/oxygen analgesia (SLN) as state-required functions for initial licensure, there is no option for the program to not include SLN in their curriculum pursuant to state law.

#### Standard 3-2

47 The dental hygiene program administrator must have a full-time  
48 appointment as defined by the institution, whose primary responsibility is for  
49 operation, supervision, evaluation and revision of the program.  
25  
7 Intent:  
8 To allow sufficient time to fulfill administrative responsibilities, program  
9 administrative hours should represent the majority of hours, teaching contact  
10 hours should be limited. ~~and should not take precedent over administrative~~  
11 ~~responsibilities.~~

Language is vague and misleading.

CODA should consider defining what constitutes a "majority of hours" as the Board considers a majority of hours at a minimum of 51% of workload.

#### Standard 3-5

26 **3-63-5** The faculty to student ratios must be sufficient to ensure the development of  
27 competence and ensure the health and safety of the public. ~~In preclinical,~~  
28 ~~clinical and radiographic clinical and laboratory sessions, there must not be~~  
29 ~~less than one faculty for every five students. In laboratory sessions for~~  
30 ~~dental materials courses, there must not be less than one faculty for every ten~~  
31 ~~students to ensure the development of clinical competence and maximum~~  
32 ~~protection of the patient, faculty and students.~~

1. In preclinical and clinical sessions, [redacted]

34 faculty to five (5) students

2. In radiography laboratory sessions, [redacted]

[redacted]

3. In other dental sciences laboratory sessions, [redacted]

[redacted]

Language is unclear and misleading.

By changing the language from “must not be less than one faculty for every X students” to “the ratio must not exceed one (1) faculty to X (X) students”, the language is not clear as it could be interpreted as “you may not exceed 1 faculty for 5 students so therefore you may not have 2 faculty for 5 students”.

Was CODA’s intent to define ratio that it should be a “minimum of one faculty for every X students” instead of “must not exceed one faculty for every X students”?

### **Staff Recommendation**

Staff requests the Board to review and discuss the proposed CODA changes and to direct staff to write a letter of concern to CODA regarding the proposed changes to the CODA Standards that the Board determines is unclear and recommends CODA to review.

### **Pros:**

If the Board informs CODA of the unclear language of the proposed revised Standards prior to the finalization and publication of them, misinterpretation of the new Standards could be avoided with enhanced clarity.

### **Cons:**

If the Board does not inform CODA of the unclear language contained in the proposed revised Standards prior to the finalization and publication of them, erroneous and misinterpretation of the new Standards could occur.



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 29, 2020   |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer   |
| <b>SUBJECT</b> | <b>FULL 21: Discussion and Possible Action on Proposed California Northstate University Registered Dental Hygienist in Alternative Practice (RDHAP) Program Application.</b> |

### Background

On April 16, 2020, Dr. Paul Glassman from California Northstate University submitted an application for approval of a Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Program.

Staff has reviewed the application for compliance with California Code of Regulations (CCR) Title 16, sections 1073.2 and 1073.3 and has found the application complete.

### Staff Recommendation

Staff recommends to the Board to review the proposal from California Northstate University for a new RDHAP Program and determine approval status.

### Pros:

If the Board allows for a new RDHAP Program in California, access to dental hygiene care for underserved areas of California will be increased.

### Cons:

If the Board does not allow for a new RDHAP Program in California, access to dental hygiene care for underserved areas of California may be limited.



CALIFORNIA  
NORTHSTATE  
UNIVERSITY

**Application for Approval of a  
Registered Dental Hygienist in Alternative Practice (RDHAP)  
Educational Program**

**Submitted by**

**California Northstate University**

**Paul Glassman DDS, MA, MBA, Director**

**Submitted on: April 16, 2020**

# **Application for Approval of a Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Program**

## **Submitted By:**

Paul Glassman DDS, MA, MBA  
Professor and Associate Dean for Research and Community Engagement  
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## **(a) Requirements of Students**

Applicants must hold a current and active California license as a Registered Dental Hygienist and hold a current CPR certification. Because this is primarily an online program, students are expected to have a computer that meets minimum computer requirements. See Appendix B for computer requirements.

## **(b) Administration**

California Northstate University (CNU) is a University accredited by Western Association of Schools and Colleges. CNU has an administrative body tasked with preparing and reviewing budgets. The program has the budgetary, facilities, and IT resources it needs to accomplish the goals of the program.

In the RDHAP program, the program is managed by staff at California Northstate University. Dr. Paul Glassman has overall program responsibility. The Program Manager is responsible for overseeing all administrative aspects of the program from managing applications to matriculation to participant tracking and certification. The Program Manager is responsible for all clerical aspects of program management including directing phone and email inquiries to appropriate individuals.

The Program Manager is also responsible for making or arranging periodic phone calls to gather feedback about comprehension of the material and progress on assignments. CNU feels that it is important to stay personally connected with students in this distance education program. If this is not done there is a possibility that the student can develop a sense of isolation and a feeling that no one is paying attention to how they are doing. Phone calls from the Program Manager, the initial in-person session, and use of Learning Groups will keep the students engaged in the learning process and involved in the community of students.

Dental faculty are responsible for reviewing the clinical case reports and case discussions and monitoring learning groups to make sure that the students are comprehending the material.

## **(c) Facilities and Equipment**

The California Northstate University has classroom facilities that are shared between the school of pharmacy, medicine and other disciplines. These classrooms are adequate for any classroom instruction. The University has IT environment that can support IT services for these classrooms.

## **(d) Curriculum Organization/Learning Resources**

### **(d)(1) Organization**

#### Modules and Hours

The course assessment and grading system will follow best practices in on-line education. This involves using multiple assessment methods. There will be 2 all day in-person sessions and 45 on-line modules for a total of 150 hours of instruction. The courses will be presented in sections and will comprise the 45 modules plus the two in-person sessions over a 4-month period. The students will be divided into small learning groups which will participate in small on-line group discussions and collaborate on case-based projects.

#### Assessment

Student learning in the on-line modules will be assessed using the following methods:

- a) Several on-line quizzes for each section to assess immediate learning.
- b) Mandatory participation in on-line small discussion groups.
- c) Individual and group papers responding to case-based problems.
- d) A final in-person examination covering the material presented in the program.

The specific criterion to receive a passing grade varies with the type of assignment or assessment. The on-line self-assessment quizzes can be taken multiple times, but a score of 100% is required to receive a passing grade.

There is a written in-person final examination at the end of the program which covers material from all the sections of the program. A passing grade on the final in-person examination requires the student to respond correctly to 70% of the true/false or multiple-choice tests and to mention the important areas designated by the supervising faculty member for the short answer questions. If a student does not receive a passing grade, they must restudy the material, receive tutoring on the failed subject matter and retake the final examination.

The online modules can easily be adjusted or substituted as seen necessary by the administrators and/or faculty. The modules are regularly evaluated by the

administration through student feedback. At the end of each Section and Module students complete on-line quizzes, participate in small group discussions, and submit case-based problems. Through these methods of evaluation, faculty and administration can assess student understanding of the material and adjust the content accordingly. This method of instruction provides remedial opportunities for the faculty to coach or make sure the student comprehends the subject matter.

These assessment tools will provide a full picture of the individual's learning and ability to integrate the information presented in clinical situations.

### Case-based Assignments

At the end of each of the seven Sections of the distance education portion of the program, students will use information from that Section's Modules, and prepare and mail in the Clinical Case Report for evaluation. The report assignment consists of an on-line presentation of a clinical case with history, charting, photographs, and radiographs. The students are asked to respond to a series of questions. The emphasis in these questions is to assess the student's ability to recognize what essential information is missing from the facts presented; describe how they would obtain the needed information; discuss the importance of the information they propose to gather; and describe how the new and presented information would impact developing a treatment plan and delivering oral health services for that patient. Finally, they will describe and defend a treatment approach, dental hygiene plan, and treatment delivery strategy for that patient. These assignments are supplemented by periodic phone calls from program staff to gather feedback about comprehension of the material and progress on assignments.

On-line Learning Group questions are posed by the faculty member. Each student in the Learning Group is required to participate in the on-line discussion by responding to the faculty members questions and responding to the postings of other group members. A passing grade in participation in the on-line discussion groups requires the student to respond to the instructor's question and comment on postings by other students. A passing grade for the case studies requires the students to complete the assignment and mention the important areas designated by the supervising faculty member.

### Graduation Competencies

Graduates of this program will be able to:

- Discuss the laws and regulations that apply to RDHAP licensure and practice
- Use on-line and other resources to find and apply information about dental implication of patient's health conditions, medications, and other factors that can impact the provision of dental and dental hygiene care.
- Gather data, develop a dental hygiene assessment and plan dental hygiene treatment for patients with a variety of medical, physical, psychological and social conditions and across the age spectrum.
- Make arrangements and deliver dental hygiene services in a variety of community locations.

- Discuss the variety of situations where an RDHAP can apply the knowledge and scope of work authorized by the RDHAP license.
- Develop and implement a business plan for an RDHAP practice.

### Graduation Requirements

In order to receive a Certificate of Completion of this program, students must complete all Sections, Modules, Quizzes, Assignments and Examinations. There are no letter grades for these assignments and assessments. All assignments and assessments are graded pass/not pass. This program uses a “mastery” pedagogical style where all students who stay in the program pass. The variable is time. Some students may complete assignments faster than others. Some students may be required to repeat a certain assignment in order to receive a passing grade on that assignment.

### Faculty Assignment and Calibration

Faculty assignments depend on the faculty member’s role in the program. Most faculty are responsible for a single or multiple online modules. They receive education, calibration, and technical assistance in preparing the on-line materials they will use in their modules. The program director and faculty liaison are responsible for instruction at the two in-person sessions and monitoring and directing the online discussion groups. Some faculty give single hour lectures at the in-person sessions. All faculty go through an orientation which includes the program goals and objectives, and the program teaching and evaluation methodologies. Faculty will be available to answer questions posed through the discussion groups or after completing the modules. Some faculty will be present at the in-person sessions to directly answer questions. Those faculty participating in live sessions at the in-person days receive education and calibration related to the role they play in those sessions.

### **(d)(2) Program Materials**

This program will be delivered primarily by distance education technology. Therefore, specific instruction will be provided in information acquisition and management through electronic means. This include materials available directly through the course on-line platform and also materials that can be found using on-line search strategies.

Graduates of this program will be competent and comfortable in obtaining information and references in their own communities which may be at some distance from the University. This is ultimately the skill that graduates will need to be successful in community-based practices.

Students are required to have a computer and internet connection that is available to them to work on course assignments. Specifications for the computer and internet connection are provided with program application materials.

Students will be provided a list of optional books and other materials for this program.

- a. Little JW, Falace DA, Miller CS, Rhodus NL. Dental Management of the Medically Compromised Patient, Fifth Edition. Mosby. St. Louis, 1997
- b. Miller C, Glassman P, Wozniak T, Gillien N. "Overcoming Obstacles To Dental Health - A Training Program For Caregivers Of People With Disabilities", 4th ed. 1998.
- c. The ADA Guide to Dental Therapeutics, 2<sup>nd</sup> edition. ADA Publishing, 2000.
- d. Essentials of Oral Medicine. Silverman S, Eversole R, Truelove E. BC Decker, 2001.
- e. The Little Dental Drug Booklet: Pocket Handbook of Commonly Used Dental Medications. Dr. Peter Jacobsen, PhD, DDS. 2018-2019

Students will have specific instruction on using available online resource and materials.

### **(e) Curriculum Content**

The breakdown of hours for each required subject area in the table below is a total of the hours for each area listed in the course summary descriptions.

| <b>Subject Area</b>  | <b>Hours</b> | <b>% of Total</b> |
|--|--------------|-------------------|
| (1) Dental Hygiene Technique and Theory, including (at least 75%):             |              |                   |
| (A) Oral pathology;  | <b>11</b>    | <b>7%</b>         |
| (B) Pharmacology;  | <b>9</b>     | <b>6%</b>         |
| (C) Sociology, psychology, and treatment of special populations, including:    |              |                   |
| 1. Geriatric   | <b>9</b>     | <b>6%</b>         |
| 2. Medically compromised   | <b>24</b>    | <b>16%</b>        |
| 3. Developmentally disabled  | <b>15</b>    | <b>10%</b>        |
| 4. Pediatric   | <b>8</b>     | <b>5%</b>         |
| (D) Evaluation of Dental Hygiene status and Dental Hygiene treatment planning; | <b>36</b>    | <b>24%</b>        |
| (E) Medical histories/terminology;   | <b>2</b>     | <b>1%</b>         |
| (F) Dental/Medical emergencies.  | <b>10.5</b>  | <b>7%</b>         |
| (G) Apply pit, resin or composite fissure sealants                             | <b>2</b>     | <b>1%</b>         |
| (2) Business Administration and Practice Management (no more than 25%)         | <b>22.5</b>  | <b>15%</b>        |

## Course Summary Descriptions

Below is a summary of the course descriptions, presenters and total number of hours in each subject.

| Course   | Description   | Hrs |
|--|---|-----|
| <b>Title:</b> Program Overview, Information Management<br><b>Instructor:</b> Paul Glassman<br><b>Format:</b> In-person lecture | Instruction on course objectives and methods including accessing on-line information and electronic communications. Formation of learning groups and establishing communication systems with program faculty and students. Examinations | 6.5 |

### **Objectives/Outline:**

1. Describe the structure of the program, what is expected, and what is required to complete the program.
2. Demonstrate the ability to log onto the Canvas system and use the course materials on that system.
3. Find information on the Internet using provided URLs, search engines, and hypertext links.
4. Describe the function of the learning group, on-line discussion groups, program listserv, intra-program communications.

| Course   | Description   | Hrs |
|--|---|-----|
| <b>Title:</b> Evaluation of Dental Hygiene Status and Dental Hygiene Treatment Planning<br><b>Instructor:</b> Eve Cuny, Paul Glassman, Ray Lyons, Douglas Young, Rolande Tellier, Susan McLearn<br><b>Format:</b> In-person lecture and online-education | Theory of application instruction of fluoride varnish and dental sealants. Evaluation and selection of products and hands-on supervision of product placement. Principles of performing a dental hygiene diagnosis, and development of a dental hygiene diagnosis, prognosis, and treatment plan appropriate for patients with complex needs and circumstances. Review of current products and their application to dental hygiene practice. Principles for evaluating products and making choices among products. Application of modern preventive practices in populations of people with special needs with emphasis on interventions that take place outside of the dental office. Principles of infection control with emphasis on infection control in community practice settings. | 36  |

**Objectives/Outline:**

1. Be able to explain indications for and procedure for placement of dental sealants and fluoride varnish.
2. Describe community social service agencies and their programs for people with special needs most commonly found in alternative practice settings
3. Explain the organization, regulations and licensing of potential alternative practice sites including adult day care programs, community-care facilities, health-licensed facilities, SNF/ICF care systems, nursing homes, rehabilitation programs and regional centers.
4. List some of the historical policies and social attitudes toward people with disabilities, frail elderly, working poor, welfare dependent, including history of discrimination, etc.
5. Describe the method used to develop and conduct an assessment of community needs and resources, including a referral system to address oral health problems.
6. Explain the methods to engage other social and health care professionals in integrating oral health prevention, services and referral into the individual's general health and social care plans.
7. Describe methods to develop an individualized Oral Health Care Plan for special care patients that incorporates risk assessments, expected outcomes and an implementation plan that addresses the behavioral, functional, social, and other life and logistical issues.
8. Give examples of existing periodontal and caries risk assessment tools.
9. Name and describe products and adjunctive aids for mechanical plaque removal for the dentition and/or prosthetic devices for people with a variety of limitations.
10. Name and describe chemical plaque and caries control products, including the indications and contraindications for people with special needs.
11. Describe the application of infection control practices in community settings in alternative sites including a site with a movable dental delivery system.
12. Describe methods for supporting a person to transfer from their wheelchair to the dental chair
13. Describe radiographic approaches for persons with disabilities
14. Identify which patients are best served with this approach
15. Discuss how a dental provider can protect themselves both from legally and undue radiation exposure
16. Understand the evidence-based decision-making model
17. Review the current scientific basis of CAMBRA
18. Understand the Caries Risk Assessment
19. Describe how to detect early decay
20. Define Minimally Invasive Dentistry
21. Understand benefits of Glass Ionomer and Atraumatic Restorative Technique

| Course  | Description  | Hrs  |
|---|--|------|
| <b>Title:</b> Business Administration for Dental Hygienists<br><b>Instructor:</b> CDHA President, Paul Glassman, Jessica Jorquera, Rolande Tellier, Chaula Patel<br><b>Format:</b> In-person lecture and online-modules | Business law as it applies to oral health care, business and practice arrangements, scope of practice, consent, HIPAA, alternative settings of practice, practice management, fundamentals of accounting, development and implementation of a business plan. | 22.5 |

### Objectives/Outline:

1. Describe the RDHAP law, other applicable laws, and the scope of practice for Dental Hygienists who hold that license.
2. Develop a business plan for a hygiene practice in alternative settings.
3. Describe the purpose of an MOU, a contract and an agreement
4. Use basic accounting methods to describe and analyze financial statements.
5. Describe business and legal implications of practicing in alternative settings
6. Describe criteria for selecting forms, charts, accounting, billing, office computer systems for practice in alternative settings
7. Describe how dental insurance programs are put together
8. Describe how dental insurance are developed

| Course   | Description  | Hrs |
|--|--|-----|
| <b>Title:</b> Medically Complex Patients<br><b>Instructor:</b> Peter Jacobsen, Paul Glassman<br><b>Format:</b> on-line education | Fundamentals of patient assessment including terminology, and principles of history taking and assessment. Data gathering and assessment of patients' medical conditions; determining risk of dental procedures based on that assessment; effective consultation and decision making about dental treatment in patients with medical conditions. Study of basic disease processes, epidemiology, demographics, treatment planning, principles of providing dental treatment for individuals with a wide variety of conditions including medical and developmental disabilities, problems associated with aging, psychological problems including dental phobia, hospital organization, joining a hospital staff, providing dental treatment and consultation in a hospital, and principles of general anesthesia | 26  |

**Objectives/Outline:**

1. Describe the process to obtain a health history including establishing rapport and engaging caregiver as needed, identifying the chief concern (complaint), taking the medical history, dental history, social history, review of systems and unique information related to behavioral and communication information
2. Explain the terminology and components of the physical examination of the head, neck and oral cavity.
3. Describe the etiology, contributing factors, detection, clinical diagnosis, treatment and oral care protocol for the most common medical conditions seen in the special patient care population
4. Explain what is meant by "special or complex patients", identify patients who fit this description, and describe why individuals who would qualify for this description need "special care".
5. Describe some general approaches to gathering information and providing dental care that apply to a broad range of "special and complex" individuals.
6. Describe specific considerations in providing dental treatment to persons with selected specific medical conditions.
7. Demonstrate the ability to develop a plan of treatment for an individual with a disability that takes into consideration that individual's particular needs, desires, as well as their physical, medical, emotional, and social situation.
8. Given cases study of medically compromised patients, use critical thinking to develop a dental hygiene preventive treatment plan and project possible complications.
9. List some of the reasons why people become afraid of dental treatment and how dental professionals can help people become unafraid
10. Discuss strategies for working with a fearful patient

| Course   | Description  | Hrs |
|--|--|-----|
| <b>Title:</b> Oral Pathology<br><b>Instructor:</b> Nader Said-Al-Naief<br><b>Format:</b> on-line education | Recognition of basic tissue reaction and lesions that occur in the mouth, jaws, and neck, formulation of possible diagnoses; methods used to secure definitive diagnoses and provide appropriate therapy and management or obtaining consultation for the same | 11  |

**Objectives/Outline:**

1. Describe the classification and differential diagnosis decision making process from a focus on color, shape and location and the clinical signs and symptoms of oral and head/neck abnormalities
2. Define anatomical landmarks and terminology commonly used to identify, describe and locate lesions of the head, neck and oral cavity.
3. List the steps used to conduct a biopsy and cytological smear, the referral process, documentation and management.
4. Demonstrate the ability to search on-line for information and clinical photos on head, neck and oral lesions.

5. Recognize, describe and differentiate between metabolic, inflammatory, neoplastic, and developmental abnormalities of the head, neck and oral cavity.
6. Identify oral conditions and lesions from clinical intra-oral photos given accompanying information on the history, signs and symptoms of the lesion or condition.

| Course  | Description  | Hrs |
|---|--|-----|
| <b>Title:</b> Pharmacology<br><b>Instructor:</b> Peter Jacobsen<br><b>Format:</b> on-line education | Rationale of drug use in dental practice and mechanisms of action of drugs used for medical management of dental patients; pharmacodynamics and drug kinetics; quantitative pharmacology; drug laws and regulations; prescription writing; emergency drugs, autonomic, respiratory, cardiovascular, psychotropic, hormonal, gastrointestinal, antianxiety, antiparkinson, antidiabetic, antineoplastic drugs; neuromuscular blockers, histamine antagonists, inflammatory mediators, sedative-hypnotics, anticonvulsants, general and local anesthetics, analgesics, antibiotics, antifungal and antiviral agents, substance abuse, toxicology, drug interactions, and therapeutic decision making | 9   |

#### Objectives/Outline:

1. Demonstrate the ability to search on-line for information on drugs commonly prescribed for the special needs population.
2. Apply basic pharmacological knowledge and specifically comment on mechanism of action, drug interactions, contra-indications and adverse side effects and dental management concerns.
3. Describe the classification of drugs
4. Recognized the proper prescription for prophylactic antibiotic coverage for the protection of cardiac and prosthetic joints, including the standard regimen for patients allergic to amoxicillin/penicillin
5. List frequently prescribed medications used in special needs populations
6. Describe drug law, regulations and prescription writing as it relates to alternative practice settings.
7. Analyze clinical case presentations to determine precautions, uses, potential adverse drug reactions and contraindications of drugs as it relates to the special needs patient and dental hygiene services.
8. Be able to list the most common adverse drug reactions including the interactions of: drug-physiology; drug-drug; and drug allergies.

| Course  | Description  | Hrs |
|---|--|-----|
| <b>Title:</b> Developmental Disabilities and Oral Health Care<br><b>Instructor:</b> Paul Glassman<br><b>Format:</b> on-line education | Review of developmental disabilities and implications for dental practice. Community-based systems for improving access to care for people with special needs. | 15  |

#### Objectives/Outline:

1. Describe the societal resources and system for providing resources for people with developmental disabilities in California
2. Describe "Community-based Systems" and how they work to improve oral health and access to health care for people with developmental disabilities
3. Describe the oral health implications of the developmental disabilities: mental retardation, cerebral palsy, epilepsy, and autism
4. Describe principle of treatment planning for people with developmental disabilities and use those principles in case work-ups.
5. Explain the laws and regulations and process of obtaining an informed consent for people with developmental disabilities.
6. List signs of abuse and neglect in dependent adults and reporting requirements and procedures for oral health professionals
7. Describe methods to overcome behavioral obstacles to oral health for people with developmental disabilities
8. Describe one method for supporting a person to transfer from their wheelchair to the dental chair and back.
9. Describe special equipment and techniques for delivering oral health services to people with developmental disabilities
10. Describe special considerations for preventing dental disease in people with developmental disabilities.

| Course   | Description  | Hrs |
|--|--|-----|
| <b>Title:</b> Geriatrics<br><b>Instructor:</b> Paul Glassman<br><b>Format:</b> on-line education | Review of biology, physiology and sociology of aging and implications for dental practice. Review of legal and dental practice ramifications of abuse and neglect including reporting requirements and response options. | 9   |

#### Objectives:

1. Describe the societal implications of the changing population demographics and the "graying of America."
2. List theories of aging and explain the evidence for each of them
3. Describe medical diseases more likely to be found in elderly individuals and their implications for dental treatment

4. Distinguish between medical problems associated with aging and those caused by aging.
5. Describe the phenomenon of “poly-pharmacy” and the implications for oral health providers and oral health care.
6. Describe oral changes that take place as individuals age
7. List principles of developing an oral health treatment plan for an older individual.
8. Describe the causes of dementia and how they alter provision of oral health care
9. Describe societal resources that are available for older individuals
10. List signs of elder abuse and neglect and describe the role of oral health professionals as mandated reporters and the process of reporting.

| Course   | Description  | Hrs  |
|--|--|------|
| <b>Title:</b> Medical and Dental Emergencies<br><b>Instructor:</b> Kevin Keating, Paul Glassman, David Perrott<br><b>Format:</b> on-line education | Preparation for preventing and treating medical emergencies that may occur in dental practice with emphasis on practice in community settings. | 10.5 |

#### Objectives/Outline:

1. Describe how to manage and/or refer common dental emergencies in patients encountered in alternative care settings.
2. Describe special considerations in treating or managing dental emergencies in pediatric patients.
3. Describe how to respond to medical emergencies that could be encountered in oral health practice settings including alternative care settings.

| Course   | Description   | Hrs |
|--|---|-----|
| <b>Title:</b> Pediatrics: Treatment for children with and without special needs<br><b>Instructor:</b> Graham Hearn<br><b>Format:</b> on-line education | The study of the physical and psychological development of the child; examination and prevention and treatment of dental in children; differential diagnosis and treatment of dental and periodontal diseases and abnormalities in children; and modern concept of behavioral management in children. Principles for detecting and reporting child abuse. | 8   |

#### Objectives/Outline:

1. Describe the growth and development of the dentition.
2. List soft tissue and periodontal problems found in children and how they are treated and managed
3. Describe radiographic technique for infants and children.
4. Describe common oral habits and their treatment

5. Describe principles for managing behavior during oral health care sessions
6. List common findings and considerations for oral health for infants.
7. Describe signs of child abuse and procedures for reporting suspected child abuse.
8. Describe common dental abnormalities in children
9. List the steps in performing a diet analysis and diet counseling for children
10. Describe principle for working with parents and caregivers of child patients.

| Course   | Description  | Hrs |
|--|--|-----|
| <b>Title:</b> Pit, Resin or Composite Fissure Sealants<br><b>Instructor:</b> Thomas Clements<br><b>Format:</b> In-person lecture | Theory of application instruction of fluoride varnish and dental sealants. Evaluation and selection of products and hands-on supervision of product placement. | 2   |

**Objectives/Outline:**

1. Be able to explain indications for dental sealants and fluoride varnish.
2. Be able to explain procedure for placement of dental sealants and fluoride varnish

**(f) Length of Program**

The curriculum is presented as a 150-hour post-graduate program to be completed over 4-months. There are two in-person sessions as a part of the course. They will take place at the beginning and end of the program. Other than the first and last session, the remainder of the course material is presented using modern web-based distance education. The program is comprised of 143.5 hours of online education and 12 hours of in-person presentations for a total of 155.5 hours. The distance education portion of the curriculum is organized and will be presented in seven sections. Within each section there are 4 to 7 modules. Five of the Sections also contain Cases for review and group discussion. The organization of these Sections and Modules is designed to stimulate the student and integrate material from the various subject areas.

**California Northstate University  
Appendix A: RDHAP Curriculum**

## **Online Educational Modules**

| <b>Topic</b>                            | <b>Objective/Outline</b>  | <b>Presenter</b>             | <b>Time</b> | <b>CV</b>      |
|---|---|------------------------------|-------------|----------------|
| Oral Pathology                          | <ol style="list-style-type: none"> <li>1. Describe the classification and differential diagnosis decision making process from a focus on color, shape and location and the clinical signs and symptoms of oral and head/neck abnormalities</li> <li>2. Define anatomical landmarks and terminology commonly used to identify, describe and locate lesions of the head, neck and oral cavity.</li> <li>3. List the steps used to conduct a biopsy and cytological smear, the referral process, documentation and management.</li> <li>4. Demonstrate the ability to search on-line for information and clinical photos on head, neck and oral lesions.</li> <li>5. Recognize, describe and differentiate between metabolic, inflammatory, neoplastic, and developmental abnormalities of the head, neck and oral cavity.</li> <li>6. Identify oral conditions and lesions from clinical intra-oral photos given accompanying information on the history, signs and symptoms of the lesion or condition.</li> </ol> | Nader Said-Al-Naief, DDS, MS | 6 hrs       | See Appendix E |
| A Mobile RDHAP Practice – Tips & Tricks | <ol style="list-style-type: none"> <li>1. Describe various practice arrangements for RDHAP practice</li> <li>2. List tips and trick related to equipment, billing, sterilization, transporting instruments, etc.</li> </ol>   | Jessica Jorquera RDHAP       | 2 hrs       |                |
| Dental Hygiene Treatment Planning       | <ol style="list-style-type: none"> <li>1. Describe the practice of dental hygiene in community-settings.</li> <li>2. Explain the difference between in-office and community-based dental hygiene treatment planning and treatment.</li> </ol>   | Jessica Jorquera RDHAP       | 2 hrs       |                |
| Legal Issues for the RDHAP              | <ol style="list-style-type: none"> <li>1. Legal Issues for the RDHAP</li> <li>2. Framework Consent and Capacity</li> <li>3. Legal Responsibilities</li> <li>4. Regulations</li> <li>5. Scope of Practice</li> <li>6. Elder Abuse</li> <li>7. Case Studies</li> </ol>  | Jessica Jorquera RDHAP       | 7 hrs       |                |

|   |   |                            |         |  |
|---|---|----------------------------|---------|--|
| Overview of Public Health – Health Actions            | <ol style="list-style-type: none"> <li>1. Define public health and dental public health</li> <li>2. Apply public health concepts</li> <li>3. Apply the basic principles of conducting a community oral health needs assessment – What does your community actually need?</li> <li>4. Develop plans to improve oral health – how will you meet those needs?</li> <li>5. Identify public health and dental public health resources opportunities for you.</li> <li>6. Compare of the roles of dental hygienists in community settings with those in private practice</li> <li>7. Describe the three core public health functions and their related essential services</li> <li>8. Identify essential services for dental public health</li> </ol> | Chaula Patel BDS           | 2 hrs   |  |
| Oral Health Practice II – Architectural Accessibility | <ol style="list-style-type: none"> <li>1. Define why the practice and role of the RDHAP requires knowledge and ability to evaluate the architectural accessibility of clinics</li> <li>2. Conduct an “Architectural Audit” of a clinical setting from the perspective of an individual with special mobility and functional needs</li> <li>3. Describe one method for supporting a person to transfer from their wheelchair to the dental chair</li> </ol>  | Paul Glassman DDS, MA, MBA | 2 hrs   |  |
| Public Health – Community Assessment                  | <ol style="list-style-type: none"> <li>1. Describe the crucial aspects of community program development</li> <li>2. Compare various planning models</li> <li>3. Identify community partners and describe their role in developing an oral health improvement plan</li> <li>4. Identify the basic principles of conducting a community oral health needs assessment</li> <li>5. Identify resources for conducting a community oral health needs assessment</li> <li>6. Identify relevant data sources and instruments for collecting primary data</li> <li>7. Develop a basic oral health improvement plan</li> <li>8. Identify effective population-based interventions to improve oral health</li> </ol>                                       | Chaula Patel BDS,          | 3.5 hrs |  |
| Business Systems II – Dental Insurance                | <ol style="list-style-type: none"> <li>1. Describe how dental insurance programs function for RDHA Practice</li> <li>2. Explain best practices for billing insurance as an RDHAP</li> </ol>   | Jessica Jorquera RDHAP     | 1 hr    |  |
| Medical Emergencies in Dental Practice                | <ol style="list-style-type: none"> <li>1. Describe how to manage and/or refer common dental emergencies in patients encountered in alternative care settings.</li> <li>2. Describe how to respond to medical emergencies that could be encountered in oral health practice settings including alternative care settings.</li> </ol>   | David Perrott DDS, MD      | 6 hrs   |  |
| Pediatric Dentistry                                   | <ol style="list-style-type: none"> <li>1. Describe special considerations in treating or managing dental emergencies in pediatric patients.</li> </ol>  | Graham Hearn DDS           | 8 hrs   |  |

|   |   |                            |       |  |
|---|---|----------------------------|-------|--|
| Business Systems IV                         | <ol style="list-style-type: none"> <li>1. Managed Care</li> <li>2. Reimbursement mechanisms</li> <li>3. Developing your vision and philosophy</li> </ol>  | Jessica Jorquera RDHAP     | 2 hrs |  |
| Practice in Preschool Settings              | <ol style="list-style-type: none"> <li>1. Analyze options for successful implementation of a preschool based RDHAP practice.</li> <li>2. Discuss the role of education within a Head Start preschool setting.</li> <li>3. Compare and contrast the unique dental requirements of Head Start preschools with State preschools and explain why these differences occur.</li> </ol>                        | Rolande Tellier MBA, PMP   | 1 hr  |  |
| Oral Health Practice IV                     | <ol style="list-style-type: none"> <li>1. Gaining Access</li> <li>2. Portable Equipment</li> </ol>  | Rolande Tellier MBA, PMP   | 2 hrs |  |
| Business Systems V                          | <ol style="list-style-type: none"> <li>1. Starting an RDHAP practice</li> <li>2. Describe the steps in setting up and registering an RDHAP business</li> </ol>  | Rolande Tellier MBA, PMP   | 1 hr  |  |
| Online Information – References & Resources | <ol style="list-style-type: none"> <li>1. List sources of patient care information available in on-line searches</li> <li>2. Apply search strategies for gathering information useful in RDHAP practice</li> </ol>  | Paul Glassman DDS, MA, MBA | 2     |  |
| Medically Complex Patients I                | <ol style="list-style-type: none"> <li>1. Describe the medical problems that patients have</li> <li>2. Outline appropriate terminology when communicating with other health care providers about the patient's medical problems</li> <li>3. Describe the dental management protocols appropriate for treating medically complex patients</li> <li>4. Describe hypertension and renal disease</li> </ol> | Peter Jacobsen DDS, PhD    | 2     |  |
| Clinically Applied Pharmacology             | <ol style="list-style-type: none"> <li>1. Outline the dental therapeutics pharmacological things that are given to patients for specific problems</li> </ol>  | Peter Jacobsen DDS, PhD    | 1     |  |

|  |   |                            |     |  |
|--|---|----------------------------|-----|--|
| Geriatric Dentistry I & II                       | <ol style="list-style-type: none"> <li>1. Describe the societal implications of the changing population demographics and the "graying of America."</li> <li>2. List theories of aging and explain the evidence for each of them</li> <li>3. Describe medical diseases more likely to be found in elderly individuals and their implications for dental treatment</li> <li>4. Distinguish between medical problems associated with aging and those caused by aging.</li> <li>5. Describe the phenomenon of "poly-pharmacy" and the implications for oral health providers and oral health care.</li> <li>6. Describe oral changes that take place as individuals age</li> <li>7. List principles of developing an oral health treatment plan for an older individual.</li> <li>8. Describe the causes of dementia and how they alter provision of oral health care</li> <li>9. Describe societal resources that are available for older individuals</li> <li>10. List signs of elder abuse and neglect and describe the role of oral health professionals as mandated reporters and the process of reporting.</li> </ol> | Paul Glassman DDS, MA, MBA | 3   |  |
| Infection Control in Alternative Environments    | <ol style="list-style-type: none"> <li>1. Describe the application of infection control practices in community settings in alternative sites.</li> <li>2. Discuss infection control measures with a movable dental delivery system</li> </ol>   | Eve Cuny                   | 1   |  |
| Dental Emergencies I                             | <ol style="list-style-type: none"> <li>1. List signs and symptoms of odontogenic pain</li> <li>2. Describe the triage process for odontogenic pain</li> <li>3. Describe the triage process for endodontic infection</li> </ol>  | Kevin Keating DDS          | 2.5 |  |
| Dental Emergencies for People with Special Needs | <ol style="list-style-type: none"> <li>1. Discuss dental emergencies and offer a method for triage a patient for appropriate referral</li> <li>2. Describe a triage process to help facilitate and prioritize dental care for patients with special needs</li> </ol>  | Paul Glassman DDS, MA, MBA | 1   |  |
| Medically Complex Patients II                    | <ol style="list-style-type: none"> <li>1. Cardiovascular Disease</li> <li>2. Respiratory Tract:</li> <li>3. Blood Dyscrasias</li> </ol>   | Peter Jacobsen DDS, PhD    | 5   |  |
| Business Administration & Practice Management    | <ol style="list-style-type: none"> <li>1. Develop a business plan for a hygiene practice in alternative settings.</li> <li>2. Describe the purpose of an MOU, a contract and an agreement</li> <li>3. Use basic accounting methods to describe and analyze financial statements.</li> <li>4. Describe business and legal implications of practicing in alternative settings</li> <li>5. Describe criteria for selecting forms, charts, accounting, billing, office computer systems for practice in alternative settings</li> </ol>   | Jessica Jorquera RDHAP     | 4   |  |

|   |  |                                  |   |  |
|---|--|----------------------------------|---|--|
| People with Developmental Disabilities                          | <ol style="list-style-type: none"> <li>1. Describe the societal resources and system for providing resources for people with developmental disabilities in California</li> <li>2. Describe “Community-based Systems” and how they work to improve oral health and access to health care for people with developmental disabilities</li> <li>3. Describe the oral health implications of the developmental disabilities: mental retardation, cerebral palsy, epilepsy, and autism</li> <li>4. Describe principle of treatment planning for people with developmental disabilities and use those principles in case work-ups.</li> <li>5. Explain the laws and regulations and process of obtaining an informed consent for people with developmental disabilities.</li> <li>6. List signs of abuse and neglect in dependent adults and reporting requirements and procedures for oral health professionals</li> <li>7. Describe methods to overcome behavioral obstacles to oral health for people with developmental disabilities</li> <li>8. Describe one method for supporting a person to transfer from their wheelchair to the dental chair and back.</li> <li>9. Describe special equipment and techniques for delivering oral health services to people with developmental disabilities</li> <li>10. Describe special considerations for preventing dental disease in people with developmental disabilities.</li> </ol> | Paul Glassman<br>DDS, MA,<br>MBA | 7 |  |
| Working with Fearful Dental Patients                            | <ol style="list-style-type: none"> <li>1. List some of the reasons why people become afraid of dental treatment and how dental professionals can help people become unafraid</li> <li>2. Discuss strategies for working with a fearful patient</li> </ol>  | Paul Glassman<br>DDS, MA,<br>MBA | 4 |  |
| Dental Emergencies II   | <ol style="list-style-type: none"> <li>1. Recognize and determine treatment for injuries to the dentition and soft-tissue structures associated with the teeth, as well as injuries to the jaws</li> </ol>   | David Perrott<br>DDS, MD         | 1 |  |
| Oral Health Practice I – Lateral Oblique Radiographic Technique | <ol style="list-style-type: none"> <li>1. Describe radiographic approaches for persons with disabilities</li> <li>2. Identify which patients are best served with this approach</li> <li>3. Discuss how a dental provider can protect themselves both from legally and undue radiation exposure</li> </ol>   | Ray Lyons<br>DDS                 | 2 |  |
| Medically Complex Patients III                                  | <ol style="list-style-type: none"> <li>1. Neuromuscular System</li> <li>2. Immune System</li> <li>3. Endocrine System</li> </ol>   | Peter Jacobsen<br>DDS, PhD       | 3 |  |

|  |   |                            |     |  |
|--|---|----------------------------|-----|--|
| Caries Risk Assessment                                     | <ol style="list-style-type: none"> <li>1. Understand the evidence-based decision-making model</li> <li>2. Review the current scientific basis of CAMBRA</li> <li>3. Understand the Caries Risk Assessment</li> <li>4. Describe how to detect early decay</li> <li>5. Define Minimally Invasive Dentistry</li> <li>6. Understand benefits of Glass Ionomer and Atraumatic Restorative Technique</li> </ol> | Douglas Young DDS          | 5   |  |
| Business Systems III – HIPAA                               | <ol style="list-style-type: none"> <li>1. Describe the HIPAA laws and regulations</li> <li>2. Discuss actions to be taken by RDHAP in individual practice to comply with HIPAA laws and regulations</li> </ol>  | Rolande Tellier MBA, PHP   | 1   |  |
| Prevention of Dental Diseases in People with Special Needs | <ol style="list-style-type: none"> <li>1. Discuss principles of prevention for people with special needs</li> <li>2. Explain how to work with caregivers of people with special needs to help them adopt effective prevention strategies for those they care for.</li> </ol>  | Paul Glassman DDS, MA, MBA | 1   |  |
| Medically Complex Patients IV                              | <ol style="list-style-type: none"> <li>1. Bleeding disorders</li> <li>2. Cardiac defects</li> <li>3. Cardiovascular and CNS diseases</li> <li>4. Immunosuppression and Infections</li> </ol>  | Peter Jacobsen DDS, PhD    | 4   |  |
| Medically Complex Patients V                               | <ol style="list-style-type: none"> <li>1. Kidney Disease, Liver Disease, Pregnancy</li> <li>2. Diabetes, Prosthetic Joints</li> </ol>   | Peter Jacobsen DDS, PhD    | 2   |  |
| Practice in Elementary School Settings                     | <ol style="list-style-type: none"> <li>1. Explain why an RDHAP should consider working in a school setting</li> <li>2. List the type of individuals or organizations an RDHAP can partner with when working in a school setting</li> <li>3. List where an RDHAP can practice</li> </ol>   | Rolande Tellier MBA, PHP   | 1   |  |
| Over the Counter Dental Products                           | <ol style="list-style-type: none"> <li>1. Describe the use of over-the-counter products in RDHAP practice</li> </ol>  | Peter Jacobsen DDS, PhD    | 3   |  |
| Law and Ethics   | <ol style="list-style-type: none"> <li>1. California Law and the RDHAP</li> <li>2. California Law and Ethics</li> <li>3. Ethics in RDHAP Practice</li> </ol>  | Susan McLearn, RDHAP       | 4.5 |  |
| Oral Health Practice IV                                    | <ol style="list-style-type: none"> <li>1. Gaining Access:</li> <li>2. Preschool Settings</li> <li>3. Portable Equipment</li> </ol>  | Susan McLearn, RDHAP       | 2   |  |
| Medically Complex Patients VI – Airway Management          | <ol style="list-style-type: none"> <li>1. Airway Management</li> </ol>  | Paul Glassman DDS, MA, MBA | 1   |  |
| Case Studies   | <ol style="list-style-type: none"> <li>1. Application through case work up and analysis of knowledge in Dental Hygiene Practice, Oral Pathology, Pharmacology, Geriatrics, treatment of medically compromised patients, Developmental Disabilities, Pediatrics and Dental Emergency treatment.</li> </ol>   | Bonnie Jue, DDS            | 30  |  |

### **First In-Person Session Presentations**

| <b>Topic</b>   | <b>Instructor(s)</b>       | <b>Time (Hrs)</b> |
|--|----------------------------|-------------------|
| Welcome & Introduction                               | Paul Glassman DDS, MA, MBA | 0.5               |
| Program introduction, description                    |                            |                   |
| Program Overview                                     | Paul Glassman DDS, MA, MBA | 0.5               |
| Distance Education, Web Access, Canvas               | Paul Glassman DDS, MA, MBA | 1                 |
| RDHAP: An Evolving Career                            | CDHA President             | 1                 |
| Learning Groups                                      | Paul Glassman DDS, MA, MBA | 1                 |
| RDHAP Career   | Paul Glassman DDS, MA, MBA | 1                 |
| RDHAP's & the Future of Oral Health Delivery Systems | Paul Glassman DDS, MA, MBA | 1                 |
| Question & Answer                                    | Paul Glassman DDS, MA, MBA | 0.5               |

### **Last In-Person Session Presentations**

| <b>Topic</b>  | <b>Instructor(s)</b>     | <b>Time (Hrs)</b> |
|---|--------------------------|-------------------|
| Overview of RDHAP Application Process                           | Anthony Lum              | 0.5               |
| RDHAP Practice Management                                       | Susan McLearn, RDHAP     | 1.5               |
| RDHAP Equipment   | Lopez                    | 0.5               |
| Theory and explanation for placement of pit and fissure sealant | Thomas Clements, DDS, MS | 2                 |

The program is comprised of 143.5 hours of online education and 12 hours of in-person presentations for a total of 155.5 hours. The program is to be completed over 4-months.

**California Northstate University  
Appendix B: Program Manual**

**California Northstate University**  
**Education Program in Preparation for RDHAP License Application**  
**Program Manual**

## **Goals**

The California Northstate University (CNU) Education Program in Oral Health for People with Special Needs is a 150 hour, primarily on-line education program. The overall goals of the program are to:

1. Provide students with a broad background in the provision of oral health services for people with a variety of special needs and circumstances.
2. Prepare students for lifelong learning by using learning and reference materials in the educational program that will be available to them in their community settings on an ongoing basis after completion of this program.
3. Provide students with information necessary to work in alternative practice environments including business principles, oral health delivery systems, and third-party reimbursement systems.
4. Connect students with a network of individuals with expertise in areas that they may encounter in their professional endeavors and with colleagues who will be able to share their knowledge and practice experience.
5. Prepare students for licensure as a Registered Dental Hygienist in Alternative Practice (RDHAP). This program has been approved by the California Dental Board to satisfy the requirement that an applicant for the RDHAP license complete a 150-hour Board Approved Curriculum.

## **Curriculum Organization**

Given that this program is using methods and resources that are representative of on-line education programs, the following explanation of the organization of the curriculum and terminology will help in interpreting the specific curriculum terminology and materials.

1. This curriculum is presented as a 150-hour education program. There are no formal academic courses and no academic course credit. Each student who successfully completes the program will be issued a letter indicating successful completion.
2. There are two in-person sessions as a part of the course. They take place at the beginning and end of the program. Other than the first and last session, the remainder of the course material is presented using modern web-based distance education technology.

3. During the distance education portion of the program, students view presentations, take on-line quizzes, complete other exercises and participate in small Learning Group on-line discussions using their personal computers. They also have assignments to prepare and submit clinical case reports at the end of each Section of the curriculum. These assignments are supplemented by periodic phone calls from program staff or faculty to gather feedback about comprehension of the material and progress on assignments.

4. The distance education portion of the curriculum is organized and presented in six sections. Within each section there are 4 to 7 modules. The organization of these Sections and Modules is designed to stimulate the student and integrate material from the various subject areas. These Sections and Modules are described below.

### **Admissions Requirements**

Applicants must hold a current and active California license as a Registered Dental Hygienist and hold a current CPR certification. Because this is primarily an online program, students are expected to have a computer that meets minimum computer requirements. See section on computer requirements.

### **Terminology**

The following description of terminology used in this program will clarify concepts that may be unique to this distance education format. The use of these terms may be different than the way they are used in traditional academic environments.

1. Program Session – This education program is offered two times per year. Each time it is referred to as a Program Session. The Program Session lasts for four months. Within those four months, each Program Session begins and ends with an in-person day and includes six Sections of distance education modules and other experiences. These experiences are described below.

2. Course – This term is used in this document to facilitate the organization of objectives and topics that are presented by a faculty member in a given subject area. The actual presentation of the material is organized around Sections and Modules as describe below. The presentation of the material in most of the Courses described is broken up into several modules which are presented during various Sections of the curriculum. The objectives and topics are organized by courses and the evaluation system and the determination of whether the student has accomplished the objectives is organized by Sections and Modules as describe below. **Given that this is a post-graduate education program, and there are no formal academic courses, there is no grade given in any of the courses described here.**

3. Course Management System - A Course Management System is a software program that is used to present and organize electronic syllabi, presentations, on-line evaluations, and other curriculum materials. CNU uses a program called Canvas as its

course management system. Canvas manages course organization, log-on, passwords, and access for all students and faculty.

4. Curriculum Schedule – The Curriculum Schedule in this document describes the organization of the material in the program into Sections and Modules.

5. Section – The presentation of the distance education portion of this program is organized by Sections. There are six sections in the distance education portion of the program. Although students have flexibility in when they view each presentation and respond to other assignments, all students finish each Section by a stated deadline. The Sections are scheduled for two-week time periods although students will have on-line access to a Section throughout the remainder of the program. The two-week timeline to complete each Section is designed to ensure that students continue regularly with the online program. It also facilitates having faculty available for email consultation during the Sections in which they have modules. Finally, this two-week timeline facilitates the faculty/student interactions in the Learning Group discussions. Each Section has 4 to 7 Modules. At the end of each section there is a Clinical Case Report that students prepare and submit for evaluation. This Case Report is described further below. Also, students will be required to participate in discussions lead by faculty members. These discussions are divided by Learning Group and all members of the Learning Group are required to participate in the discussion.

6. Module – A Module is a 1 to 6-hour section of curriculum content on a specific subject. Each Module as presented in Canvas contains one or several electronic Presentations, depending on the length of the Module. Each Module also has an overview description, objectives for that Module, and a listing of learning resources to be used in conjunction with the module. Most Presentations have a review such as a self-assessment quiz with feedback about the answers chosen.

7. Presentation – CNU has developed a specific format for delivering on-line presentations. This format allows the faculty member to provide audio narration for each slide in the presentation. Students can use the table of contents provided to move or jump between slides in any order they choose or to view the presentation in sequential order as developed. Students also have the option of receiving the slide narration as audio or written text to accommodate various learning styles and preferences.

8. Presentation Review via Self-Study Quiz, Guided Discussion, etc. – Students complete a self-study quiz for most presentations they view. The quizzes are presented and taken on their personal computers. After submitting their answers for the quiz, they are provided with immediate feedback about the questions they answered right and wrong. For those questions with wrong answers, the feedback provides the correct answer or directs them back to the section of the presentation or other learning resources that contain the information leading to the right answer. Students are highly encouraged to submit quizzes, etc. as they complete each presentation. Students can take the quizzes multiple times but are required to have 100% correct answers on the

quiz by the final submission. Quiz submissions should coincide with the two-week Section schedule. If for some reason this is not possible, special arrangements can be made.

9. Learning Resources – There are several types of learning resources used in the program. The emphasis is on using learning resources in a way that parallels the way learning resources are used by oral health professionals in community practice. In this program these resources include specific textbooks, electronic presentations; faculty provided electronic handout documents; and links to publicly available internet resources. The emphasis is on training students to know when they need to access resources and how to find the resources they need from among those available in a community environment. Specific books and other resources are listed with each course.

10. Clinical Case Report – Throughout Sections II-VI of the distance education portion of the program, students will use information from that Section's Modules, program books, other written material, and Internet Resources to participate in Group Discussions and then to submit a Clinical Case Report for evaluation. This Case Report assignment consists of an on-line presentation of a clinical case with history, charting, photographs, and radiographs. The students are asked to respond to a series of questions. The emphasis in these questions is to assess the students' ability to recognize what essential information is missing from the facts presented; describe how they would obtain the needed information; discuss the importance of the information they propose to gather; and describe how the new and presented information would impact developing a treatment plan and delivering oral health services for that patient. Finally, they will describe and defend a treatment approach, dental hygiene plan, and referral and treatment delivery strategy for that patient. In the first week of the two-week Sections, the Faculty Liaison will post questions on the Group Discussion Board to stimulate dialog in the Learning Groups. After all the students have participated in this required Group Discussion, each student will complete a final Case Write-up (aka Clinic Case Report) that is to be submitted via the Assignments page.

11. Learning Group – Students in this program are divided into Learning Groups. Learning Groups are a grouping of students who have assignments and opportunities to work together on various aspects of the program. Students are introduced in person to members of their Learning Group at the first in-person session of the course. The members of the Learning Group interact in several ways. There is an electronic chat room for each learning group. They can hold asynchronous discussions within the group at any time. Asynchronous refers to the fact that this does not need to happen in real time. This electronic asynchronous discussion function is also used for the required faculty-lead discussions in each Section of the program. The relationships built through this Learning Group process are an important part of establishing a professional network that is essential for individuals completing this program and beginning professional practice in alternative settings.

12. Faculty Liaison – One faculty member is designated as Faculty Liaison for this program. During the time that students have to complete each Section of the program, the Faculty Liaison is available for email questions and consultations. Although students will be encouraged to use the peer support network available to them with the Learning Group discussions, they will also have the option of interacting directly with the Faculty Liaison through email and, as needed, by phone calls.

13. Email and Announcements – Updates to program schedules, new announcements and other information will be sent to students during the program session. Students should check the “Announcements” section of Canvas and their email at least three times a week.

14. Final Examination – There is an in-person final examination that students take during the last in-person session of the Program Session. The final examination is composed of true/false, multiple choice, short answer, and short essay questions. The final exam is based on presentations, self-assessment quizzes and other material presented in the course. Generally, completing course assignments in each section will adequately prepare students for the final exam.

### **Suggested Books and Materials**

Students are required to have a computer and internet connection that is available to them to work on course assignments. Specifications for the computer and internet connection are provided with program application materials.

The following books and other materials are suggested as references for this program.

1. Little JW, Falace DA, Miller CS, Rhodus NL. Dental Management of the Medically Compromised Patient, Fifth Edition. Mosby. St. Louis, 1997
2. Miller C, Glassman P, Wozniak T, Gillien N. "Overcoming Obstacles To Dental Health - A Training Program For Caregivers Of People With Disabilities", 4th ed. 1998.
3. The ADA Guide to Dental Therapeutics, 2nd edition. ADA Publishing, 2000.
4. Essentials of Oral Medicine. Silverman S, Eversole R, Truelove E. BC Decker, 2001.
5. The Little Dental Drug Booklet: Pocket Handbook of Commonly Used Dental Medications. Dr. Peter Jacobsen, PhD, DDS. 2018-2019

### **Program Management**

The program is managed by staff at CNU. The Program Manager for the program at CNU is responsible for overseeing all administrative aspects of the program from managing applications to matriculation to participant tracking and certification. The Program Manager may periodically make direct phone calls and emails to appropriate individuals to inquire about their progress.

**Modules are reviewed by faculty biannually.**

The contact information for the CNU staff is:

**Paul Glassman, DDS, MA, MBA - Program Director**

916-378-3510

[paul.glassman@cnsu.edu](mailto:paul.glassman@cnsu.edu)

**Maysa Namakian - Program Manager**

415-847-2224

[mnamakian@gmail.com](mailto:mnamakian@gmail.com)

**Bonnie Jue, DDS – Faculty Liaison**

415-305-9701

[bonnie.jue@sonrisasdentalhealth.org](mailto:bonnie.jue@sonrisasdentalhealth.org)

### **Completion Requirements**

In order to receive a letter verifying completion of this program, students must complete all Sections, Modules, Quizzes, Assignments and Examinations. There are no letter grades for these assignments and assessments. All assignments and assessments are graded pass/not pass. This program uses a “mastery” pedagogical style where all students who stay in the program pass. The variable is time. Some students complete assignments faster than others. Some students may be required to repeat a certain assignment in order to be considered as completing that assignment.

The on-line self-assessment quizzes can be taken multiple times, **but a score of 100% is required to receive a passing grade.**

Completion in the on-line discussion groups requires the student to respond to the instructor’s question and comment on postings by other students.

Completion for the case studies requires the students to complete the assignment and mention the important areas designated by the supervising faculty member. Below is the rubric for the case report grading:

| <b>Area</b>                      | <b>Good Response</b>   | <b>Acceptable Response</b>                                   | <b>Unacceptable Response</b>                       |
|----------------------------------|--|--|--|
| Response to questions about case | Directly addresses and answers the question posed by the faculty | Mostly or partly addresses the question posed by the faculty | Does not address the question posed by the faculty |

|                    |  |  |  |
|--------------------|--|--|--|
| Use of references  | Points in write up are well referenced                   | Uses some references for major points                            | Does not provide references even for major points    |
| Clarity of writing | Writing is clear, easy to read and follow and understand | Writing is not very clear, but possible to follow and understand | Writing is not clear or easy to follow or understand |

#### Grading:

- “Good Response” or “Acceptable Response”: assignment is complete
- “Unacceptable Response”: faulty member provides feedback, additional instruction or mentoring and student redoes the assignment.

Completion of all module evaluations, including the final course evaluation located in Section 8 of the Canvas course.

Completion of the final in-person examination requires the student to respond correctly to 70% of the true/false or multiple-choice tests and to mention the important areas designated by the supervising faculty member for the short answer questions. If a student does not receive a passing grade on the final examination, they must restudy the material, develop an individualized plan with the Program Director for remediation and tutoring, and then they can retake the final exam a second time. Students can take the final exam up to three times.

#### **Student Withdrawal Policy**

The RDHAP program reserves the right to end registration when an enrollment limit is reached and to cancel, modify or alter content or faculty for any course if circumstances indicate the need for such a change. If the school finds it necessary to cancel a course, a full tuition refund will be granted. All attempts to contact registrants will be made as soon as possible in the event of a course cancellation. Other than tuition, the California Northstate University is under no financial obligation to reimburse participants for airline tickets, hotel reservations or any other costs incurred should the need to cancel or reschedule a program arise.

For participant cancellations received at least two weeks prior to course date, a refund will be issued with the exception of a non-refundable deposit. Refunds will not be issued for participant no-shows or cancellations less than two weeks prior to course date.

#### **Computer Requirements for RDHAP Program**

Students need:

- Reliable access to a computer
- To be familiar with using basic computer programs and accessing the Internet

- Able to use Microsoft Word, including naming, saving and retrieving documents.
- A computer with sound and speakers capable of playing video from the web
- A high-speed internet connection (DSL or cable modem)

The following software applications are required for this program:

- Microsoft Word (version 2007 or later)
- The most recent version of one of the following web browsers
  - Chrome, Firefox, Safari, Microsoft Edge
  - or
  - Internet Explorer (version 10 or later)
- Adobe Acrobat reader (version 10 or later)
  - This is a free download from the Adobe website
- The latest version of Flash Player
  - This is a free download from the Adobe website.

To test your computer to see if it has the latest Flash Player or if it needs to be installed, please follow the instructions below:

1. Click on the link below to open and run the tutorial demonstrating how to use the program presentations.
2. If you get a Security Warning message or an error message (i.e. Missing Plug-In) stating your Flash Player is out of date/unavailable
  - click on "Yes" to install Flash Player if the prompt appears
  - or follow the link above to the Adobe website
3. After installation, most browsers will require you to restart the browser to apply the update; please close all windows of your browser by clicking the "X" in the upper right-hand corner and then reopen the browser.

## **RDHAP Complaint/Grievance Policy**

### **Purpose**

The purpose of this policy is to establish a student complaint/grievance procedure.

### **Scope/Coverage**

This policy applies to students enrolled in the California Northstate University RDHAP Continuing Education Program.

### **Policy Statement**

The California Northstate University (CNU) is committed to a policy of fair treatment of its students in their relationships with the administration, faculty, staff and fellow students.

## Procedure

Note that a grievance is defined as a matter not falling under the policy for enrollment, assignments, or requirements for completion of the RDHAP Continuing Education Program.

1. The student shall file a written complaint using the Student Complaint/Grievance Form.
2. The completed Student Complaint/Grievance Form should be submitted to any member of the CNU College of Dental Medicine Office of Academic Affairs in a sealed envelope.
3. The Associate Dean of Academic Affairs will handle the complaint in accordance with the policies of CNU, will review the facts surrounding the issue and will attempt to resolve the complaint.
4. The complaint will be answered in writing by the Associate Dean of Academic Affairs within four weeks of receipt of the complaint, excluding holidays/university breaks
5. If the complaint relates to the Associate Dean of Academic Affairs, the matter will be handled by the Assistant Dean for Administration following the same procedure.
6. If the Associate Dean of Academic Affairs cannot resolve the complaint satisfactorily, the matter will be referred to an ad hoc committee formed on a case-by-case basis. This will include 3-5 individuals one of whom will have a legal background. Otherwise the committee will be constituted of CNU CDM faculty and staff.
7. If the ad hoc committee cannot resolve the complaint satisfactorily, the matter will be transferred to the Dean for appropriate action.
8. Students may appeal decisions by filing an appeal with the Dean within ten days of receipt of the complaint/grievance resolution. The Dean's decision is final.
9. A record of the student complaints is kept on file in the Associate Dean of Academic Affairs office.
10. All aspects of student complaints shall be treated as confidential.

OFFICE OF RESPONSIBILITY: Associate Dean of Academic Affairs College of Dental Medicine

REVIEW: This policy will be reviewed every three years or more often as needed.

REVIEW 1: April 14, 2020



CALIFORNIA  
NORTHSTATE  
UNIVERSITY

## RDHAP GRIEVANCE/COMPLAINT FORM

Date: \_\_\_\_\_

Student Name: \_\_\_\_\_

RDHAP Program Session: \_\_\_\_\_  
\_\_\_\_\_

### CONTACT INFORMATION:

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_  
\_\_\_\_\_

Cell Phone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

### GRIEVANCE/COMPLAINT

**Complaint against** [name(s) of individual(s), department(s) or office(s)]:

**In the space below, please describe the specific action causing concern.** (Add attachments as necessary).

**In the space below, please describe any action(s) previously sought, the outcome(s), and reason for which the outcome(s) was/were deemed unsatisfactory.** (Add attachments as necessary).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**California Northstate University  
Appendix C: Site Map**



CALIFORNIA  
NORTHSTATE  
UNIVERSITY

Projected Classroom Split  
- Spring 2020

CALIFORNIA NORTHSTATE UNIVERSITY MAP 1ST FLOOR



**California Northstate University  
Appendix D: Organizational Chart**

## Revision 4/07/20





**Bills of Interest**  
**Current as of May 11, 2020**

| Legislation                   | Topic   | Status       | DHBC Position |
|-------------------------------|---|--------------|---------------|
| <b>AB 62<br/>(Fong)</b>       | <b>State Government: FI\$CAL: Transparency.</b><br>This bill would enact the Budget Transparency Act of 2019 and would modify the transparency component of the Fi\$Cal system to require it to have information regarding all state expenditures, including the amount, type, and a description of each state expenditure posted on its website. The bill would require the website to be interactive, searchable, regularly updated, and include specified features, including information on each state expenditure. | <b>Died.</b> | Watch         |
| <b>AB 71<br/>(Melendez)</b>   | <b>Employment standards: independent contractors and employees.</b><br>This bill would have modified existing law on the classification of workers as independent contractors by placing into statute the multifactor test existing prior to the decision in <i>Dynamex v. Superior Court</i> (2018) 4 Cal.5th 903. This bill would have preempted the <i>Dynamex</i> decision and codified the multifactor test for claims both related or unrelated to Work Orders.   | <b>Died.</b> | Watch         |
| <b>AB 193<br/>(Patterson)</b> | <b>Professions and vocations.</b><br>This bill would have required the Department of Consumer Affairs to review all licensing requirements under its jurisdiction, identify unnecessary licensing requirements, and report to the Legislature by January 1, 2023, and every two years thereafter, a final report due no later than January 1, 2033. This bill would have also required the Department to apply for federal funds granted to states to conduct licensing reviews, among other provisions.                | <b>Died.</b> | Watch         |

| Legislation                                | Topic  | Status       | DHBC Position                            |
|--|--|--------------|--|
| <b>AB 312<br/>(Cooley)</b>                 | <p><b>State government: administrative regulations: review.</b></p> <p>This bill would have required state agencies, including departments, boards, and bureaus, to do a one-time review of regulations and identify those that are duplicative, inconsistent, or out-of-date. The agencies would then have been required to repeal, reconcile, or eliminate those regulations and report their findings and actions to the Governor and Legislature by January 1, 2022.</p>   | <b>Died.</b> | Watch                                    |
| <b>AB 316<br/>(Ramos<br/>Robert Rivas)</b> | <p><b>Medi-Cal: benefits: beneficiaries with special dental care needs.</b> This bill is intended to improve access to care for children and adults with chronic medical, mental, behavioral or developmental conditions and disabilities that complicate their dental care, by increasing compensation for providers who treat them.</p> <p>The 2018-19 budget included supplemental payments of \$210 million in Proposition 56 revenues to improve payment rates for dental services provided through the Medi-Cal program. This included a supplemental payment for “Additional time needed for special needs patients,” which is also described in the September 2018 Denti-Cal provide bulletin as “Behavior management, by report.” Specifically, in 2018-19 the associated procedure code (D9920) is provided through Proposition 56 funding a 40% increase from the Schedule of Maximum Allowance of \$100, bringing the total to \$140.</p> <p>The governor’s 2019-20 budget intends to make most of the provider payment increases—the existing as well as certain new supplemental payment programs—permanent and ongoing. This bill would also make permanent the supplemental dental payments described above specific to beneficiaries with special needs.</p> <p>DHCS is also currently conducting a \$750 million, five-year Dental Transformation Initiative, which includes incentives and pilot programs to improve dental care in Medi-Cal.</p> | <b>Died.</b> | <b>Support as written as of 04-12-19</b> |

| Legislation                | Topic   | Status  | DHBC Position                                      |
|----------------------------|---|---|--|
| <b>AB 544<br/>(Brough)</b> | <b>Professions and vocations: inactive license fees and accrued and unpaid renewal fees.</b><br>This bill would have limited the maximum fee for the renewal for an inactive license to no more than 50% of the renewal fee for an active license. This bill would also have prohibited a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.   | <b>Died.</b>  | Watch  |
| <b>AB 613 (Low)</b>        | <b>Professions and vocations: regulatory fees.</b><br>This bill would authorize programs within the Department of Consumer Affairs to increase their fees every four years in an amount not to exceed the increase in the Consumer Price Index in the last four years. Fees increased pursuant to this bill would be exempt from the Administrative Procedure Act.  | Two-year bill in Senate.<br>Referred to Committee on Business, Professions, & Economic Development. | Watch  |
| <b>AB 768<br/>(Brough)</b> | <b>Professions and vocations.</b><br>This was a spot bill pertaining to the Department of Consumer Affairs.   | <b>Died.</b>  | Watch  |
| <b>AB 1263<br/>(Low)</b>   | <b>Contracts: consumer services: consumer complaints.</b><br>This bill was gut-and-amended on January 6th to prohibit a licensee from limiting a consumer's right to file a complaint with a licensing board or participate in an investigation into the licensee by the licensing board. A violation would constitute unprofessional conduct subject to discipline by the licensing board.<br><br><b>This bill would protect the consumer by preventing an RDH/RDHEF/RDHAP from entering into an agreement with a consumer to prevent the consumer from filing a complaint with the DHBC or to prevent them from participating in a DHBC investigation into the RDH/RDHEF/RDHAP for services provided.</b> | Active<br><br>Last Amended: 01/06/2020<br><br>01/30/2020<br>Referred to Senate Committee on Rules.  | <b>New</b><br><br><b>Staff recommends Support.</b> |

| Legislation               | Topic   | Status       | DHBC Position |
|---------------------------|---|--------------|---------------|
| <b>AB 1271<br/>(Diep)</b> | <b>Licensing examinations: report.</b><br>This bill would have required the Department of Consumer Affairs to prepare and submit a study to the Legislature, by January 1, 2021, containing information on (1) whether licensure requires completion of a board-approved training program, (2) whether licensure requires passage of a written or clinical licensing exam, (3) the exam fee that is required in addition to other application fees, (4) the average length of time between submitting a licensure application and taking a licensing exam, (5) the average passing rate of the licensing exam, and (6) the percentage of annual applicants due to exam failure. | <b>Died.</b> | Watch         |

| Legislation                      | Topic  | Status  | DHBC Position                             |
|----------------------------------|--|---|---|
| <b>AB 1616<br/>(Low)</b>         | <p><b>Department of Consumer Affairs: boards: expunged convictions.</b><br/> This bill was gut-and-amended on January 6th to require programs under the Department of Consumer Affairs that post information on its website about a revoked license due to a criminal conviction to update or remove information about the revoked license within six months of the board receiving an expungement order related to the conviction. The person seeking the change must pay to the board a fee, determined by the Department, designed to cover the administrative costs of these requirements.</p> <p>Expungement allows a first-time offender of a criminal conviction to seek that the records of that earlier process be sealed, making the records unavailable through the state or Federal repositories. As the Department of Consumer Affairs is a consumer protection agency, allowing records to be removed from DHBC reporting may not be in the interest of consumer protection.</p> | <p>Active</p> <p>Last Amend:<br/>01/06/2020</p> <p>01/30/2020<br/>Referred to Senate Committee on Rules.</p>              | <p>New</p> <p>Staff recommends Watch.</p> |
| <b>AB 1911<br/>(Maienschein)</b> | <p><b>State agencies: veterans</b><br/> This bill would modify current law and require each state agency to include questions on its intake forms to determine whether an applicant is affiliated with the United States Armed Forces. The bill would require the state agency, through the intake form, to request permission from that person to transmit their contact information to the Department of Veterans Affairs so that the person may be notified of potential eligibility to receive state and federal veteran's benefits.</p> <p>The bill would require each state agency to electronically transmit to the Department of Veterans Affairs specified information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces and has consented to be contacted about military, veterans, family member, or survivor benefits.</p>   | <p>Active</p> <p>Introduced:<br/>01/09/2020</p> <p>01/17/2020<br/>Referred to Assembly Committee on Veterans Affairs.</p> | <p>New</p> <p>Staff recommends Watch.</p> |

| Legislation                | Topic   | Status   | DHBC Position   |
|----------------------------|---|--|---|
| <b>AB 1928<br/>(Kiley)</b> | <p><b>Employment standards: independent contractors and employees.</b></p> <p>Current law establishes that a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the "ABC" test. Current law charges the Labor Commissioner with the enforcement of labor laws, including worker classification. Current law exempts specified occupations and business relationships from the application of Dynamex and these provisions and provides that these exempt relationships are governed by the test adopted in <i>S. G. Borello &amp; Sons, Inc. v. Department of Industrial Relations</i> (1989) 48 Cal.3d (Borello).</p> <p>This bill would <b>repeal those existing provisions and instead require a determination of whether a person is an employee or an independent contractor to be based on the specific multifactor test set forth in Borello, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors.</b></p> <p>The bill would make related, conforming changes.</p> | <p>Active</p> <p>Introduced:<br/>01/15/2020</p> <p>02/14/2020<br/>Referred to Assembly Committee on Labor and Employment.</p> <p>2/27/2020<br/>Motion to Suspend failed.</p> | <p><b>New</b></p> <p><b>Staff recommends Support.</b></p> |

| Legislation                       | Topic  | Status  | DHBC Position                              |
|-----------------------------------|--|---|--|
| <b>AB 1998<br/>(Low)</b>          | <p><b>Dental Practice Act: unprofessional conduct: patient of record.</b><br/> The Dental Practice Act specifies unprofessional conduct by a licensee to include, among other things, the failure by a treating dentist, prior to the initial diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances, to perform an examination pursuant to that required of a patient of record. The act defines a patient of record to mean a patient who has been examined, has had a medical and dental history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the licensed dentist. This bill would revise that unprofessional conduct provision described above to provide that the failure of a treating dentist to perform an in-person examination pursuant to that required of a patient of record is unprofessional conduct under the act.</p> <p>Requiring an “in-person” initial assessment of a patient undergoing orthodontic treatment is the standard of care for treatment of a dental patient and in the interest of consumer protection.</p> | <p>Active</p> <p>Introduced:<br/>01/15/2020</p> <p>02/06/2020<br/>Referred to Assembly Committee on Business and Professions.</p> | <p>New</p> <p>Staff recommends Watch.</p>  |
| <b>AB 2028<br/>(Aguiar-Curry)</b> | <p><b>State agencies: meetings.</b><br/> This bill would require state bodies subject to the Bagley-Keene Open Meeting Act to post all relevant background documents online at least ten days prior to a public meeting, instead of the agenda alone. Such writing and materials would only be eligible for distribution or discussion at the noticed meeting if posted within the ten-day timeframe. This bill would also clarify that the public has the right to comment on any agenda item listed for that meeting, regardless of whether it has been previously discussed.</p>  | <p>Active</p> <p>Introduced:<br/>01/30/2020</p> <p>02/14/2020<br/>Referred to Committee on Governmental Organization.</p>         | <p>New</p> <p>Staff recommends Oppose.</p> |

| Legislation                   | Topic  | Status  | DHBC Position                              |
|-------------------------------|--|---|--|
| <b>AB 2113<br/>(Low)</b>      | <p><b>Refugees, asylees, and immigrants: professional licensing.</b><br/> This bill would require programs within the Department of Consumer Affairs to expedite and assist the initial licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize programs to adopt regulations necessary to administer these provisions.</p> <p>As the Department of Consumer Affairs is a consumer protection agency, allowing expedited processes for refugees, persons that have been granted political asylum, or have a special immigrant visa may not allow for proper vetting of background status to ensure safety of the public.</p> | <p>Active</p> <p>Introduced:<br/>01/30/2020</p> <p>02/27/2020<br/>Referred to Assembly Committee on Business and Professions.</p> | <p>New</p> <p>Staff recommends Oppose.</p> |
| <b>AB 2130<br/>(Arambula)</b> | <p><b>Health care professionals: underserved communities.</b><br/> This is a spot bill declaring the Legislature's intent to increase the number of health care professionals in underserved communities.</p>  | <p>Active</p> <p>Introduced:<br/>02/10/2020</p> <p>Assembly, pending referral to policy committee.</p>                            | <p>New</p> <p>Staff recommends Watch.</p>  |

| Legislation                    | Topic   | Status  | DHBC Position   |
|--------------------------------|---|---|---|
| <b>AB 2185<br/>(Patterson)</b> | <p><b>Professions and vocations: applicants licensed in other states: reciprocity</b></p> <p>This bill would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person currently holds a license in good standing in another state in the discipline and practice level for which the person applies and if the person meets specified requirements, including that the person has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 years and pays all applicable fees. By expanding the applicants who are authorized to be licensed and may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.</p> <p>As the applicant is required to hold a current, active, and unrestricted license in another state, district, or territory of the United States, the RDH/RDHAP/RDHEF has been vetted by a comparable licensing agency.</p> <p>Amendments: Require certification of all applicable duties of California licensure.</p> | <p>Active</p> <p>Introduced: 02/11/2020</p> <p>03/17/2020 Amended and re-referred to Assembly Committee on Business and Professions.</p>  | <p>New</p> <p>Staff recommends Support with Amendments.</p> |
| <b>AB 2214<br/>(Carrillo)</b>  | <p><b>Administrative Procedure Act: notice of proposed action.</b></p> <p>This bill would require a state agency, including programs within the Department of Consumer Affairs, to conspicuously post specified regulatory documents on its website within 24 hours of submitting a proposed action to the Office of Administrative Law.</p> <p>24 hours is a very short amount of time to post proposed actions forwarded to OAL on our website. The Board relies on the DCA Internet Team to post items on its website and depending upon their workload, may not be able to post the documents within a day.</p>   | <p>Active</p> <p>Introduced: 02/12/2020</p> <p>02/20/2020 Referred to Assembly Committee on Accountability and Administrative Review.</p> | <p>New</p> <p>Staff recommends Oppose unless amended.</p>   |

| Legislation                   | Topic   | Status  | DHBC Position                                       |
|-------------------------------|---|---|---|
| <b>AB 2411<br/>(Nazarian)</b> | <p><b>Healing arts licensees: remuneration: drug or device companies: disclosure.</b></p> <p>This bill would require a healing arts licensee who receives remuneration from a drug or device company to disclose the amount and source orally and in writing to each patient before the intended use or prescription of a drug or device manufactured or distributed.</p> <p>As a consumer protection agency, full disclosure to patients on monetary gains from selling products is in the interest of the consumer, allowing them to make an educated decision if purchasing the product.</p> | <p>Active</p> <p>Introduced:<br/>02/18/2020</p> <p>03/02/2020<br/>Referred to<br/>Assembly<br/>Committee on<br/>Business &amp;<br/>Professions<br/>and Health</p> | <p>New</p> <p>Staff<br/>recommends<br/>Support.</p> |

| Legislation                | Topic  | Status  | DHBC Position   |
|----------------------------|--|---|---|
| <b>AB 2549<br/>(Salas)</b> | <p><b>Department of Consumer Affairs: temporary licenses.</b></p> <p>This bill would require the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, and the California Board of Accountancy to issue temporary licenses to applicants who meet certain specified requirements, including that the applicant supplies satisfactory evidence that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the United States Armed Forces who is assigned to a duty station in California under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund.</p> <p>As the applicant is required to hold a current, active, and unrestricted license in another state, district, or territory of the United States, the RDH/RDHAP/RDHEF has been vetted by a comparable licensing agency. Issuing temporary licensure will provide military family members the ability to work in California to assist in providing financial security to their family.</p> <p>Amendments: Require certification of all applicable duties of California licensure.</p> | <p>Active</p> <p>Introduced:<br/>02/19/2020</p> <p>03/16/2020<br/>Amended and re-referred to Assembly Committee on Business &amp; Professions</p> | <p>New</p> <p>Staff recommends Support with Amendments.</p> |

| Legislation                     | Topic  | Status  | DHBC Position   |
|---------------------------------|--|---|---|
| <b>AB 2631<br/>(Cunningham)</b> | <p><b>License fees: military partners and spouses.</b><br/>This bill would require programs within the Department of Consumer Affairs to waive initial or original licensing fees for spouses and domestic partners of active duty military members.</p> <p>Waiving initial licensing fees will provide military family members financial aid to allow a minor monetary relief while resettling their family.</p>  | <p>Active</p> <p>Introduced:<br/>02/20/2020</p> <p>03/02/2020<br/>Referred to<br/>Assembly<br/>Committee on<br/>Business &amp;<br/>Professions.</p> | <p>New</p> <p>Staff<br/>Recommends<br/>Support.</p>                         |
| <b>AB 2704<br/>(Ting)</b>       | <p><b>Healing arts: licensees: data collection.</b><br/>This bill would standardize the licensee demographic data that must be collected by all healing arts boards. Several board-specific data collection requirements would be repealed. Aggregate information collected must be posted on each board's website and provided to the Office of Statewide Health Planning and Development.</p> <p>Licensing data is specific to each board. By standardizing collection of data, necessary licensing information that may be specific to the DHBC may be omitted and may not serve in the best interest of the public.</p>  | <p>Active</p> <p>Introduced:<br/>02/20/2020</p> <p>03/12/2020<br/>Referred to<br/>Assembly<br/>Committee on<br/>Business &amp;<br/>Professions.</p> | <p>New</p> <p>Staff<br/>recommends<br/>Oppose.</p>                          |
| <b>AB 3045<br/>(Gray)</b>       | <p><b>Department of Consumer Affairs: boards: veterans: military spouses: licenses.</b><br/>This bill would require certain programs within the Department of Consumer Affairs to issue licenses to veterans and active duty military spouses and domestic partners who hold active licenses in other jurisdictions.</p> <p>As the applicant is required to hold a current, active, and unrestricted license in another state, district, or territory of the United States, the RDH/RDHAP/RDHEF has been vetted by a comparable licensing agency. This will assist with licensure portability and will provide military family members the ability to work in California to assist in providing financial security to their family.</p> <p>Amendments: Require certification of all applicable duties of California licensure.</p> | <p>Active</p> <p>Introduced:<br/>02/21/2020</p> <p>04/24/2020<br/>Referred to<br/>Assembly<br/>Committee on<br/>Business &amp;<br/>Professions.</p> | <p>New</p> <p>Staff<br/>recommends<br/>Support<br/>with<br/>Amendments.</p> |

| Legislation                                | Topic   | Status  | DHBC Position                    |
|--|---|---|----------------------------------|
| <b>SB 53<br/>(Wilk)</b>                    | <b>Open meetings.</b><br>This bill would revise the Bagley-Keene Open Meeting Act regarding state body-created advisory committees, by requiring two-member advisory committees to hold open and public meetings if one or more of the advisory committee members is a member of the larger board, committee, or commission, and the advisory committee is supported either wholly or partially by state funds.   | Active<br><br>08/30/19:<br>Held in committee and under submission.                | Watch                            |
| <b>SB 66<br/>(Atkins McGuire)</b>          | <b>Medi-Cal: federally qualified health center and rural health clinic services.</b><br>This bill would authorize reimbursement for a maximum of 2 visits taking place on the same day at a single location if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment, or if the patient has a medical visit and a mental health visit or a dental visit, as defined. The bill would authorize an FQHC or RHC that currently includes the cost of a medical visit and a mental health visit that take place on the same day at a single location as a single visit for purposes of establishing the FQHC's or RHC's rate to apply for an adjustment to its per-visit rate, and after the department has approved that rate adjustment, to bill a medical visit and a mental health visit that take place on the same day at a single location as separate visits, in accordance with the bill. | 09/11/19<br>Ordered to Assembly<br>Inactive File                                  | Support as written as of 4-12-19 |
| <b>SB 144<br/>(Mitchell and Hertzberg)</b> | <b>Criminal fees.</b><br>1) Deletes the provision requiring an ability to pay determination for the use of a public defender and the provision requiring notice that such a determination will be made.<br>2) Deletes the provision allowing for the recovery of costs associated with arrest.<br>3) Deletes the \$25 administrative processing fee and \$10 citation processing fee.<br>4) Provides that Emergency Medical Air Transportation fees shall cease to be recovered after January 1, 2020 and changes the sunset date to January 1, 2021.<br>5) Deletes the \$50 registration fee for representation by a public defender.  | Active<br><br>07-09-19: Set for second hearing canceled at the request of author. | Watch                            |

| Legislation | Topic   | Status | DHBC Position |
|-------------|---|--------|---------------|
|             | <p>6) Deletes the requirement that a defendant reimburse probation for the cost of reports associated with pretrial diversion.</p> <p>7) Deletes the fees for laboratory analysis, enrollment and supervision relating to diversion.</p> <p>8) Deletes the fee to cover the administrative cost of collecting the diversion restitution fee and the county share for collecting restitution.</p> <p>9) Deletes the ability of a county to collect a fee to cover the administrative costs of collecting restitution.</p> <p>10) Deletes the ability of an employer to collect up to \$5 or \$1 for an income deduction for restitution.</p> <p>11) Deletes the requirement that a probationer reimburse the costs for transfer to another state before being allowed to leave.</p> <p>12) Deletes the fees relating to home detention.</p> <p>13) Deletes the provisions allowing fees for pretrial electronic monitoring.</p> <p>14) Deletes the ability of the entity collecting restitution to add a fee to cover actual administrative costs.</p> <p>15) Deletes the requirement that a person convicted of a drug offense pay for drug testing.</p> <p>16) Deletes the fees related to the cost of probation supervision.</p> <p>17) Deletes the requirement that an offender pay for an ignition interlock and specifically states they are not responsible for the costs.</p> <p>18) Deletes the ability to recover for incarceration costs.</p> <p>19) Deletes the ability of a county to seek reimbursement for the reasonable costs of county parole supervision.</p> <p>20) Deletes the ability to collect state prison costs.</p> <p>21) Deletes the ability to collect a \$150 fee to cover a petition to change a plea or set aside a verdict.</p> <p>22) Deletes the \$60 fee for a petition of the dismissal or an infraction or misdemeanor.</p> <p>23) Deletes the \$150 fee for a petition to change a plea or set aside a verdict for an 1170h offense.</p> <p>24) Deletes the ability to charge a person over 26 years of age the cost of sealing a juvenile record.</p> |        |               |

| Legislation | Topic  | Status | DHBC Position |
|-------------|--|--------|---------------|
|             | <p>25) Deletes the ability to charge a defendant for transferring a case to another county.</p> <p>26) Deletes the ability to charge a defendant \$30 to set up a payment plan.</p> <p>27) Deletes the ability to charge a fee for work furlough or home detention.</p> <p>28) Deletes the ability to require a non-violent drug offender to contribute to the cost of treatment.</p> <p>29) Deletes the ability of probation to charge a person for electronic monitoring.</p> <p>30) Deletes the \$300 civil penalty assessment for a failure to appear.</p> <p>31) Deletes the ability of the court to order payment of interest on restitution.</p> <p>32) Deletes the ability of CDCR to collect an administration fee to cover the actual cost of collecting restitution.</p> <p>33) Deletes the ability of the counties to collect a 10% fee to cover the actual costs of collecting restitution from a person on PRCS/Mandatory Custody.</p> <p>34) Deletes the ability to charge a responsible party for health care for incarcerated youth.</p> <p>35) Deletes the ability to charge for expenses relating to a temporary release of an inmate.</p> <p>36) Deletes the ability to charge for a work-release program.</p> <p>37) Deletes the ability of CDCR to charge an administrative fee for a work furlough program.</p> <p>38) Deletes the authorization to charge \$15 for a written promise to appear.</p> <p>39) Deletes the ability to charge a fee for failure to make an installment payment or a fee to setup up the installment plan.</p> <p>40) Deletes the fee for a "fix it ticket."</p> <p>41) Provides that as of January 1, 2020, a number of fees that are deleted by this bill are no longer enforceable or collectible and any amounts remaining unpaid shall be vacated.</p> <p>42) Makes a number of cross-reference and conforming changes.</p> |        |               |

| Legislation                    | Topic  | Status                               | DHBC Position   |
|--------------------------------|--|--------------------------------------|---|
| <p><b>SB 154<br/>(Pan)</b></p> | <p><b>Medi-Cal: restorative dental services.</b><br/> This bill would authorize a provider of services for the treatment of dental caries to provide, and receive reimbursement for, the application of silver diamine fluoride when used as a caries arresting agent, as specified, if the provider first consults with the beneficiary and obtains written informed consent, and if the treatment is included as part of a comprehensive treatment plan, to the extent that federal financial participation is available and any necessary federal approvals have been obtained. The bill would permit a registered dental hygienist in alternative practice who meets the requirements of the bill to bill for the services described in the bill. The bill would limit availability of the described services to specified Medi-Cal beneficiary populations. The bill would authorize the department to implement its provisions by means of all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.</p> <p>To the Members of the California State Senate:</p> <p>I am returning Senate Bill 154 without my signature</p> <p>This bill would allow Medi-Cal dental providers to provide and be reimbursed for the application of silver diamine fluoride when used as an arresting agent for cavities on a per-tooth basis to prevent further decay, and under specified conditions.</p> <p>Expanding the options available for treating dental decay is a worthwhile policy goal, but this bill would require significant General Fund spending not included in the state budget. As such, this change should be considered in the annual budget process.</p> <p>Sincerely,<br/>Gavin Newsom</p> | <p>01/13/20:<br/>Veto sustained.</p> | <p>Support with Concerns as written as of 4-12-19</p> |

| Legislation               | Topic   | Status  | DHBC Position   |
|---------------------------|---|---|---|
| <b>SB 653<br/>(Chang)</b> | <p><b>Dental hygienists: registered dental hygienist in alternative practice: scope of practice.</b></p> <p>1) Authorizes an RDH to provide oral screenings and dental hygiene preventive services unsupervised at a sponsored event by a sponsoring entity or at a nonprofit organization.</p> <p>2) Authorizes an RDH to provide fluoride varnish to a patient without supervision.</p> <p>3) Removes the requirement that an RDHAP must be an employee of a primary care clinic, specialty clinic, or professional corporation in order to practice in those settings.</p> <p>4) Authorizes an RDHAP to perform soft-tissue curettage and administer local anesthesia with documented consultation with a collaborating dentist in residences of the homebound, residential facilities, and other medical settings that a residential facility patient has been transferred for outpatient services; certified dental health professional shortage areas and dental offices.</p> <p>5) Requires the RDHAP to have one individual trained in basic life support qualified to administer cardiopulmonary resuscitation during an emergency along with the equipment and supplies for emergency response, including oxygen, when the services above are provided.</p> <p>6) Authorizes an RDHAP determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist and place interim therapeutic restorations on a patient in certain areas and settings.</p> | <p>Active</p> <p><b>Amended<br/>01/23/2020</b></p> <p>01/30/20:<br/>In Assembly.<br/>Read first time.<br/>Held at Desk.</p> | <p>Support with Concerns as written as of 4-12-19</p> |

| Legislation                 | Topic  | Status   | DHBC Position                                       |
|-----------------------------|--|--|---|
| <b>SB 776<br/>(Skinner)</b> | <p><b>College admissions: criminal history inquiry: prohibition.</b><br/> This bill would prohibit a postsecondary educational institution in this state from inquiring about a prospective student's criminal history on an initial application form or at any time during the admissions process before the institution's final decision relative to the prospective student's application for admission. By imposing new duties on community college districts, this bill would impose a state-mandated local program.</p> <p>RDHs deal with vulnerable people and have laws that prohibit those with criminal histories from being licensed. Under SB 776 schools may end up enrolling students who would not be eligible for licensure.</p> | <p>Active</p> <p>Amended<br/>01/06/2020</p> <p>01/27/20: In Assembly.<br/>Read first time.<br/>Held at Desk.</p> <p>Do pass, but first be re-referred<br/>Assembly<br/>Committee on Appropriations</p>                                       | <p>New</p> <p>Staff<br/>Recommends<br/>Oppose.</p>  |
| <b>SB 878<br/>(Jones)</b>   | <p><b>Department of Consumer Affairs Licensing: applications: wait times.</b><br/> This bill would require each licensing program within the Department of Consumer Affairs to prominently display on its website the current average timeframe for processing initial and renewal license applications for each license it offers.</p> <p>This bill promotes transparency into the licensing process.</p>   | <p>Active</p> <p>Introduced:<br/>01/22/2020</p> <p>01/29/2020<br/>Referred to Senate<br/>Committee on Business,<br/>Professions &amp;<br/>Economic Development.</p> <p>03/18/20<br/>March 23<br/>hearing<br/>postponed by<br/>committee.</p> | <p>New</p> <p>Staff<br/>recommends<br/>Support.</p> |

| Legislation                  | Topic  | Status  | DHBC Position   |
|------------------------------|--|---|---|
| <b>SB 1168<br/>(Morrell)</b> | <p><b>State agencies: licensing services.</b><br/>This bill would require a state agency that issues any business license to establish a process for a person or business that is experiencing economic hardship as a result of an emergency caused by a virus to submit an application for deferral of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display. The bill would require the deferral period to end 60 days following the end of the emergency.</p> <p>This bill would also require a state agency that issues any business license to establish a process to expedite licensing services, as defined, for a person or business that meets specified criteria, including that the person or business has been displaced by an emergency proclaimed or declared within 365 days of the request for licensing services.</p> <p><b>This bill allows for the process of expediting licensure and deferral of fees during proclaimed emergencies due to a virus.</b></p> | <p>Active</p> <p>03/05/2020:<br/>Referred to Senate Committees on Governmental Organization and Business, Professions &amp; Economic Development.</p>   | <p><b>New</b></p> <p><b>Staff recommends Watch.</b></p> |
| <b>SB 1324<br/>(Allen)</b>   | <p><b>Professional licenses.</b><br/>This bill would require the Department of Consumer Affairs, among other stated entities, to place a prominently displayed military licensure icon or hyperlink on its website that is linked to information about each occupational program for licensure or certification that it administers, along with additional information relating to the professional licensure of veterans, service members, and their spouses. This bill would also require the Department of Consumer Affairs to submit an annual report to the Legislature based on information collected to satisfy the requirements of this bill.</p> <p><b>By placing a hyperlink for military veterans, service members, and their spouses, it will increase visibility as to vital information needed to apply for licensure.</b><br/><b>The Board has a Military Resources icon on its website for this purpose so is in compliance despite the status of this bill.</b></p>   | <p>Active</p> <p>Introduced:<br/>01/22/2020</p> <p>03/12/2020<br/>Referred to Senate Committee on Business, Professions &amp; Economic Development.</p> | <p><b>New</b></p> <p><b>Staff recommends Watch.</b></p> |

| Legislation                 | Topic  | Status  | DHBC Position                                       |
|-----------------------------|--|---|---|
| SB 1474<br>(Glazier et al.) | <p><b>Committee on Business, Professions and Economic Development Professions and vocations. (Omnibus Bill)</b></p> <p>Existing law provides for the licensure and regulation of registered dental hygienists by the Dental Hygiene Board of California. Existing law authorizes a registered dental hygienist to perform a procedure or provide a service within the scope of their practice under the appropriate level of supervision, as specified.</p> <p>This bill would also require a registered dental hygienist to have completed the appropriate education and training required to perform the procedure or provide the service.</p> <p>Existing law requires a person to have satisfactorily completed a specified examination within the preceding 2 years as a condition of licensure as a registered dental hygienist.</p> <p>This bill would instead require completion of the dental hygiene examination within the preceding 3 years.</p> <p>Existing law requires a person, as a condition for licensure as a registered dental hygienist in alternative practice, to successfully complete a bachelor's degree or its equivalent from an accredited college or institution of higher education, among other requirements.</p> <p>This bill would specify that the equivalent of a bachelor's degree is recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education.</p> | <p>Active</p> <p>Introduced:<br/>03/16/20</p> <p>05/11/20<br/>Referred to<br/>Senate<br/>Committee on<br/>Business,<br/>Professions &amp;<br/>Economic<br/>Development.</p> | <p>New</p> <p>Staff<br/>recommends<br/>Support.</p> |

**ASSEMBLY BILL**

**No. 613**

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**Introduced by Assembly Member Low**

February 14, 2019

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An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

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

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

SECTION 1. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other law, no more than once every four years, any board listed in Section 101 may increase any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding four years in accordance with the following:

(1) The board shall provide its calculations and proposed fee, rounded to the nearest whole dollar, to the director and the director shall approve the fee increase unless any of the following apply:

(A) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.

(B) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.

(C) The director determines that the fee increase would be injurious to the public health, safety, or welfare.

(2) The adjustment of fees and publication of the adjusted fee list is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) of the Government Code.

(b) For purposes of this section, "fee" includes any fees authorized to be imposed by a board for regulatory costs. "Fee" does not include administrative fines, civil penalties, or criminal penalties.

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AMENDED IN ASSEMBLY JANUARY 6, 2020

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

## ASSEMBLY BILL

**No. 1263**

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**Introduced by Assembly Member Low**

February 21, 2019

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An act to add Chapter 1.6 (commencing with Section 1939.60) to Title 5 of Part 4 of Division 3 of the Civil Code, to add Article 5.1 (commencing with Section 11629.6) to Chapter 1 of Part 3 of Division 2 of, and to repeal Section 11580.24 of, the Insurance Code, and to amend Sections 11752, 11754, and 11760 of the Vehicle Code, Section 1670.8.5 to the Civil Code, relating to business regulation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, Low. ~~Peer-to-peer car sharing. Contracts: consumer services: consumer complaints.~~

*Existing law regulates the formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law, a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals.*

*Existing law regulates licensees who are subject to the jurisdiction of a state licensing entity, including the State Bar of California, the Department of Real Estate, the Department of Consumer Affairs, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.*

*This bill would prohibit a contract or proposed contract involving the provision of a consumer service by a licensee regulated by a*

licensing board from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee. The bill would specify that a waiver of these provisions is contrary to public policy and is void and unenforceable. The bill would provide that a violation of these provisions by a licensee constitutes unprofessional conduct subject to discipline by the licensee's regulatory board.

~~Existing law defines a personal vehicle sharing program as a legal entity qualified to do business in the state that is engaged in the business of facilitating the sharing of private passenger vehicles for noncommercial use by individuals within the state.~~

~~This bill would rename "personal vehicle sharing program" to "peer-to-peer car sharing program" and would require specified disclosures to be made in a peer-to-peer car sharing contract. This bill would authorize a peer-to-peer car sharing program to only enter into a contract with a licensed driver, as specified. The bill would make a peer-to-peer car sharing program responsible for any equipment that is to be installed in a vehicle to facilitate car sharing transactions. The bill would authorize airports to regulate access and use by peer-to-peer car sharing vehicles. The bill would also require peer-to-peer car sharing programs and participants to be insured, as specified.~~

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

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

- 1     SECTION 1. Section 1670.8.5 is added to the Civil Code, to
- 2     read:
- 3     1670.8.5. (a) A contract or proposed contract involving the
- 4     provision of a consumer service by a licensee regulated by a
- 5     licensing board shall not include a provision limiting the
- 6     consumer's ability to file a complaint with that board or to
- 7     participate in the board's investigation into the licensee.
- 8     (b) Any waiver of the provisions of this section is contrary to
- 9     public policy, and is void and unenforceable.
- 10    (c) For purposes of this section, the following terms apply:
- 11    (1) "Consumer service" means any service which is obtained
- 12    for use primarily for personal, family, or household purposes.
- 13    (2) "Licensing board" means any entity contained in Section
- 14    101 of the Business and Professions Code, the State Bar of

1 *California, the Department of Real Estate, or any other state*  
2 *agency that issues a license, certificate, or registration authorizing*  
3 *a person to engage in a business or profession.*

4 *(d) Violation of this section by a licensee shall constitute*  
5 *unprofessional conduct subject to discipline by the licensee's*  
6 *licensing board.*

7 ~~SECTION 1. Chapter 1.6 (commencing with Section 1939.60)~~  
8 ~~is added to Title 5 of Part 4 of Division 3 of the Civil Code, to~~  
9 ~~read:~~

10  
11 ~~CHAPTER 1.6. PEER-TO-PEER CAR SHARING PROGRAMS~~  
12

13 ~~1939.60. This chapter may be cited as the Peer-to-Peer Car~~  
14 ~~Sharing Program Act.~~

15 ~~1939.61. As used in this chapter, the following terms have the~~  
16 ~~following meanings:~~

17 ~~(a) "Car sharing delivery period" means the period of time~~  
18 ~~during which a shared vehicle is being delivered to the location~~  
19 ~~where the car sharing start time will commence, if applicable, as~~  
20 ~~documented by the governing car sharing program agreement.~~

21 ~~(b) "Car sharing period" means the period of time from the~~  
22 ~~commencement of the car sharing delivery period or, if there is no~~  
23 ~~car sharing delivery period, from the car sharing start time, through~~  
24 ~~the car sharing termination time.~~

25 ~~(c) "Car sharing program agreement" means the terms and~~  
26 ~~conditions applicable to a shared vehicle owner and a shared~~  
27 ~~vehicle driver that govern the use of a shared vehicle through a~~  
28 ~~peer-to-peer car sharing program.~~

29 ~~(d) "Car sharing start time" means the time when the shared~~  
30 ~~vehicle driver takes control of the shared vehicle at or after the~~  
31 ~~time the reservation of a shared vehicle is scheduled to begin as~~  
32 ~~documented in the records of a peer-to-peer car sharing program.~~

33 ~~(e) "Car sharing termination time" means the time when the~~  
34 ~~shared vehicle is returned to the location designated by the shared~~  
35 ~~vehicle owner through a peer-to-peer car sharing program, and the~~  
36 ~~earliest of one of the following occurs:~~

37 ~~(1) The intent to terminate the use of the shared vehicle is~~  
38 ~~verifiably communicated by the shared vehicle driver to the shared~~  
39 ~~vehicle owner using the peer-to-peer car sharing program.~~

~~(2) The shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.~~

~~(3) The period of time established for the use of a shared vehicle in the governing car sharing program agreement expires.~~

~~(f) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program.~~

~~(g) "Peer-to-peer car sharing program" means a business platform that connects vehicle owners with licensed drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer car sharing program" does not mean car rental agency.~~

~~(h) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program.~~

~~(i) "Shared vehicle driver" means a person who is authorized to drive a shared vehicle by the shared vehicle owner under a car sharing program agreement.~~

~~(j) "Shared vehicle owner" means the registered owner of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.~~

~~1939.62. Each car sharing program agreement made in the state shall disclose to the shared vehicle owner and the shared vehicle driver all of the following:~~

~~(a) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.~~

~~(b) That an automobile liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program.~~

~~(c) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver, required pursuant to Article 5.1 (commencing with Section 11629.6) to Chapter 1 of Part 3 of Division 2 of the Insurance Code, is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the~~

1 ~~car sharing termination time, the shared vehicle driver and the~~  
2 ~~shared vehicle owner may not be covered.~~

3 ~~(d) The amounts of the daily rate, additional mandatory charges,~~  
4 ~~fees, and, if applicable, any insurance or protection plan costs that~~  
5 ~~are charged to the shared vehicle owner or the shared vehicle~~  
6 ~~driver.~~

7 ~~(e) That the shared vehicle owner's motor vehicle liability~~  
8 ~~insurance may not provide coverage for a shared vehicle.~~

9 ~~(f) An emergency telephone number for customer service~~  
10 ~~inquiries, including requests for emergency roadside assistance.~~

11 ~~1939.63. A peer-to-peer car sharing program shall disclose the~~  
12 ~~daily rate, charges, fees, and costs when providing a quote and~~  
13 ~~shall not require any other fees or charges to be paid as a condition~~  
14 ~~of using the shared vehicle.~~

15 ~~1939.64. (a) A peer-to-peer car sharing program shall only~~  
16 ~~enter into a car sharing program agreement with a shared vehicle~~  
17 ~~driver who is at least 18 years of age and who provides~~  
18 ~~documentation of either of the following documents:~~

19 ~~(1) A valid, unexpired California driver's license that authorizes~~  
20 ~~the driver to operate a vehicle of the same class as the shared~~  
21 ~~vehicle.~~

22 ~~(2) A valid, unexpired driver's license issued by the state or~~  
23 ~~country of the shared vehicle driver's residence that authorizes the~~  
24 ~~driver in that state or country to drive a vehicle of the same class~~  
25 ~~as the shared vehicle.~~

26 ~~1939.65. A peer-to-peer car sharing program shall have sole~~  
27 ~~responsibility for any equipment that is installed in or on the~~  
28 ~~vehicle to facilitate the car sharing transaction, and shall agree to~~  
29 ~~indemnify and hold harmless the shared vehicle owner for any~~  
30 ~~damage to or theft of the equipment during the sharing period not~~  
31 ~~caused by the vehicle owner. The peer-to-peer car sharing program~~  
32 ~~has the right to seek indemnity from the shared vehicle driver for~~  
33 ~~any loss or damage to the equipment that occurs during the car~~  
34 ~~sharing period.~~

35 ~~1939.66. (a) Notwithstanding any other law, a commercial~~  
36 ~~airport authority is authorized to regulate access to an airport and~~  
37 ~~set access fees for peer-to-peer car sharing programs. If required,~~  
38 ~~a peer-to-peer car sharing program shall obtain a permit or other~~  
39 ~~written authorization from the airport operator prior to facilitating~~  
40 ~~the sharing of vehicles at that airport.~~

~~(b) This section does not affect the authority of any political subdivision of the state to regulate access to an airport it owns or operates and to set access fees or requirements for a peer-to-peer car sharing program.~~

~~SEC. 2. Section 11580.24 of the Insurance Code is repealed.~~

~~SEC. 3. Article 5.1 (commencing with Section 11629.6) is added to Chapter 1 of Part 3 of Division 2 of the Insurance Code, to read:~~

~~Article 5.1. Peer-to-Peer Car Sharing Programs~~

~~11629.6. For purposes of this article, the definitions set forth in Section 1939.61 of the Civil Code shall apply.~~

~~11629.61. (a) A peer-to-peer car sharing program shall assume the liability of a shared vehicle owner for any property damage to the shared vehicle or any bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amount may not be less than those set forth in Section 16056 of the Vehicle Code. In addition, a peer-to-peer car sharing program shall also assume liability for the shared vehicle.~~

~~The assumption of liability does not apply if the shared vehicle owner makes an intentional or fraudulent material misrepresentation to the peer-to-peer car sharing program before the car sharing period in which the loss occurred.~~

~~(b) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts no less than~~

~~(c) The insurance described in subdivision (b) may be satisfied by motor vehicle liability insurance maintained by any of the following:~~

~~(1) The shared vehicle owner.~~

~~(2) The shared vehicle driver.~~

~~(3) The peer-to-peer car sharing program.~~

~~(4) Any combination of the above.~~

~~(d) The peer-to-peer car sharing program shall assume primary liability for a claim when it is, in whole or in part, providing the~~

1 insurance required under subdivision (b) and both of the following  
2 are true:

3 (1) A dispute exists as to who was in control of the shared motor  
4 vehicle at the time of the loss.

5 (2) The peer-to-peer car sharing program does not have  
6 available, did not retain, or fails to provide the information required  
7 pursuant to Section 11629.65.

8 (e) If a peer-to-peer car sharing program assumes liability for  
9 a claim pursuant to subdivision (d), and it is later determined that  
10 the shared motor vehicle's owner was in control of the shared  
11 motor vehicle at the time of the loss, the shared motor vehicle's  
12 insurer shall indemnify the car sharing program to the extent of  
13 its obligation, if any, under the applicable insurance policy.

14 (f) If the insurance described in subdivision (e) maintained by  
15 a shared vehicle owner or shared vehicle driver has lapsed or does  
16 not provide the required coverage, insurance maintained by the  
17 peer-to-peer car sharing program shall provide the coverage  
18 required pursuant to subdivision (b) beginning with the first dollar  
19 of a claim and shall have the duty to defend such a claim.

20 (g) Coverage under an automobile insurance policy maintained  
21 by the peer-to-peer car sharing program shall not be dependent on  
22 a personal automobile insurer first denying a claim nor shall a  
23 personal automobile insurance policy be required to first deny a  
24 claim.

25 (h) This article does not limit either of the following:

26 (1) The liability of a peer-to-peer car sharing program for any  
27 act or omission of the peer-to-peer car sharing program itself that  
28 results in injury to any person as a result of the use of a shared  
29 vehicle through a peer-to-peer car sharing program.

30 (2) The ability of a peer-to-peer car sharing program to, by  
31 contract, seek indemnification from the shared vehicle owner or  
32 the shared vehicle driver for economic loss sustained by the  
33 peer-to-peer car sharing program resulting from a breach of the  
34 terms and conditions of the car sharing program agreement.

35 11629.62. Before a shared vehicle is made available for car  
36 sharing on the peer-to-peer car sharing program, the peer-to-peer  
37 car sharing program shall notify the shared vehicle owner that, if  
38 the shared vehicle has a lien against it, the use of the shared vehicle  
39 through a peer-to-peer car sharing program, including use without

1 physical damage coverage, may violate the terms of the contract  
2 with the lienholder.

3 ~~11629.63. An authorized insurer that writes motor vehicle~~  
4 ~~liability insurance may exclude any and all coverage and the duty~~  
5 ~~to defend or indemnify for any claim afforded under a shared~~  
6 ~~vehicle owner's personal motor vehicle liability insurance policy.~~  
7 ~~This article does not invalidate or limit an exclusion contained in~~  
8 ~~a motor vehicle liability insurance policy, including any insurance~~  
9 ~~policy in use or approved for use that excludes coverage for motor~~  
10 ~~vehicles made available for rent, sharing, or hire or for any business~~  
11 ~~use.~~

12 ~~11629.64. A motor vehicle insurer may not deny, cancel, void,~~  
13 ~~terminate, rescind, or nonrenew a policy of personal private~~  
14 ~~passenger automobile liability insurance of a shared vehicle owner~~  
15 ~~solely on the basis that vehicle covered under the policy has been~~  
16 ~~made available for sharing through a peer-to-peer car sharing~~  
17 ~~program.~~

18 ~~11629.65. A peer-to-peer car sharing program shall collect and~~  
19 ~~verify records pertaining to the use of a vehicle, including, but not~~  
20 ~~limited to, times used, fees paid by the shared vehicle driver, and~~  
21 ~~revenues received by the shared vehicle owner and provide that~~  
22 ~~information upon request to the shared vehicle owner, the shared~~  
23 ~~vehicle owner's insurer, or the shared vehicle driver's insurer to~~  
24 ~~facilitate a claim coverage investigation. The peer-to-peer car~~  
25 ~~sharing program shall retain the records for not less than five years~~  
26 ~~unless a longer retention period is otherwise required by law.~~

27 ~~11629.66. A motor vehicle insurer that defends or indemnifies~~  
28 ~~a claim involving a shared vehicle that is excluded under the terms~~  
29 ~~of its policy shall have the right to seek contribution against the~~  
30 ~~motor vehicle insurer of the peer-to-peer car sharing program if~~  
31 ~~both of the following are true:~~

32 ~~(a) The claim is made against the shared vehicle owner or the~~  
33 ~~shared vehicle driver for loss or injury that occurs during the car~~  
34 ~~sharing period.~~

35 ~~(b) Coverage for peer-to-peer vehicle sharing is excluded under~~  
36 ~~the terms of its policy.~~

37 ~~11629.67. A peer-to-peer car sharing program shall, for each~~  
38 ~~vehicle that it facilitates the use of, provide the registered owner~~  
39 ~~of the vehicle with a Department of Motor Vehicles Form REG~~  
40 ~~5085 or other suitable proof of compliance with the insurance~~

1 requirements of this section and the requirements of the California  
2 Financial Responsibility Law in Section 1656.2 of the Vehicle  
3 Code, a copy of which shall be maintained in the vehicle by the  
4 vehicle's registered owner during any time when the vehicle is  
5 operated by any person other than the vehicle's owner pursuant to  
6 a peer-to-peer car sharing program.

7 SEC. 4. Section 11752 of the Vehicle Code is amended to read:

8 11752. As used in this article, the following definitions apply:

9 (a) The term "dealer" has the same meaning as in Section 285.

10 (b) (1) A "manufacturer's recall" is a recall conducted pursuant  
11 to Sections 30118 to 30120, inclusive, of Title 49 of the United  
12 States Code.

13 (2) A manufacturer's recall does not include a service campaign  
14 or emission recall when the vehicle manufacturer or the National  
15 Highway Traffic Safety Administration has not issued a recall  
16 notice to owners of affected vehicles, pursuant to Section 30118  
17 of Title 49 of the United States Code.

18 (c) A "peer-to-peer car sharing program" has the same meaning  
19 as defined in Section 1939.61 of the Civil Code.

20 (d) A "recall database" is a database from which an individual  
21 may obtain vehicle identification number (VIN) specific  
22 manufacturer's recall information relevant to a specific vehicle.

23 (1) For a vehicle manufacturer that is not subject to the  
24 regulations adopted pursuant to Section 31301 of the federal  
25 Moving Ahead for Progress in the 21st Century Act (Public Law  
26 112-141), a recall database is one of the following:

27 (A) The recall data on a vehicle manufacturer's internet website  
28 for a specific vehicle's line-make.

29 (B) The recall data in a vehicle manufacturer's internal system  
30 that provides information to its franchisees on vehicles subject to  
31 recall.

32 (C) The recall data in subparagraph (A) or (B) that is contained  
33 in a commercially available vehicle history system.

34 (2) For a vehicle manufacturer that is subject to the regulations  
35 adopted pursuant to Section 31301 of the federal Moving Ahead  
36 for Progress in the 21st Century Act (Public Law 112-141), a recall  
37 database shall include, at a minimum, the recall information  
38 required pursuant to Section 573.15 of Title 49 of the Code of  
39 Federal Regulations.

1 (e) A “recall database report” is a report, specific to a vehicle  
2 that is identified by its VIN, containing information obtained from  
3 a recall database.

4 (f) A “rental car company” is a person or entity in the business  
5 of renting passenger vehicles to the public in California.

6 SEC. 5. Section 11754 of the Vehicle Code is amended to read:

7 11754. (a) No later than 48 hours after receiving a notice of a  
8 manufacturer’s recall, or sooner if practicable, a dealer or rental  
9 car company with a motor vehicle fleet of 34 or fewer loaner or  
10 rental vehicles shall not loan, rent, or offer for loan or rent a vehicle  
11 subject to that recall until the recall repair has been made.

12 (b) If a recall notification indicates that the remedy for the recall  
13 is not immediately available and specifies actions to temporarily  
14 repair the vehicle in a manner to eliminate the safety risk that  
15 prompted the recall, the dealer or rental car company, after having  
16 the repairs completed, may loan or rent the vehicle. Once the  
17 remedy for the vehicle becomes available to the dealer or rental  
18 car company, the dealer or rental car company shall not loan or  
19 rent the vehicle until the vehicle has been repaired.

20 (c) As soon as practicable but not more than 48 hours after a  
21 vehicle is subject to a manufacturer’s recall, as defined in  
22 subdivision (b) of Section 11752, and a recall notice has been  
23 issued by the manufacturer and appears in the recall database  
24 provided by the National Highway Traffic Safety Administration  
25 pursuant to Section 573.15 of Title 49 of the Code of Federal  
26 Regulations, or not more than 48 hours after the peer-to-peer car  
27 sharing program receives notification of a manufacturer’s recall  
28 by a third party with which the peer-to-peer car sharing program  
29 contracts to provide notification of active recalls, a peer-to-peer  
30 car sharing program shall not facilitate or otherwise arrange for  
31 transportation with that vehicle until after any recall notices for  
32 that vehicle no longer appear in the recall database provided by  
33 the National Highway Traffic Safety Administration.

34 (d) The changes to this section made by Chapter 591 of the  
35 Statutes of 2018 do not apply in any manner to litigation pending  
36 as of January 1, 2019.

37 (e) This section does not affect the determination of whether or  
38 not a company is a rental car company or whether or not a company  
39 is a peer-to-peer car sharing company.

40 SEC. 6. Section 11760 of the Vehicle Code is amended to read:

1     ~~11760. (a) This article does not create any legal duty upon the~~  
2     ~~dealer, rental car company, peer-to-peer car sharing program, or~~  
3     ~~department related to the accuracy, errors, or omissions contained~~  
4     ~~in a recall database report or any legal duty to provide information~~  
5     ~~added to a recall database after the dealer, rental car company,~~  
6     ~~peer-to-peer car sharing program, or department obtained the recall~~  
7     ~~database report pursuant to Sections 11754 and 11758.~~

8     ~~(b) The changes to this section made by Chapter 591 of the~~  
9     ~~statutes of 2018 shall not apply in any manner to litigation that is~~  
10    ~~pending as of January 1, 2019.~~

11    ~~(c) This section does not affect the determination of whether or~~  
12    ~~not a company is a rental car company or whether or not a company~~  
13    ~~is a peer-to-peer car sharing program.~~

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AMENDED IN ASSEMBLY JANUARY 6, 2020

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

## ASSEMBLY BILL

**No. 1616**

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**Introduced by Assembly Member Low**  
**(Coauthor: Assembly Member Eduardo Garcia)**

February 22, 2019

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An act to ~~amend Section 10295.6 of the Insurance Code, relating to insurance;~~ *add Section 493.5 to the Business and Professions Code, relating to professions and vocations.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1616, as amended, Low. ~~Accelerated death benefits.~~ *Department of Consumer Affairs: boards: expunged convictions.*

*Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.*

*This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board's internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person's license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill's provisions.*

~~Existing law regulates classes of insurance, including life insurance, and prescribes certain requirements governing the payment of an accelerated death benefit under a life insurance policy. Existing law authorizes an accelerated death benefit to be added to a life insurance policy to provide for the advance payment of a part of the death proceeds if a qualifying event, including a terminal or chronic illness, occurs. Existing law prohibits an accelerated death benefit from being effective more than 30 days following the effective date of the policy provision, rider, endorsement, or certificate.~~

~~This bill would authorize the effective period of an accelerated death benefit to be extended to not more than 60 days following the effective date of the policy provision, rider, endorsement, or certificate.~~

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

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

1     SECTION 1. Section 493.5 is added to the Business and  
2     Professions Code, to read:  
3     493.5. (a) A board within the department that has posted on  
4     its internet website that a person's license was revoked because  
5     the person was convicted of a crime, upon receiving from the  
6     person a certified copy of an expungement order granted pursuant  
7     to Section 1203.4 of the Penal Code for the underlying offense,  
8     shall, within six months of receiving the expungement order, unless  
9     it is otherwise prohibited by law, or by other terms or conditions,  
10    do either of the following:

1     (1) *If the person reapplies for licensure or has been relicensed,*  
2     *post notification of the expungement order and the date thereof*  
3     *on its internet website.*

4     (2) *If the person is not currently licensed and does not reapply*  
5     *for licensure, remove the initial posting on its internet website that*  
6     *the person's license was revoked.*

7     (b) *A person described in subdivision (a) shall pay to the board*  
8     *a fee in an amount to be determined by the department that does*  
9     *not exceed the reasonable cost of administering this section. The*  
10    *fee shall be deposited by the board into the appropriate fund and*  
11    *shall be available only upon appropriation by the Legislature.*

12    (c) *For purposes of this section "board" means an entity listed*  
13    *in Section 101.*

14    (d) *If any provision in this section conflicts with Section 2027,*  
15    *Section 2027 shall prevail.*

16    ~~SECTION 1. Section 10295.6 of the Insurance Code is~~  
17    ~~amended to read:~~

18    ~~10295.6. (a) If a policyholder or certificate holder requests an~~  
19    ~~acceleration of death benefits, the insurer shall send a statement~~  
20    ~~to the policyholder or certificate holder and irrevocable beneficiary~~  
21    ~~showing any effect that the payment of the accelerated death benefit~~  
22    ~~would have on the policy's cash value, accumulation account,~~  
23    ~~death benefit, premium, policy loans, and policy liens. The~~  
24    ~~statement shall disclose that receipt of accelerated death benefit~~  
25    ~~payments may adversely affect the recipient's eligibility for~~  
26    ~~Medicaid or other government benefits or entitlements. In addition,~~  
27    ~~receipt of an accelerated death benefit payment may be taxable~~  
28    ~~and assistance should be sought from a personal tax adviser. If a~~  
29    ~~previous disclosure statement becomes invalid as a result of an~~  
30    ~~acceleration of the death benefit, the insurer shall send a revised~~  
31    ~~disclosure statement to the policyholder or certificate holder and~~  
32    ~~irrevocable beneficiary.~~

33    ~~(b) The accelerated death benefit shall be effective not more~~  
34    ~~than 60 days following the effective date of the policy provision,~~  
35    ~~rider, endorsement, or certificate.~~

36    ~~(c) If the insurer charges a separate premium for the accelerated~~  
37    ~~death benefit, then the insurer may also offer a waiver of premium~~  
38    ~~benefit as defined in subdivision (a) of Section 10271.1. At the~~  
39    ~~time the waiver of the accelerated death benefit premium benefit~~

1 is claimed, the insurer shall explain any continuing premium  
2 requirement to keep the underlying policy in force.

3 (d) ~~An insurer shall not unfairly discriminate among insureds~~  
4 ~~with different qualifying events covered under the policy or among~~  
5 ~~insureds with similar qualifying events covered under the policy.~~  
6 ~~An insurer shall not apply further conditions on the payment of~~  
7 ~~the accelerated death benefits other than those conditions specified~~  
8 ~~in the accelerated death benefit.~~

9 (e) ~~No later than one month after payment of an accelerated~~  
10 ~~death benefit, the insurer shall provide the policyholder or~~  
11 ~~certificate holder with a report of any accelerated death benefits~~  
12 ~~paid out during the prior month, an explanation of any changes to~~  
13 ~~the policy or certificate, death benefits, and cash values on account~~  
14 ~~of the benefits being paid out, and the amount of the remaining~~  
15 ~~benefits that may be accelerated at the end of the prior month. The~~  
16 ~~insurer may use a calendar month or policy or certificate month.~~

17 (f) ~~The conversion benefit available to group certificate holders~~  
18 ~~on termination of employment pursuant to paragraph (2) of~~  
19 ~~subdivision (a) of Section 10209 shall include a benefit comparable~~  
20 ~~to the accelerated death benefit. This requirement may be satisfied~~  
21 ~~by an individual policy or certificate. This requirement, subject to~~  
22 ~~the approval of the commissioner, may be satisfied by arrangement~~  
23 ~~with another insurer to provide the required coverage.~~

24 (g) ~~If payment of an accelerated death benefit results in a pro~~  
25 ~~rata reduction in cash value, the payment may be applied toward~~  
26 ~~repaying a portion of the loan equal to a pro rata portion of any~~  
27 ~~outstanding policy loans if disclosure of the effect of acceleration~~  
28 ~~upon any remaining death benefit, cash value or accumulation~~  
29 ~~account, policy loan, and premium payments, including a statement~~  
30 ~~of the possibility of termination of any remaining death benefit,~~  
31 ~~is provided to the policyholder or certificate holder. The~~  
32 ~~policyholder or certificate holder shall provide written consent~~  
33 ~~authorizing any other arrangement for the repayment of outstanding~~  
34 ~~policy loans.~~

1  
2 REVISIONS:  
3 Heading—Line 2.  
4

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**ASSEMBLY BILL**

**No. 1911**

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**Introduced by Assembly Member Maienschein**

January 9, 2020

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An act to repeal and add Section 11019.11 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1911, as introduced, Maienschein. State agencies: veterans.

Existing law requires, as of July 1, 2014, every state agency that requests on any written form or written publication, or through its internet website, whether a person is a veteran, to request that information in a specified manner.

This bill would delete the above-described provisions and instead would require each state agency, among other things, to include questions on its intake forms to determine whether an applicant is affiliated with the United States Armed Forces. The bill would require the state agency, through the intake form, to request permission from that person to transmit their contact information to the Department of Veterans Affairs so that the person may be notified of potential eligibility to receive state and federal veterans benefits.

The bill would require each state agency to electronically transmit to the Department of Veterans Affairs specified information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces and has consented to be contacted about military, veterans, family member, or survivor benefits.

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

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

SECTION 1. Section 11019.11 of the Government Code is repealed.

~~11019.11. (a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the United States military?"~~

~~(b) This section shall apply only to a written form or written publication that is newly printed on or after July 1, 2014.~~

SEC. 2. Section 11019.11 is added to the Government Code, to read:

11019.11. (a) Each state agency shall include all of the following on any intake form:

(1) An option for a person to indicate whether they are affiliated with the United States Armed Forces by asking both of the following:

(A) "Have you ever served in the military?"

(B) "Has a family member ever served in the military?"

(2) An option for a person who identifies as being military affiliated, as provided in paragraph (1), to give their consent to be contacted regarding eligibility to receive state or federal veterans benefits by including the following statement:

"I consent to this state agency transmitting my name, email address, and mailing address to the Department of Veterans Affairs for this purpose only, and I have been notified that this transmittal will occur."

(3) Each intake form shall also include a statement of potential eligibility to receive state and federal services, with contact information for the Department of Veteran Affairs.

(b) Each state agency shall electronically transmit to the Department of Veterans Affairs all of the following information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces since the last data transfer and has consented to be contacted about military, veterans, family member, or survivor benefits, pursuant to subdivision (a):

(1) True full name.

(2) Email address.

- 1     (3) Mailing address.
- 2     (c) Information obtained by the Department of Veterans Affairs
- 3     pursuant to this section shall be used to assist individuals in
- 4     accessing benefits and shall not be disseminated except as needed
- 5     for that purpose.

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**ASSEMBLY BILL**

**No. 1928**

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**Introduced by Assembly Members Kiley and Melendez**  
**(Coauthors: Assembly Members Fong and Gallagher)**  
(Coauthors: Senators Jones and Moorlach)

January 15, 2020

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An act to amend Section 2750.5 of, to add Section 2750.7 to, and to repeal Section 2750.3 of, the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 1928, as introduced, Kiley. Employment standards: independent contractors and employees.

Existing law, as established in the case of *Dynamex Operations W. Inc. v. Superior Court* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is

customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the “ABC” test. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions. Existing law instead provides that these exempt relationships are governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d (Borello).

This bill would repeal those existing provisions and instead require a determination of whether a person is an employee or an independent contractor to be based on the specific multifactor test set forth in Borello, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors. The bill would make related, conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 2750.3 of the Labor Code is repealed.
- 2 ~~2750.3.—(a) (1) For purposes of the provisions of this code~~
- 3 ~~and the Unemployment Insurance Code, and for the wage orders~~
- 4 ~~of the Industrial Welfare Commission, a person providing labor~~
- 5 ~~or services for remuneration shall be considered an employee rather~~
- 6 ~~than an independent contractor unless the hiring entity demonstrates~~
- 7 ~~that all of the following conditions are satisfied:~~
- 8 ~~(A) The person is free from the control and direction of the~~
- 9 ~~hiring entity in connection with the performance of the work, both~~
- 10 ~~under the contract for the performance of the work and in fact.~~
- 11 ~~(B) The person performs work that is outside the usual course~~
- 12 ~~of the hiring entity’s business.~~
- 13 ~~(C) The person is customarily engaged in an independently~~
- 14 ~~established trade, occupation, or business of the same nature as~~
- 15 ~~that involved in the work performed.~~
- 16 ~~(2) Notwithstanding paragraph (1), any exceptions to the terms~~
- 17 ~~“employee,” “employer,” “employ,” or “independent contractor,”~~

1 and any extensions of employer status or liability, that are expressly  
2 made by a provision of this code, the Unemployment Insurance  
3 Code, or in an applicable order of the Industrial Welfare  
4 Commission, including, but not limited to, the definition of  
5 “employee” in subdivision 2(E) of Wage Order No. 2, shall remain  
6 in effect for the purposes set forth therein.

7 (3) If a court of law rules that the three-part test in paragraph  
8 (1) cannot be applied to a particular context based on grounds other  
9 than an express exception to employment status as provided under  
10 paragraph (2), then the determination of employee or independent  
11 contractor status in that context shall instead be governed by the  
12 California Supreme Court’s decision in *S. G. Borello & Sons, Inc.*  
13 *v. Department of Industrial Relations* (1989) 48 Cal.3d 341  
14 (*Borello*).

15 (b) Subdivision (a) and the holding in *Dynamex Operations*  
16 *West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903  
17 (*Dynamex*), do not apply to the following occupations as defined  
18 in the paragraphs below, and instead, the determination of  
19 employee or independent contractor status for individuals in those  
20 occupations shall be governed by *Borello*.

21 (1) A person or organization who is licensed by the Department  
22 of Insurance pursuant to Chapter 5 (commencing with Section  
23 1621), Chapter 6 (commencing with Section 1760), or Chapter 8  
24 (commencing with Section 1831) of Part 2 of Division 1 of the  
25 Insurance Code.

26 (2) A physician and surgeon, dentist, podiatrist, psychologist,  
27 or veterinarian licensed by the State of California pursuant to  
28 Division 2 (commencing with Section 500) of the Business and  
29 Professions Code, performing professional or medical services  
30 provided to or by a health care entity, including an entity organized  
31 as a sole proprietorship, partnership, or professional corporation  
32 as defined in Section 13401 of the Corporations Code. Nothing in  
33 this subdivision shall apply to the employment settings currently  
34 or potentially governed by collective bargaining agreements for  
35 the licensees identified in this paragraph.

36 (3) An individual who holds an active license from the State of  
37 California and is practicing one of the following recognized  
38 professions: lawyer, architect, engineer, private investigator, or  
39 accountant.

1     ~~(4) A securities broker-dealer or investment adviser or their~~  
2     ~~agents and representatives that are registered with the Securities~~  
3     ~~and Exchange Commission or the Financial Industry Regulatory~~  
4     ~~Authority or licensed by the State of California under Chapter 2~~  
5     ~~(commencing with Section 25210) or Chapter 3 (commencing with~~  
6     ~~Section 25230) of Division 1 of Part 3 of Title 4 of the~~  
7     ~~Corporations Code.~~

8     ~~(5) A direct sales salesperson as described in Section 650 of the~~  
9     ~~Unemployment Insurance Code, so long as the conditions for~~  
10    ~~exclusion from employment under that section are met.~~

11    ~~(6) A commercial fisherman working on an American vessel~~  
12    ~~as defined in subparagraph (A) below.~~

13    ~~(A) For the purposes of this paragraph:~~

14    ~~(i) “American vessel” has the same meaning as defined in~~  
15    ~~Section 125.5 of the Unemployment Insurance Code.~~

16    ~~(ii) “Commercial fisherman” means a person who has a valid,~~  
17    ~~unrevoked commercial fishing license issued pursuant to Article~~  
18    ~~3 (commencing with Section 7850) of Chapter 1 of Part 3 of~~  
19    ~~Division 6 of the Fish and Game Code.~~

20    ~~(iii) “Working on an American vessel” means the taking or the~~  
21    ~~attempt to take fish, shellfish, or other fishery resources of the state~~  
22    ~~by any means, and includes each individual aboard an American~~  
23    ~~vessel operated for fishing purposes who participates directly or~~  
24    ~~indirectly in the taking of these raw fishery products, including~~  
25    ~~maintaining the vessel or equipment used aboard the vessel.~~  
26    ~~However, “working on an American vessel” does not apply to~~  
27    ~~anyone aboard a licensed commercial fishing vessel as a visitor~~  
28    ~~or guest who does not directly or indirectly participate in the taking.~~

29    ~~(B) For the purposes of this paragraph, a commercial fisherman~~  
30    ~~working on an American vessel is eligible for unemployment~~  
31    ~~insurance benefits if they meet the definition of “employment” in~~  
32    ~~Section 609 of the Unemployment Insurance Code and are~~  
33    ~~otherwise eligible for those benefits pursuant to the provisions of~~  
34    ~~the Unemployment Insurance Code.~~

35    ~~(C) On or before March 1, 2021, and each March 1 thereafter,~~  
36    ~~the Employment Development Department shall issue an annual~~  
37    ~~report to the Legislature on the use of unemployment insurance in~~  
38    ~~the commercial fishing industry. This report shall include, but not~~  
39    ~~be limited to, reporting the number of commercial fishermen who~~  
40    ~~apply for unemployment insurance benefits, the number of~~

1 commercial fishermen who have their claims disputed, the number  
2 of commercial fishermen who have their claims denied, and the  
3 number of commercial fishermen who receive unemployment  
4 insurance benefits. The report required by this subparagraph shall  
5 be submitted in compliance with Section 9795 of the Government  
6 Code.

7 (D) This paragraph shall become inoperative on January 1, 2023,  
8 unless extended by the Legislature.

9 (7) A newspaper distributor working under contract with a  
10 newspaper publisher, as defined in subparagraph (A), and a  
11 newspaper carrier working under contract either with a newspaper  
12 publisher or newspaper distributor.

13 (A) For purposes of this paragraph:

14 (i) "Newspaper" means a newspaper of general circulation, as  
15 defined in Section 6000 of the Government Code, and any other  
16 publication circulated to the community in general as an extension  
17 of or substitute for that newspaper's own publication, whether that  
18 publication be designated a "shoppers' guide," as a zoned edition,  
19 or otherwise.

20 (ii) "Publisher" means the natural or corporate person that  
21 manages the newspaper's business operations, including  
22 circulation.

23 (iii) "Newspaper distributor" means a person or entity that  
24 contracts with a publisher to distribute newspapers to the  
25 community.

26 (iv) "Carrier" means a person who effects physical delivery of  
27 the newspaper to the customer or reader.

28 (B) This paragraph shall become inoperative on January 1, 2021,  
29 unless extended by the Legislature.

30 (e) (1) Subdivision (a) and the holding in *Dynamex* do not  
31 apply to a contract for "professional services" as defined below;  
32 and instead the determination of whether the individual is an  
33 employee or independent contractor shall be governed by *Borello*  
34 if the hiring entity demonstrates that all of the following factors  
35 are satisfied:

36 (A) The individual maintains a business location, which may  
37 include the individual's residence, that is separate from the hiring  
38 entity. Nothing in this subdivision prohibits an individual from  
39 choosing to perform services at the location of the hiring entity.

1 ~~(B) If work is performed more than six months after the effective~~  
2 ~~date of this section, the individual has a business license, in~~  
3 ~~addition to any required professional licenses or permits for the~~  
4 ~~individual to practice in their profession.~~

5 ~~(C) The individual has the ability to set or negotiate their own~~  
6 ~~rates for the services performed.~~

7 ~~(D) Outside of project completion dates and reasonable business~~  
8 ~~hours, the individual has the ability to set the individual's own~~  
9 ~~hours.~~

10 ~~(E) The individual is customarily engaged in the same type of~~  
11 ~~work performed under contract with another hiring entity or holds~~  
12 ~~themselves out to other potential customers as available to perform~~  
13 ~~the same type of work.~~

14 ~~(F) The individual customarily and regularly exercises discretion~~  
15 ~~and independent judgment in the performance of the services.~~

16 ~~(2) For purposes of this subdivision:~~

17 ~~(A) An "individual" includes an individual providing services~~  
18 ~~through a sole proprietorship or other business entity.~~

19 ~~(B) "Professional services" means services that meet any of the~~  
20 ~~following:~~

21 ~~(i) Marketing, provided that the contracted work is original and~~  
22 ~~creative in character and the result of which depends primarily on~~  
23 ~~the invention, imagination, or talent of the employee or work that~~  
24 ~~is an essential part of or necessarily incident to any of the~~  
25 ~~contracted work.~~

26 ~~(ii) Administrator of human resources, provided that the~~  
27 ~~contracted work is predominantly intellectual and varied in~~  
28 ~~character and is of such character that the output produced or the~~  
29 ~~result accomplished cannot be standardized in relation to a given~~  
30 ~~period of time.~~

31 ~~(iii) Travel agent services provided by either of the following:~~  
32 ~~(I) a person regulated by the Attorney General under Article 2.6~~  
33 ~~(commencing with Section 17550) of Chapter 1 of Part 3 of~~  
34 ~~Division 7 of the Business and Professions Code, or (II) an~~  
35 ~~individual who is a seller of travel within the meaning of~~  
36 ~~subdivision (a) of Section 17550.1 of the Business and Professions~~  
37 ~~Code and who is exempt from the registration under subdivision~~  
38 ~~(g) of Section 17550.20 of the Business and Professions Code.~~

39 ~~(iv) Graphic design.~~

40 ~~(v) Grant writer.~~

1     ~~(vi) Fine artist.~~

2     ~~(vii) Services provided by an enrolled agent who is licensed by~~  
3 ~~the United States Department of the Treasury to practice before~~  
4 ~~the Internal Revenue Service pursuant to Part 10 of Subtitle A of~~  
5 ~~Title 31 of the Code of Federal Regulations.~~

6     ~~(viii) Payment processing agent through an independent sales~~  
7 ~~organization.~~

8     ~~(ix) Services provided by a still photographer or photojournalist~~  
9 ~~who do not license content submissions to the putative employer~~  
10 ~~more than 35 times per year. This clause is not applicable to an~~  
11 ~~individual who works on motion pictures, which includes, but is~~  
12 ~~not limited to, projects produced for theatrical, television, internet~~  
13 ~~streaming for any device, commercial productions, broadcast news,~~  
14 ~~music videos, and live shows, whether distributed live or recorded~~  
15 ~~for later broadcast, regardless of the distribution platform. For~~  
16 ~~purposes of this clause a “submission” is one or more items or~~  
17 ~~forms of content produced by a still photographer or photojournalist~~  
18 ~~that: (I) pertains to a specific event or specific subject; (II) is~~  
19 ~~provided for in a contract that defines the scope of the work; and~~  
20 ~~(III) is accepted by and licensed to the publication or stock~~  
21 ~~photography company and published or posted. Nothing in this~~  
22 ~~section shall prevent a photographer or artist from displaying their~~  
23 ~~work product for sale.~~

24     ~~(x) Services provided by a freelance writer, editor, or newspaper~~  
25 ~~cartoonist who does not provide content submissions to the putative~~  
26 ~~employer more than 35 times per year. Items of content produced~~  
27 ~~on a recurring basis related to a general topic shall be considered~~  
28 ~~separate submissions for purposes of calculating the 35 times per~~  
29 ~~year. For purposes of this clause, a “submission” is one or more~~  
30 ~~items or forms of content by a freelance journalist that: (I) pertains~~  
31 ~~to a specific event or topic; (II) is provided for in a contract that~~  
32 ~~defines the scope of the work; (III) is accepted by the publication~~  
33 ~~or company and published or posted for sale.~~

34     ~~(xi) Services provided by a licensed esthetician, licensed~~  
35 ~~electrologist, licensed manicurist, licensed barber, or licensed~~  
36 ~~cosmetologist provided that the individual:~~

37     ~~(I) Sets their own rates, processes their own payments, and is~~  
38 ~~paid directly by clients.~~

1     ~~(II) Sets their own hours of work and has sole discretion to~~  
2     ~~decide the number of clients and which clients for whom they will~~  
3     ~~provide services.~~

4     ~~(III) Has their own book of business and schedules their own~~  
5     ~~appointments.~~

6     ~~(IV) Maintains their own business license for the services~~  
7     ~~offered to clients.~~

8     ~~(V) If the individual is performing services at the location of~~  
9     ~~the hiring entity, then the individual issues a Form 1099 to the~~  
10    ~~salon or business owner from which they rent their business space.~~

11    ~~(VI) This subdivision shall become inoperative, with respect to~~  
12    ~~licensed manicurists, on January 1, 2022.~~

13    ~~(d) Subdivision (a) and the holding in Dynamex do not apply~~  
14    ~~to the following, which are subject to the Business and Professions~~  
15    ~~Code:~~

16    ~~(1) A real estate licensee licensed by the State of California~~  
17    ~~pursuant to Division 4 (commencing with Section 10000) of the~~  
18    ~~Business and Professions Code, for whom the determination of~~  
19    ~~employee or independent contractor status shall be governed by~~  
20    ~~subdivision (b) of Section 10032 of the Business and Professions~~  
21    ~~Code. If that section is not applicable, then this determination shall~~  
22    ~~be governed as follows: (A) for purposes of unemployment~~  
23    ~~insurance by Section 650 of the Unemployment Insurance Code;~~  
24    ~~(B) for purposes of workers compensation by Section 3200 et seq.;~~  
25    ~~and (C) for all other purposes in the Labor Code by Borello. The~~  
26    ~~statutorily imposed duties of a responsible broker under Section~~  
27    ~~10015.1 of the Business and Professions Code are not factors to~~  
28    ~~be considered under the Borello test.~~

29    ~~(2) A repossession agency licensed pursuant to Section 7500.2~~  
30    ~~of the Business and Professions Code, for whom the determination~~  
31    ~~of employee or independent contractor status shall be governed~~  
32    ~~by Section 7500.2 of the Business and Professions Code, if the~~  
33    ~~repossession agency is free from the control and direction of the~~  
34    ~~hiring person or entity in connection with the performance of the~~  
35    ~~work, both under the contract for the performance of the work and~~  
36    ~~in fact.~~

37    ~~(e) Subdivision (a) and the holding in Dynamex do not apply~~  
38    ~~to a bona fide business-to-business contracting relationship, as~~  
39    ~~defined below, under the following conditions:~~

1     ~~(1) If a business entity formed as a sole proprietorship,~~  
2     ~~partnership, limited liability company, limited liability partnership,~~  
3     ~~or corporation (“business service provider”) contracts to provide~~  
4     ~~services to another such business (“contracting business”), the~~  
5     ~~determination of employee or independent contractor status of the~~  
6     ~~business services provider shall be governed by Borello, if the~~  
7     ~~contracting business demonstrates that all of the following criteria~~  
8     ~~are satisfied:~~

9     ~~(A) The business service provider is free from the control and~~  
10    ~~direction of the contracting business entity in connection with the~~  
11    ~~performance of the work, both under the contract for the~~  
12    ~~performance of the work and in fact.~~

13    ~~(B) The business service provider is providing services directly~~  
14    ~~to the contracting business rather than to customers of the~~  
15    ~~contracting business.~~

16    ~~(C) The contract with the business service provider is in writing.~~

17    ~~(D) If the work is performed in a jurisdiction that requires the~~  
18    ~~business service provider to have a business license or business~~  
19    ~~tax registration, the business service provider has the required~~  
20    ~~business license or business tax registration.~~

21    ~~(E) The business service provider maintains a business location~~  
22    ~~that is separate from the business or work location of the~~  
23    ~~contracting business.~~

24    ~~(F) The business service provider is customarily engaged in an~~  
25    ~~independently established business of the same nature as that~~  
26    ~~involved in the work performed.~~

27    ~~(G) The business service provider actually contracts with other~~  
28    ~~businesses to provide the same or similar services and maintains~~  
29    ~~a clientele without restrictions from the hiring entity.~~

30    ~~(H) The business service provider advertises and holds itself~~  
31    ~~out to the public as available to provide the same or similar~~  
32    ~~services.~~

33    ~~(I) The business service provider provides its own tools,~~  
34    ~~vehicles, and equipment to perform the services.~~

35    ~~(J) The business service provider can negotiate its own rates.~~

36    ~~(K) Consistent with the nature of the work, the business service~~  
37    ~~provider can set its own hours and location of work.~~

38    ~~(L) The business service provider is not performing the type of~~  
39    ~~work for which a license from the Contractor’s State License Board~~

1 is required, pursuant to Chapter 9 (commencing with Section 7000)  
2 of Division 3 of the Business and Professions Code.

3 ~~(2) This subdivision does not apply to an individual worker, as~~  
4 ~~opposed to a business entity, who performs labor or services for~~  
5 ~~a contracting business.~~

6 ~~(3) The determination of whether an individual working for a~~  
7 ~~business service provider is an employee or independent contractor~~  
8 ~~of the business service provider is governed by paragraph (1) of~~  
9 ~~subdivision (a).~~

10 ~~(4) This subdivision does not alter or supersede any existing~~  
11 ~~rights under Section 2810.3.~~

12 ~~(f) Subdivision (a) and the holding in Dynamex do not apply to~~  
13 ~~the relationship between a contractor and an individual performing~~  
14 ~~work pursuant to a subcontract in the construction industry, and~~  
15 ~~instead the determination of whether the individual is an employee~~  
16 ~~of the contractor shall be governed by Section 2750.5 and by~~  
17 ~~Borello, if the contractor demonstrates that all the following criteria~~  
18 ~~are satisfied:~~

19 ~~(1) The subcontract is in writing.~~

20 ~~(2) The subcontractor is licensed by the Contractors State~~  
21 ~~License Board and the work is within the scope of that license.~~

22 ~~(3) If the subcontractor is domiciled in a jurisdiction that requires~~  
23 ~~the subcontractor to have a business license or business tax~~  
24 ~~registration, the subcontractor has the required business license or~~  
25 ~~business tax registration.~~

26 ~~(4) The subcontractor maintains a business location that is~~  
27 ~~separate from the business or work location of the contractor.~~

28 ~~(5) The subcontractor has the authority to hire and to fire other~~  
29 ~~persons to provide or to assist in providing the services.~~

30 ~~(6) The subcontractor assumes financial responsibility for errors~~  
31 ~~or omissions in labor or services as evidenced by insurance, legally~~  
32 ~~authorized indemnity obligations, performance bonds, or warranties~~  
33 ~~relating to the labor or services being provided.~~

34 ~~(7) The subcontractor is customarily engaged in an~~  
35 ~~independently established business of the same nature as that~~  
36 ~~involved in the work performed.~~

37 ~~(8) (A) Paragraph (2) shall not apply to a subcontractor~~  
38 ~~providing construction trucking services for which a contractor's~~  
39 ~~license is not required by Chapter 9 (commencing with Section~~

7000) of Division 3 of the Business and Professions Code, provided that all of the following criteria are satisfied:

(i) The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.

(ii) For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works contractor pursuant to Section 1725.5, regardless of whether the subcontract involves public work.

(iii) The subcontractor utilizes its own employees to perform the construction trucking services, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid motor carrier permit issued by the Department of Motor Vehicles.

(iv) The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.

(B) For work performed after January 1, 2020, any business entity that provides construction trucking services to a licensed contractor utilizing more than one truck shall be deemed the employer for all drivers of those trucks.

(C) For purposes of this paragraph, “construction trucking services” mean hauling and trucking services provided in the construction industry pursuant to a contract with a licensed contractor utilizing vehicles that require a commercial driver’s license to operate or have a gross vehicle weight rating of 26,001 or more pounds.

(D) This paragraph shall only apply to work performed before January 1, 2022.

(E) Nothing in this paragraph prohibits an individual who owns their truck from working as an employee of a trucking company and utilizing that truck in the scope of that employment. An individual employee providing their own truck for use by an employer trucking company shall be reimbursed by the trucking company for the reasonable expense incurred for the use of the employee-owned truck.

(g) Subdivision (a) and the holding in *Dynamex* do not apply to the relationship between a referral agency and a service provider, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or

1 corporation (“service provider”) provides services to clients through  
2 a referral agency, the determination whether the service provider  
3 is an employee of the referral agency shall be governed by Borello;  
4 if the referral agency demonstrates that all of the following criteria  
5 are satisfied:

6 (A) The service provider is free from the control and direction  
7 of the referral agency in connection with the performance of the  
8 work for the client, both as a matter of contract and in fact.

9 (B) If the work for the client is performed in a jurisdiction that  
10 requires the service provider to have a business license or business  
11 tax registration, the service provider has the required business  
12 license or business tax registration.

13 (C) If the work for the client requires the service provider to  
14 hold a state contractor’s license pursuant to Chapter 9 (commencing  
15 with Section 7000) of Division 3 of the Business and Professions  
16 Code, the service provider has the required contractor’s license.

17 (D) The service provider delivers services to the client under  
18 service provider’s name, rather than under the name of the referral  
19 agency.

20 (E) The service provider provides its own tools and supplies to  
21 perform the services.

22 (F) The service provider is customarily engaged in an  
23 independently established business of the same nature as that  
24 involved in the work performed for the client.

25 (G) The service provider maintains a clientele without any  
26 restrictions from the referral agency and the service provider is  
27 free to seek work elsewhere, including through a competing agency.

28 (H) The service provider sets its own hours and terms of work  
29 and is free to accept or reject clients and contracts.

30 (I) The service provider sets its own rates for services performed,  
31 without deduction by the referral agency.

32 (J) The service provider is not penalized in any form for  
33 rejecting clients or contracts. This subparagraph does not apply if  
34 the service provider accepts a client or contract and then fails to  
35 fulfill any of its contractual obligations.

36 (2) For purposes of this subdivision, the following definitions  
37 apply:

38 (A) “Animal services” means services related to daytime and  
39 nighttime pet care including pet boarding under Section 122380  
40 of the Health and Safety Code.

1 (B) “Client” means a person or business that engages a service  
2 contractor through a referral agency.

3 (C) “Referral agency” is a business that connects clients with  
4 service providers that provide graphic design, photography,  
5 tutoring, event planning, minor home repair, moving, home  
6 cleaning, errands, furniture assembly, animal services, dog walking,  
7 dog grooming, web design, picture hanging, pool cleaning, or yard  
8 cleanup.

9 (D) “Referral agency contract” is the agency’s contract with  
10 clients and service contractors governing the use of its intermediary  
11 services described in subparagraph (C).

12 (E) “Service provider” means a person or business who agrees  
13 to the referral agency’s contract and uses the referral agency to  
14 connect with clients.

15 (F) “Tutor” means a person who develops and teaches their own  
16 curriculum. A “tutor” does not include a person who teaches a  
17 curriculum created by a public school or who contracts with a  
18 public school through a referral company for purposes of teaching  
19 students of a public school.

20 (3) This subdivision does not apply to an individual worker, as  
21 opposed to a business entity, who performs services for a client  
22 through a referral agency. The determination whether such an  
23 individual is an employee of a referral agency is governed by  
24 subdivision (a).

25 (h) Subdivision (a) and the holding in *Dynamex* do not apply  
26 to the relationship between a motor club holding a certificate of  
27 authority issued pursuant to Chapter 2 (commencing with Section  
28 12160) of Part 5 of Division 2 of the Insurance Code and an  
29 individual performing services pursuant to a contract between the  
30 motor club and a third party to provide motor club services utilizing  
31 the employees and vehicles of the third party and, instead, the  
32 determination whether such an individual is an employee of the  
33 motor club shall be governed by *Borello*, if the motor club  
34 demonstrates that the third party is a separate and independent  
35 business from the motor club.

36 (i) (1) The addition of subdivision (a) to this section of the  
37 Labor Code by this act does not constitute a change in, but is  
38 declaratory of, existing law with regard to wage orders of the  
39 Industrial Welfare Commission and violations of the Labor Code  
40 relating to wage orders.

~~(2) Insofar as the application of subdivisions (b), (c), (d), (e), (f), (g), and (h) of this section would relieve an employer from liability, those subdivisions shall apply retroactively to existing claims and actions to the maximum extent permitted by law.~~

~~(3) Except as provided in paragraphs (1) and (2) of this subdivision, the provisions of this section of the Labor Code shall apply to work performed on or after January 1, 2020.~~

~~(j) In addition to any other remedies available, an action for injunctive relief to prevent the continued misclassification of employees as independent contractors may be prosecuted against the putative employer in a court of competent jurisdiction by the Attorney General or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.~~

SEC. 2. Section 2750.5 of the Labor Code is amended to read:

2750.5. (a) There is a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, or who is performing such *those* services for a person who is required to obtain such a license is an employee rather than an independent contractor. ~~Proof of independent contractor status includes satisfactory proof of these factors:~~

~~(a) That the individual has the right to control and discretion as to the manner of performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for.~~

~~(b) That the individual is customarily engaged in an independently established business.~~

~~(c) That the individual's independent contractor status is bona fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or~~

~~instrumentalities used in the work other than tools and  
instrumentalities normally and customarily provided by employees;  
hiring employees, performing work that is not ordinarily in the  
course of the principal's work, performing work that requires a  
particular skill, holding a license pursuant to the Business and  
Professions Code, the intent by the parties that the work  
relationship is of an independent contractor status, or that the  
relationship is not severable or terminable at will by the principal  
but gives rise to an action for breach of contract.~~

~~In~~

*(B) In addition to the factors contained in subdivisions (a), (b),  
and (c), Section 2750.7, any person performing any function or  
activity for which a license is required pursuant to Chapter 9  
(commencing with Section 7000) of Division 3 of the Business  
and Professions Code shall hold a valid contractors' license as a  
condition of having independent contractor status.*

~~For~~

*(c) For purposes of workers' compensation law, this  
presumption is a supplement to the existing statutory definitions  
of employee and independent contractor, and is not intended to  
lessen the coverage of employees under Division 4 and Division  
5.*

SEC. 3. Section 2750.7 is added to the Labor Code, to read:

2750.7. (a) Notwithstanding any other law, a determination  
of whether a person is an employee or an independent contractor  
for the purposes of this division shall be based on the multifactor  
test set forth in *S.G. Borello & Sons, Inc. v. Department of  
Industrial Relations*.

(b) These factors include, but are not limited to, the following:

(1) Whether the person to whom service is rendered has the  
right to control the manner and means of accomplishing the result  
desired, which is the principal factor.

(2) Whether the one performing services is engaged in a distinct  
occupation or business.

(3) The kind of occupation, with reference to whether, in the  
locality, the work is usually done under the direction of the  
principal or by a specialist without supervision.

(4) The skill required in the particular occupation.

1 (5) Whether the principal or the worker supplies the  
2 instrumentalities, tools, and the place of work for the person doing  
3 the work.

4 (6) The length of time for which the services are to be  
5 performed.

6 (7) The method of payment, whether by the time or by the job.

7 (8) The right to discharge at will, without cause.

8 (9) Whether or not the work is part of the regular business of  
9 the principal.

10 (10) Whether or not the parties believe they are creating the  
11 relationship of employer-employee.

12 (c) The individual factors set forth in subdivision (b) above shall  
13 not be applied mechanically as separate tests, but shall be  
14 intertwined.

15 (d) The test set forth in this section shall apply to any  
16 determinations before an administrative agency or court.

17 SEC. 4. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety within  
19 the meaning of Article IV of the California Constitution and shall  
20 go into immediate effect. The facts constituting the necessity are:

21 Because the expansive nature of Assembly Bill 5 (Chapter 296  
22 of the Statutes of 2019) has resulted in the significant and  
23 immediate impact of lost income and resulted in a disruption of  
24 the work relationship for thousands of Californians, thereby  
25 effecting many occupations essential to the preservation of the  
26 public peace, health, and safety, it is necessary for this measure to  
27 take immediate effect.

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**ASSEMBLY BILL**

**No. 1998**

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**Introduced by Assembly Member Low**

January 27, 2020

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An act to amend Section 1680 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1998, as introduced, Low. Dental Practice Act: unprofessional conduct: patient of record.

Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists and dental assistants by the Dental Board of California. The act specifies unprofessional conduct by a licensee to include, among other things, the failure by a treating dentist, prior to the initial diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances, to perform an examination pursuant to that required of a patient of record. The act defines a patient of record to mean a patient who has been examined, has had a medical and dental history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the licensed dentist.

This bill would revise that unprofessional conduct provision described above to provide that the failure of a treating dentist to perform an in-person examination pursuant to that required of a patient of record is unprofessional conduct under the act.

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

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

SECTION 1. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which the person is licensed to practice, in advertising or in any other manner indicating that the person is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

1 (m) The violation of any of the provisions of law regulating the  
2 procurement, dispensing, or administration of dangerous drugs,  
3 as defined in Chapter 9 (commencing with Section 4000) or  
4 controlled substances, as defined in Division 10 (commencing  
5 with Section 11000) of the Health and Safety Code.

6 (n) The violation of any of the provisions of this division.

7 (o) The permitting of any person to operate dental radiographic  
8 equipment who has not met the requirements of Section 1656.

9 (p) The clearly excessive prescribing or administering of drugs  
10 or treatment, or the clearly excessive use of diagnostic procedures,  
11 or the clearly excessive use of diagnostic or treatment facilities,  
12 as determined by the customary practice and standards of the dental  
13 profession.

14 Any person who violates this subdivision is guilty of a  
15 misdemeanor and shall be punished by a fine of not less than one  
16 hundred dollars (\$100) or more than six hundred dollars (\$600),  
17 or by imprisonment for a term of not less than 60 days or more  
18 than 180 days, or by both a fine and imprisonment.

19 (q) The use of threats or harassment against any patient or  
20 licensee for providing evidence in any possible or actual  
21 disciplinary action, or other legal action; or the discharge of an  
22 employee primarily based on the employee's attempt to comply  
23 with the provisions of this chapter or to aid in the compliance.

24 (r) Suspension or revocation of a license issued, or discipline  
25 imposed, by another state or territory on grounds that would be  
26 the basis of discipline in this state.

27 (s) The alteration of a patient's record with intent to deceive.

28 (t) Unsanitary or unsafe office conditions, as determined by the  
29 customary practice and standards of the dental profession.

30 (u) The abandonment of the patient by the licensee, without  
31 written notice to the patient that treatment is to be discontinued  
32 and before the patient has ample opportunity to secure the services  
33 of another dentist, registered dental hygienist, registered dental  
34 hygienist in alternative practice, or registered dental hygienist in  
35 extended functions and provided the health of the patient is not  
36 jeopardized.

37 (v) The willful misrepresentation of facts relating to a  
38 disciplinary action to the patients of a disciplined licensee.

39 (w) Use of fraud in the procurement of any license issued  
40 pursuant to this chapter.

1 (x) Any action or conduct that would have warranted the denial  
2 of the license.

3 (y) The aiding or abetting of a licensed dentist, dental assistant,  
4 registered dental assistant, registered dental assistant in extended  
5 functions, dental sedation assistant permitholder, orthodontic  
6 assistant permitholder, registered dental hygienist, registered dental  
7 hygienist in alternative practice, or registered dental hygienist in  
8 extended functions to practice dentistry in a negligent or  
9 incompetent manner.

10 (z) (1) The failure to report to the board in writing within seven  
11 days any of the following: (A) the death of the licensee's patient  
12 during the performance of any dental or dental hygiene procedure;  
13 (B) the discovery of the death of a patient whose death is related  
14 to a dental or dental hygiene procedure performed by the licensee;  
15 or (C) except for a scheduled hospitalization, the removal to a  
16 hospital or emergency center for medical treatment of any patient  
17 to whom oral conscious sedation, conscious sedation, or general  
18 anesthesia was administered, or any patient as a result of dental  
19 or dental hygiene treatment. With the exception of patients to  
20 whom oral conscious sedation, conscious sedation, or general  
21 anesthesia was administered, removal to a hospital or emergency  
22 center that is the normal or expected treatment for the underlying  
23 dental condition is not required to be reported. Upon receipt of a  
24 report pursuant to this subdivision the board may conduct an  
25 inspection of the dental office if the board finds that it is necessary.  
26 A dentist shall report to the board all deaths occurring in the  
27 licensee's practice with a copy sent to the Dental Hygiene Board  
28 of California if the death was the result of treatment by a registered  
29 dental hygienist, registered dental hygienist in alternative practice,  
30 or registered dental hygienist in extended functions. A registered  
31 dental hygienist, registered dental hygienist in alternative practice,  
32 or registered dental hygienist in extended functions shall report to  
33 the Dental Hygiene Board of California all deaths occurring as the  
34 result of dental hygiene treatment, and a copy of the notification  
35 shall be sent to the board.

36 (2) The report required by this subdivision shall be on a form  
37 or forms approved by the board. The form or forms approved by  
38 the board shall require the licensee to include, but not be limited  
39 to, the following information for cases in which patients received  
40 anesthesia: the date of the procedure; the patient's age in years

1 and months, weight, and sex; the patient's American Society of  
2 Anesthesiologists (ASA) physical status; the patient's primary  
3 diagnosis; the patient's coexisting diagnoses; the procedures  
4 performed; the sedation setting; the medications used; the  
5 monitoring equipment used; the category of the provider  
6 responsible for sedation oversight; the category of the provider  
7 delivering sedation; the category of the provider monitoring the  
8 patient during sedation; whether the person supervising the sedation  
9 performed one or more of the procedures; the planned airway  
10 management; the planned depth of sedation; the complications  
11 that occurred; a description of what was unexpected about the  
12 airway management; whether there was transportation of the patient  
13 during sedation; the category of the provider conducting  
14 resuscitation measures; and the resuscitation equipment utilized.  
15 Disclosure of individually identifiable patient information shall  
16 be consistent with applicable law. A report required by this  
17 subdivision shall not be admissible in any action brought by a  
18 patient of the licensee providing the report.

19 (3) For the purposes of paragraph (2), categories of provider  
20 are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist  
21 Anesthesiologist, Physician Anesthesiologist, Dental Assistant,  
22 Registered Dental Assistant, Dental Sedation Assistant, Registered  
23 Nurse, Certified Registered Nurse Anesthetist, or Other.

24 (4) The form shall state that this information shall not be  
25 considered an admission of guilt, but is for educational, data, or  
26 investigative purposes.

27 (5) The board may assess a penalty on any licensee who fails  
28 to report an instance of an adverse event as required by this  
29 subdivision. The licensee may dispute the failure to file within 10  
30 days of receiving notice that the board had assessed a penalty  
31 against the licensee.

32 (aa) Participating in or operating any group advertising and  
33 referral services that are in violation of Section 650.2.

34 (ab) The failure to use a fail-safe machine with an appropriate  
35 exhaust system in the administration of nitrous oxide. The board  
36 shall, by regulation, define what constitutes a fail-safe machine.

37 (ac) Engaging in the practice of dentistry with an expired license.

38 (ad) Except for good cause, the knowing failure to protect  
39 patients by failing to follow infection control guidelines of the  
40 board, thereby risking transmission of bloodborne infectious

1 diseases from dentist, dental assistant, registered dental assistant,  
2 registered dental assistant in extended functions, dental sedation  
3 assistant permitholder, orthodontic assistant permitholder,  
4 registered dental hygienist, registered dental hygienist in alternative  
5 practice, or registered dental hygienist in extended functions to  
6 patient, from patient to patient, and from patient to dentist, dental  
7 assistant, registered dental assistant, registered dental assistant in  
8 extended functions, dental sedation assistant permitholder,  
9 orthodontic assistant permitholder, registered dental hygienist,  
10 registered dental hygienist in alternative practice, or registered  
11 dental hygienist in extended functions. In administering this  
12 subdivision, the board shall consider referencing the standards,  
13 regulations, and guidelines of the State Department of Public  
14 Health developed pursuant to Section 1250.11 of the Health and  
15 Safety Code and the standards, guidelines, and regulations pursuant  
16 to the California Occupational Safety and Health Act of 1973 (Part  
17 1 (commencing with Section 6300) of Division 5 of the Labor  
18 Code) for preventing the transmission of HIV, hepatitis B, and  
19 other bloodborne pathogens in health care settings. The board shall  
20 review infection control guidelines, if necessary, on an annual  
21 basis and proposed changes shall be reviewed by the Dental  
22 Hygiene Board of California to establish a consensus. The hygiene  
23 board shall submit any recommended changes to the infection  
24 control guidelines for review to establish a consensus. As  
25 necessary, the board shall consult with the Medical Board of  
26 California, ~~the California Board of Podiatric Medicine, the~~  
27 *Podiatric Medical Board of California*, the Board of Registered  
28 Nursing, and the Board of Vocational Nursing and Psychiatric  
29 Technicians, to encourage appropriate consistency in the  
30 implementation of this subdivision.

31 The board shall seek to ensure that all appropriate dental  
32 personnel are informed of the responsibility to follow infection  
33 control guidelines, and of the most recent scientifically recognized  
34 safeguards for minimizing the risk of transmission of bloodborne  
35 infectious diseases.

36 (ae) The utilization by a licensed dentist of any person to  
37 perform the functions of any registered dental assistant, registered  
38 dental assistant in extended functions, dental sedation assistant  
39 permitholder, orthodontic assistant permitholder, registered dental  
40 hygienist, registered dental hygienist in alternative practice, or

1 registered dental hygienist in extended functions who, at the time  
2 of initial employment, does not possess a current, valid license or  
3 permit to perform those functions.

4 (af) The prescribing, dispensing, or furnishing of dangerous  
5 drugs or devices, as defined in Section 4022, in violation of Section  
6 2242.1.

7 (ag) Using water, or other methods used for irrigation, that are  
8 not sterile or that do not contain recognized disinfecting or  
9 antibacterial properties when performing dental procedures on  
10 exposed dental pulp.

11 (ah) The failure by the treating dentist, prior to the initial  
12 diagnosis and correction of malpositions of human teeth or initial  
13 use of orthodontic appliances, to perform an *in-person* examination  
14 pursuant to subdivision (b) of Section 1684.5, including the review  
15 of the patient's most recent diagnostic digital or conventional  
16 radiographs or other equivalent bone imaging suitable for  
17 orthodontia. New radiographs or other equivalent bone imaging  
18 shall be ordered if deemed appropriate by the treating dentist.

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**ASSEMBLY BILL**

**No. 2028**

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**Introduced by Assembly Member Aguiar-Curry**

January 30, 2020

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An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as introduced, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item.

Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The Bagley-Keene Open Meeting Act (Article 9
- 3 (commencing with Section 11120) of Chapter 1 of Part 1 of
- 4 Division 3 of Title 2 of the Government Code) (hereafter
- 5 “Bagley-Keene”) was intended to implement Section 3 of Article
- 6 I of the California Constitution, which states in part, “The people
- 7 have the right of access to information concerning the conduct of
- 8 the people’s business, and, therefore, the meetings of public bodies
- 9 and the writings of public officials and agencies shall be open to
- 10 public scrutiny.”
- 11 (b) Bagley-Keene was written to protect public meetings and
- 12 public notice and to ensure the transparency of actions taken by
- 13 state agencies, boards, and commissions.
- 14 (c) Californians have the right to participate in state body
- 15 deliberations. This includes the public’s ability to comment on all
- 16 agenda items discussed at a meeting of the state body, regardless
- 17 of whether an item has been discussed previously in a committee
- 18 of the state body.
- 19 (d) The purpose of public notice is so that state bodies give the
- 20 public adequate time for review of the substance of a state body
- 21 meeting and for comment.
- 22 (e) Public notice must also include any writings or materials
- 23 provided by a state body’s staff or by a member of the state body
- 24 to other members of the state body for a noticed meeting of the
- 25 body held at least 10 days prior to the meeting.

(f) Bagley-Keene affirms these rights by stating in Section 11120 of the Government Code, “The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

SEC. 2. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the ~~Internet~~ *internet* at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the ~~Internet~~ *internet website* where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) (1) *Except as otherwise provided in paragraph (4), any notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting.*

(2) *The writings or materials described in paragraph (1) shall be made available on the internet at least 10 days in advance of the meeting, and to any person who requests that notice in writing.*

1     (3) *A state body may distribute or discuss writings or materials*  
2 *described in paragraph (1) at a meeting of the state body only if*  
3 *it has complied with this subdivision.*

4     (4) *This subdivision does not apply to writings or materials*  
5 *prepared for a matter to be discussed in a closed session of the*  
6 *state body.*

7     ~~(e)~~

8     (d) Notice of a meeting of a state body that complies with this  
9 section shall also constitute notice of a meeting of an advisory  
10 body of that state body, provided that the business to be discussed  
11 by the advisory body is covered by the notice of the meeting of  
12 the state body, provided that the specific time and place of the  
13 advisory body's meeting is announced during the open and public  
14 state body's meeting, and provided that the advisory body's  
15 meeting is conducted within a reasonable time of, and nearby, the  
16 meeting of the state body.

17     ~~(d)~~

18     (e) A person may request, and shall be provided, notice pursuant  
19 to subdivision (a) for all meetings of a state body or for a specific  
20 meeting or meetings. In addition, at the state body's discretion, a  
21 person may request, and may be provided, notice of only those  
22 meetings of a state body at which a particular subject or subjects  
23 specified in the request will be discussed.

24     ~~(e)~~

25     (f) A request for notice of more than one meeting of a state body  
26 shall be subject to the provisions of Section 14911.

27     ~~(f)~~

28     (g) The notice shall be made available in appropriate alternative  
29 formats, as required by Section 202 of the Americans with  
30 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal  
31 rules and regulations adopted in implementation thereof, upon  
32 request by any person with a disability. The notice shall include  
33 information regarding how, to whom, and by when a request for  
34 any disability-related modification or accommodation, including  
35 auxiliary aids or services may be made by a person with a disability  
36 who requires these aids or services in order to participate in the  
37 public meeting.

38     SEC. 3. Section 11125.7 of the Government Code is amended  
39 to read:

1 11125.7. (a) Except as otherwise provided in this section, the  
 2 state body shall provide an opportunity for members of the public  
 3 to directly address the state body on each agenda item before or  
 4 during the state body's discussion or consideration of the item.  
 5 ~~This section is not applicable if the agenda item has already been~~  
 6 ~~considered by a committee composed exclusively of members of~~  
 7 ~~the state body at a public meeting where interested members of~~  
 8 ~~the public were afforded the opportunity to address the committee~~  
 9 ~~on the item, before or during the committee's consideration of the~~  
 10 ~~item, unless the item has been substantially changed since the~~  
 11 ~~committee heard the item, as determined by the state body.~~ Every  
 12 notice for a special meeting at which action is proposed to be taken  
 13 on an item shall provide an opportunity for members of the public  
 14 to directly address the state body concerning that item prior to  
 15 action on the item. In addition, the notice requirement of Section  
 16 11125 shall not preclude the acceptance of testimony at meetings,  
 17 other than emergency meetings, from members of the public if no  
 18 action is taken by the state body at the same meeting on matters  
 19 brought before the body by members of the public.

20 (b) The state body may adopt reasonable regulations to ensure  
 21 that the intent of subdivision (a) is carried out, including, but not  
 22 limited to, regulations limiting the total amount of time allocated  
 23 for public comment on particular issues and for each individual  
 24 speaker.

25 (c) (1) Notwithstanding subdivision (b), when a state body  
 26 limits time for public comment the state body shall provide at least  
 27 twice the allotted time to a member of the public who utilizes a  
 28 translator to ensure that non-English speakers receive the same  
 29 opportunity to directly address the state body.

30 (2) Paragraph (1) shall not apply if the state body utilizes  
 31 simultaneous translation equipment in a manner that allows the  
 32 state body to hear the translated public testimony simultaneously.

33 (d) The state body shall not prohibit public criticism of the  
 34 policies, programs, or services of the state body, or of the acts or  
 35 omissions of the state body. Nothing in this subdivision shall confer  
 36 any privilege or protection for expression beyond that otherwise  
 37 provided by law.

38 (e) This section is not applicable to ~~closed~~ *any of the following*:

39 (1) *Closed* sessions held pursuant to Section 11126.

40 (f) ~~This section is not applicable to decisions~~

1     (2) *Decisions* regarding proceedings held pursuant to Chapter  
2     5 (commencing with Section 11500), relating to administrative  
3     adjudication, or to the conduct of those proceedings.  
4     ~~(g) This section is not applicable to hearings~~  
5     (3) *Hearings* conducted by the California Victim Compensation  
6     Board pursuant to Sections 13963 and 13963.1.  
7     ~~(h) This section is not applicable to agenda~~  
8     (4) *Agenda* items that involve decisions of the Public Utilities  
9     Commission regarding adjudicatory hearings held pursuant to  
10    Chapter 9 (commencing with Section 1701) of Part 1 of Division  
11    1 of the Public Utilities Code. For all other agenda items, the  
12    commission shall provide members of the public, other than those  
13    who have already participated in the proceedings underlying the  
14    agenda item, an opportunity to directly address the commission  
15    before or during the commission's consideration of the item.

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AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2113**

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**Introduced by Assembly Member Low**  
**(Coauthors: Assembly Members Carrillo, *Chiu*, Medina, and**  
**Blanca Rubio)**

February 6, 2020

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An act to add Section 135.4 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2113, as amended, Low. Refugees, asylees, and immigrants: professional licensing.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits an entity within the department from denying licensure to an applicant based upon their citizenship or immigration status.

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

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

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

SECTION 1. Section 135.4 is added to the Business and Professions Code, to read:

135.4. (a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted political asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) *Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.*

~~(b)~~

(c) A board may adopt regulations necessary to administer this section.

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**ASSEMBLY BILL**

**No. 2130**

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**Introduced by Assembly Member Arambula**

February 10, 2020

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An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, as introduced, Arambula. Health care professionals: underserved communities.

Existing law establishes various programs relating to the development of the health professions workforce, including the California Medical and Dental Student Loan Repayment Program of 2002, the California Physician Corps Program, and the Steven M. Thompson Medical School Scholarship Program, which provide financial incentives, including repayment of educational loans, to specified individuals. Existing law conditions eligibility of certain health professionals in those programs on, among other things, provision of services to a medically underserved population, as defined.

This bill would declare the intent of the Legislature to enact legislation to increase the number of health care professionals in underserved communities.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation to increase the number of health care professionals in
- 3 underserved communities.

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AMENDED IN ASSEMBLY MARCH 16, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

## ASSEMBLY BILL

**No. 2185**

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**Introduced by Assembly Members Patterson and Gallagher**

February 11, 2020

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An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2185, as amended, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

~~This bill~~ *bill, with exceptions*, would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person *meets certain requirements, including, but not limited to, that the person is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in this state, the person* currently holds a license in good standing in

another state in the discipline and practice level *and with the same scope of practice* for which the person ~~applies and if applies~~, the person ~~meets specified requirements, including that the person~~ has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 ~~years~~ years, and *the person* pays all applicable fees *and complies with any applicable surety bond and insurance requirements*. By expanding the applicants who are authorized to be licensed and *who* may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.

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

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

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

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

- 1 SECTION 1. Section 117 is added to the Business and
- 2 Professions Code, to read:
- 3 117. (a) Notwithstanding any law, each board within the
- 4 department shall issue a license in the discipline for which the
- 5 applicant applies if the applicant meets all of the following
- 6 requirements:
- 7 (1) The person ~~is a resident in this state or is~~ married to, or is
- 8 in a domestic partnership or other legal union with, an active duty
- 9 member of the Armed Forces of the United States who is assigned
- 10 to a duty station in this state under official active duty military
- 11 orders.
- 12 (2) The person currently holds a license in good standing in
- 13 another state in the discipline and practice level *and with the same*
- 14 *scope of practice* for which the person is applying.
- 15 (3) The person has held the license and has practiced in the
- 16 licensed field in the other state for at least three of the last five
- 17 years.
- 18 (4) The person has not had any disciplinary actions imposed
- 19 against their license and has not had a license in the discipline for
- 20 which the person is applying revoked or suspended in any other
- 21 state.

1 (5) The person submits verification that they have satisfied all  
2 education, work, examination, and other requirements for licensure  
3 in the other state in which the person holds a license in good  
4 ~~standing~~; *standing and those requirements are similar to the*  
5 *standards required for licensure in this state.*

6 (6) The person would not be denied licensure under any other  
7 provision of this code, including, but not limited to, disqualification  
8 for criminal history relating to the license sought.

9 (7) The person pays all applicable fees for ~~licensure~~; *licensure*  
10 *and complies with any applicable surety bond and insurance*  
11 *requirements.*

12 (8) If required by the board, the person has passed a California  
13 jurisprudence and ethics examination or other examination  
14 otherwise required for applicants by the board on the statutes and  
15 regulations relating to the license.

16 (b) This section shall not supersede any other reciprocity  
17 agreement, compact membership, or statute that provides  
18 reciprocity for a person who holds a valid license in another state.

19 (c) *This section shall not apply to the Board of Registered*  
20 *Nursing, any board that has a mandatory license portability*  
21 *requirement in statute, and any board that currently authorizes*  
22 *license portability as a component of qualifying for licensure in*  
23 *this state.*

24 (e)

25 (d) Notwithstanding any law, the fees, fines, penalties, or other  
26 money received by a board pursuant to this section shall not be  
27 continuously appropriated and shall be available only upon  
28 appropriation by the legislature.

29 SEC. 2. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.

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**ASSEMBLY BILL**

**No. 2214**

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**Introduced by Assembly Member Carrillo**

February 12, 2020

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An act to amend Section 11346.2 of the Government Code, relating to administrative regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as introduced, Carrillo. Administrative Procedure Act: notice of proposed action.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to prepare, submit as specified, and make available to the public upon request, certain documents relating to the proposed regulation, including, among other things, a copy of the express terms of the proposed regulation.

This bill would require the state agency to conspicuously post those documents on the state agency's website within 24 hours of submitting those documents to the office, instead of making those documents available to the public upon request. The bill would also remove an obsolete provision.

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

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

SECTION 1. Section 11346.2 of the Government Code is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and ~~make available to the public upon request~~, *post conspicuously on the agency's website within 24 hours of submission to the office* all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things. Where the adoption or amendment of a regulation would mandate the use of specific

1 technologies or equipment, a statement of the reasons why the  
2 agency believes these mandates or prescriptive standards are  
3 required.

4 (2) (A) For a regulation that is not a major regulation, the  
5 economic impact assessment required by subdivision (b) of Section  
6 11346.3.

7 (B) For a major regulation proposed on or after November 1,  
8 2013, the standardized regulatory impact analysis required by  
9 subdivision (c) of Section 11346.3.

10 (3) An identification of each technical, theoretical, and empirical  
11 study, report, or similar document, if any, upon which the agency  
12 relies in proposing the adoption, amendment, or repeal of a  
13 regulation.

14 (4) (A) A description of reasonable alternatives to the regulation  
15 and the agency's reasons for rejecting those alternatives.  
16 Reasonable alternatives to be considered include, but are not  
17 limited to, alternatives that are proposed as less burdensome and  
18 equally effective in achieving the purposes of the regulation in a  
19 manner that ensures full compliance with the authorizing statute  
20 or other law being implemented or made specific by the proposed  
21 regulation. In the case of a regulation that would mandate the use  
22 of specific technologies or equipment or prescribe specific actions  
23 or procedures, the imposition of performance standards shall be  
24 considered as an alternative.

25 (B) A description of reasonable alternatives to the regulation  
26 that would lessen any adverse impact on small business and the  
27 agency's reasons for rejecting those alternatives.

28 (C) Notwithstanding subparagraph (A) or (B), an agency is not  
29 required to artificially construct alternatives or describe  
30 unreasonable alternatives.

31 (5) (A) Facts, evidence, documents, testimony, or other  
32 evidence on which the agency relies to support an initial  
33 determination that the action will not have a significant adverse  
34 economic impact on business.

35 (B) (i) If a proposed regulation is a building standard, the initial  
36 statement of reasons shall include the estimated cost of compliance,  
37 the estimated potential benefits, and the related assumptions used  
38 to determine the estimates.

39 (ii) The model codes adopted pursuant to Section 18928 of the  
40 Health and Safety Code shall be exempt from the requirements of

1 this subparagraph. However, if an interested party has made a  
2 request in writing to the agency, at least 30 days before the  
3 submittal of the initial statement of reasons, to examine a specific  
4 section for purposes of estimating the cost of compliance and the  
5 potential benefits for that section, and including the related  
6 assumptions used to determine the estimates, then the agency shall  
7 comply with the requirements of this subparagraph with regard to  
8 that requested section.

9 (6) A department, board, or commission within the  
10 Environmental Protection Agency, the Natural Resources Agency,  
11 or the Office of the State Fire Marshal shall describe its efforts, in  
12 connection with a proposed rulemaking action, to avoid  
13 unnecessary duplication or conflicts with federal regulations  
14 contained in the Code of Federal Regulations addressing the same  
15 issues. These agencies may adopt regulations different from federal  
16 regulations contained in the Code of Federal Regulations  
17 addressing the same issues upon a finding of one or more of the  
18 following justifications:

19 (A) The differing state regulations are authorized by law.

20 (B) The cost of differing state regulations is justified by the  
21 benefit to human health, public safety, public welfare, or the  
22 environment.

23 (c) A state agency that adopts or amends a regulation mandated  
24 by federal law or regulations, the provisions of which are identical  
25 to a previously adopted or amended federal regulation, shall be  
26 deemed to have complied with subdivision (b) if a statement to  
27 the effect that a federally mandated regulation or amendment to a  
28 regulation is being proposed, together with a citation to where an  
29 explanation of the regulation can be found, is included in the notice  
30 of proposed adoption or amendment prepared pursuant to Section  
31 11346.5. However, the agency shall comply fully with this chapter  
32 with respect to any provisions in the regulation that the agency  
33 proposes to adopt or amend that are different from the  
34 corresponding provisions of the federal regulation.

35 ~~(d) This section shall be inoperative from January 1, 2012, until~~  
36 ~~January 1, 2014.~~

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**ASSEMBLY BILL**

**No. 2411**

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**Introduced by Assembly Member Nazarian**

February 18, 2020

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An act to amend Section 650 of, and to add Section 654.4 to, the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2411, as introduced, Nazarian. Healing arts licensees: remuneration: drug or device companies: disclosure.

Existing law provides for the licensure and regulation of various healing arts licensees by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for healing arts licensees, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, subject to certain exceptions. Existing law also prohibits specified healing arts licensees from charging, billing, or otherwise soliciting payment from a patient on behalf of, or referring a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first makes specified disclosures in writing to the patient. Existing law makes a violation of these and other provisions governing unearned rebates, refunds, and discounts, unprofessional conduct and grounds for suspension or revocation of a license and a misdemeanor, as specified.

This bill would require a healing arts licensee who receives remuneration from a drug or device company to disclose the amount and source orally and in writing to each patient before the intended use

or prescription of a drug or device manufactured or distributed. The bill would also require a healing arts licensee to obtain a signature from the patient on the written disclosure. By expanding a crime, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 650 of the Business and Professions Code  
2 is amended to read:

3 650. (a) Except as provided in Chapter 2.3 (commencing with  
4 Section 1400) of Division 2 of the Health and Safety Code, the  
5 offer, delivery, receipt, or acceptance by any person licensed under  
6 this division or the Chiropractic Initiative Act of any rebate, refund,  
7 commission, preference, patronage dividend, discount, or other  
8 consideration, whether in the form of money or otherwise, as  
9 compensation or inducement for referring patients, clients, or  
10 customers to any person, irrespective of any membership,  
11 proprietary interest, or coownership in or with any person to whom  
12 these patients, clients, or customers are referred is unlawful.

13 (b) The payment or receipt of consideration for services other  
14 than the referral of patients which is based on a percentage of gross  
15 revenue or similar type of contractual arrangement shall not be  
16 unlawful if the consideration is commensurate with the value of  
17 the services furnished or with the fair rental value of any premises  
18 or equipment leased or provided by the recipient to the payer.

19 (c) The offer, delivery, receipt, or acceptance of any  
20 consideration between a federally qualified health center, as defined  
21 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,  
22 and any individual or entity providing goods, items, services,  
23 donations, loans, or a combination thereof to the health center  
24 entity pursuant to a contract, lease, grant, loan, or other agreement,  
25 if that agreement contributes to the ability of the health center  
26 entity to maintain or increase the availability, or enhance the

1 quality, of services provided to a medically underserved population  
2 served by the health center, shall be permitted only to the extent  
3 sanctioned or permitted by federal law.

4 (d) Except as provided in Chapter 2.3 (commencing with Section  
5 1400) of Division 2 of the Health and Safety Code and in Sections  
6 654.1 and 654.2 of this code, it shall not be unlawful for any person  
7 licensed under this division to refer a person to any laboratory,  
8 pharmacy, clinic (including entities exempt from licensure pursuant  
9 to Section 1206 of the Health and Safety Code), or health care  
10 facility solely because the licensee has a proprietary interest or  
11 coownership in the laboratory, pharmacy, clinic, or health care  
12 facility, provided, however, that the licensee's return on investment  
13 for that proprietary interest or coownership shall be based upon  
14 the amount of the capital investment or proportional ownership of  
15 the licensee which ownership interest is not based on the number  
16 or value of any patients referred. Any referral excepted under this  
17 section shall be unlawful if the prosecutor proves that there was  
18 no valid medical need for the referral.

19 (e) Except as provided in Chapter 2.3 (commencing with Section  
20 1400) of Division 2 of the Health and Safety Code and in Sections  
21 654.1 and ~~654.2 of this code~~, *654.2, and subject to Section 654.4*,  
22 it shall not be unlawful to provide nonmonetary remuneration, in  
23 the form of hardware, software, or information technology and  
24 training services, as described in subsections (x) and (y) of Section  
25 1001.952 of Title 42 of the Code of Federal Regulations, as  
26 amended October 4, 2007, as published in the Federal Register  
27 (72 Fed. Reg. 56632 and 56644), and subsequently amended  
28 versions.

29 (f) "Health care facility" means a general acute care hospital,  
30 acute psychiatric hospital, skilled nursing facility, intermediate  
31 care facility, and any other health facility licensed by the State  
32 Department of Public Health under Chapter 2 (commencing with  
33 Section 1250) of Division 2 of the Health and Safety Code.

34 (g) Notwithstanding the other subdivisions of this section or  
35 any other provision of law, the payment or receipt of consideration  
36 for advertising, wherein a licensee offers or sells services through  
37 a third-party advertiser, shall not constitute a referral of patients  
38 when the third-party advertiser does not itself recommend, endorse,  
39 or otherwise select a licensee. The fee paid to the third-party  
40 advertiser shall be commensurate with the service provided by the

1 third-party advertiser. If the licensee determines, after consultation  
2 with the purchaser of the service, that the service provided by the  
3 licensee is not appropriate for the purchaser or if the purchaser  
4 elects not to receive the service for any reason and requests a  
5 refund, the purchaser shall receive a refund of the full purchase  
6 price as determined by the terms of the advertising service  
7 agreement between the third-party advertiser and the licensee. The  
8 licensee shall disclose in the advertisement that a consultation is  
9 required and that the purchaser will receive a refund if not eligible  
10 to receive the service. This subdivision shall not apply to basic  
11 health care services, as defined in subdivision (b) of Section 1345  
12 of the Health and Safety Code, or essential health benefits, as  
13 defined in Section 1367.005 of the Health and Safety Code and  
14 Section 10112.27 of the Insurance Code. The entity that provides  
15 the advertising shall be able to demonstrate that the licensee  
16 consented in writing to the requirements of this subdivision. A  
17 third-party advertiser shall make available to prospective purchasers  
18 advertisements for services of all licensees then advertising through  
19 the third-party advertiser in the applicable geographic region. In  
20 any advertisement offering a discount price for a service, the  
21 licensee shall also disclose the regular, nondiscounted price for  
22 that service.

23 (h) A violation of this section is a public offense and is  
24 punishable upon a first conviction by imprisonment in a county  
25 jail for not more than one year, or by imprisonment pursuant to  
26 subdivision (h) of Section 1170 of the Penal Code, or by a fine not  
27 exceeding fifty thousand dollars (\$50,000), or by both that  
28 imprisonment and fine. A second or subsequent conviction is  
29 punishable by imprisonment pursuant to subdivision (h) of Section  
30 1170 of the Penal Code, or by that imprisonment and a fine of fifty  
31 thousand dollars (\$50,000).

32 SEC. 2. Section 654.4 is added to the Business and Professions  
33 Code, to read:

34 654.4. (a) A healing arts licensee who receives remuneration  
35 from a drug or device company shall disclose the amount and  
36 source orally and in writing to each patient before the intended  
37 use or prescription of a drug or device manufactured or distributed.  
38 A healing arts licensee shall also obtain a signature from the patient  
39 on the written disclosure.

1 (b) For purposes of this section, “drug or device company”  
2 means a manufacturer, developer, or distributor of a pharmaceutical  
3 drug or device used in the context of the licensed person’s practice.

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

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AMENDED IN ASSEMBLY MARCH 12, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2549**

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**Introduced by Assembly Member Salas**

February 19, 2020

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An act to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

AB 2549, as amended, Salas. Department of Consumer Affairs: temporary licenses.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. *Existing law authorizes a board to adopt regulations necessary to administer these provisions.*

This bill would expand that requirement to issue temporary licenses to include licenses issued by *the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California Board of Accountancy, and certain registered dental assistant licenses issued by the Dental Board of California. Accountancy.* The bill would require a board to issue a temporary license within 30 days of receiving the required documentation. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation. *The bill would require a temporary license to be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public. The bill would require a board to adopt regulations necessary to administer these provisions and to publish regulations on its internet website and in application materials by January 1, 2022.*

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

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

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant ~~if the applicant meets the~~ *within 30 days*
- 6 *of receiving the required documentation pursuant to meeting the*
- 7 *requirements set forth in subdivision (c):*
- 8 (1) Registered nurse license by the Board of Registered Nursing.
- 9 (2) Vocational nurse license issued by the Board of Vocational
- 10 Nursing and Psychiatric Technicians of the State of California.

1 (3) Psychiatric technician license issued by the Board of  
2 Vocational Nursing and Psychiatric Technicians of the State of  
3 California.

4 (4) Speech-language pathologist license issued by the  
5 Speech-Language Pathology and Audiology and Hearing Aid  
6 Dispensers Board.

7 (5) Audiologist license issued by the Speech-Language  
8 Pathology and Audiology and Hearing Aid Dispensers Board.

9 ~~(6) Veterinarian license~~ *All licenses* issued by the Veterinary  
10 Medical Board.

11 (7) All licenses issued by the Board for Professional Engineers,  
12 Land Surveyors, and Geologists.

13 (8) All licenses issued by the Medical Board of California.

14 (9) All licenses issued by the Podiatric Medical Board of  
15 California.

16 ~~(10) Registered dental assistant license or registered dental~~  
17 ~~assistant in extended functions license~~ *All licenses* issued by the  
18 Dental Board of California.

19 (11) All licenses issued by the Dental Hygiene Board of  
20 California.

21 (12) All licenses issued by the California State Board of  
22 Pharmacy.

23 *(13) All licenses issued by the State Board of Barbering and*  
24 *Cosmetology.*

25 *(14) All licenses issued by the Board of Psychology.*

26 *(15) All licenses issued by the California Board of Occupational*  
27 *Therapy.*

28 *(16) All licenses issued by the Physical Therapy Board of*  
29 *California.*

30 ~~(13)~~

31 (17) All licenses issued by the California Board of Accountancy.  
32 Revenues from fees for temporary licenses issued under this  
33 paragraph shall be credited to the Accountancy Fund in accordance  
34 with Section 5132.

35 (b) The board may conduct an investigation of an applicant for  
36 purposes of denying or revoking a temporary license issued  
37 pursuant to this section. This investigation may include a criminal  
38 background check.

39 (c) An applicant seeking a temporary license pursuant to this  
40 section shall meet the following requirements:

1 (1) The applicant shall supply evidence satisfactory to the board  
2 that the applicant is married to, or in a domestic partnership or  
3 other legal union with, an active duty member of the Armed Forces  
4 of the United States who is assigned to a duty station in this state  
5 under official active duty military orders.

6 (2) The applicant shall hold a current, active, and unrestricted  
7 license that confers upon the applicant the authority to practice,  
8 in another state, district, or territory of the United States, the  
9 profession or vocation for which the applicant seeks a temporary  
10 license from the board.

11 (3) The applicant shall submit an application to the board that  
12 shall include a signed affidavit attesting to the fact that the  
13 applicant meets all of the requirements for the temporary license  
14 and that the information submitted in the application is accurate,  
15 to the best of the applicant's knowledge. The application shall also  
16 include written verification from the applicant's original licensing  
17 jurisdiction stating that the applicant's license is in good standing  
18 in that jurisdiction.

19 (4) The applicant shall not have committed an act in any  
20 jurisdiction that would have constituted grounds for denial,  
21 suspension, or revocation of the license under this code at the time  
22 the act was committed. A violation of this paragraph may be  
23 grounds for the denial or revocation of a temporary license issued  
24 by the board.

25 (5) The applicant shall not have been disciplined by a licensing  
26 entity in another jurisdiction and shall not be the subject of an  
27 unresolved complaint, review procedure, or disciplinary proceeding  
28 conducted by a licensing entity in another jurisdiction.

29 (6) The applicant shall, upon request by a board, furnish a full  
30 set of fingerprints for purposes of conducting a criminal  
31 background check.

32 ~~(d) A board may adopt regulations necessary to administer this~~  
33 ~~section.~~

34 ~~(e)~~

35 (d) A temporary license issued pursuant to this section may be  
36 immediately terminated upon a finding that the temporary  
37 licenseholder failed to meet any of the requirements described in  
38 subdivision (c) or provided substantively inaccurate information  
39 that would affect the person's eligibility for temporary licensure.  
40 Upon termination of the temporary license, the board shall issue

1 a notice of termination that shall require the temporary  
2 licenseholder to immediately cease the practice of the licensed  
3 profession upon receipt.

4 ~~(f)~~

5 (e) An applicant seeking a temporary license as a civil engineer,  
6 geotechnical engineer, structural engineer, land surveyor,  
7 professional geologist, professional geophysicist, certified  
8 engineering geologist, or certified hydrogeologist pursuant to this  
9 section shall successfully pass the appropriate California-specific  
10 examination or examinations required for licensure in those  
11 respective professions by the Board for Professional Engineers,  
12 Land Surveyors, and Geologists.

13 ~~(g)~~

14 (f) A temporary license issued pursuant to this section shall  
15 expire 12 months after issuance, upon issuance of an expedited  
16 license pursuant to Section 115.5, *a license by endorsement*, or  
17 upon denial of the application for expedited licensure by the board,  
18 whichever occurs first.

19 (g) *A temporary license issued pursuant to this section shall be*  
20 *converted to a standard license if, within 12 months of issuance,*  
21 *the applicant demonstrates having met all of the requirements for*  
22 *a standard license or submits documents demonstrating that the*  
23 *requirements to obtain the out-of-state license were substantially*  
24 *equivalent to the requirements for a standard license as determined*  
25 *by the board in order to protect the public.*

26 (h) *A board shall adopt regulations necessary to administer this*  
27 *section and shall publish these regulations on its internet website*  
28 *and in application materials by January 1, 2022.*

29 SEC. 2. Section 5132 of the Business and Professions Code is  
30 amended to read:

31 5132. (a) All moneys received by the board under this chapter  
32 from any source and for any purpose and from a temporary license  
33 issued under Section 115.6 shall be accounted for and reported  
34 monthly by the board to the Controller and at the same time the  
35 moneys shall be remitted to the State Treasury to the credit of the  
36 Accountancy Fund.

37 (b) The secretary-treasurer of the board shall, from time to time,  
38 but not less than once each fiscal year, prepare or have prepared  
39 on their behalf, a financial report of the Accountancy Fund that

1 contains information that the board determines is necessary for  
2 the purposes for which the board was established.

3 (c) The report of the Accountancy Fund, which shall be  
4 published pursuant to Section 5008, shall include the revenues and  
5 the related costs from examination, initial licensing, license  
6 renewal, citation and fine authority, and cost recovery from  
7 enforcement actions and case settlements.

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**ASSEMBLY BILL**

**No. 2631**

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**Introduced by Assembly Member Cunningham**  
**(Coauthors: Assembly Members Boerner Horvath, Fong, Lackey,**  
**and Mayes)**  
(Coauthors: Senators Jones and Wilk)

February 20, 2020

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An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2631, as introduced, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

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

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

- 1 SECTION 1. Section 115.5 of the Business and Professions  
2 Code is amended to read:  
3 115.5. (a) A board within the department shall expedite the  
4 licensure process for an applicant who meets both of the following  
5 requirements:  
6 (1) Supplies evidence satisfactory to the board that the applicant  
7 is married to, or in a domestic partnership or other legal union  
8 with, an active duty member of the Armed Forces of the United  
9 States who is assigned to a duty station in this state under official  
10 active duty military orders.  
11 (2) Holds a current license in another state, district, or territory  
12 of the United States in the profession or vocation for which the  
13 applicant seeks a license from the board.  
14 (b) *A board shall not charge an applicant who meets the*  
15 *requirements in subdivision (a) an initial or original license fee.*  
16 ~~(b)~~  
17 (c) A board may adopt regulations necessary to administer this  
18 section.

O

**ASSEMBLY BILL**

**No. 2704**

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**Introduced by Assembly Member Ting  
(Coauthor: Assembly Member Rodriguez)**

February 20, 2020

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An act to add Section 502 to, and to repeal Sections 2717, 2852.5, 3518.1, 3770.1, and 4506 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2704, as introduced, Ting. Healing arts: licensees: data collection.

Existing law requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development. Existing law requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license. Existing law also authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

This bill would repeal the provisions applicable only to the licensees of those boards and, instead, would require all boards that oversee healing arts licensees to collect, at least biennially, specified demographic information, post the information on the internet websites that they each maintain, and provide the information annually to the Office of Statewide Health Planning and Development. The bill would

require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate from, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 502 is added to the Business and  
2 Professions Code, to read:  
3 502. (a) A board that supervises healing arts licensees under  
4 this division shall collect and analyze workforce data from its  
5 licensees as specified in subdivision (b) for future workforce  
6 planning. The data may be collected at the time of license renewal,  
7 or at least biennially from a scientifically selected random sample  
8 of licensees.  
9 (b) (1) The workforce data collected by each board about its  
10 licensees shall include, at a minimum, information concerning all  
11 of the following:  
12 (A) City, county, and ZIP Code of practice.  
13 (B) Type of employer or classification of primary practice site  
14 among the types of practice sites specified by the board, including,  
15 but not limited to, clinic, hospital, managed care organization, or  
16 private practice.  
17 (C) Work hours.  
18 (D) Titles of positions held.  
19 (E) Time spent in direct patient care.  
20 (F) Clinical practice area.  
21 (G) Race or ethnicity, subject to paragraph (2).  
22 (H) Gender.  
23 (I) Languages spoken.  
24 (J) Educational background.  
25 (K) Future work intentions.  
26 (L) Job satisfaction ratings.

1 (2) A licensee may, but is not required to, report their race or  
2 ethnicity to the board.

3 (c) Each board shall maintain the confidentiality of the  
4 information it receives from licensees under this section and shall  
5 only release information in an aggregate form that cannot be used  
6 to identify an individual.

7 (d) Each board shall produce reports containing the workforce  
8 data it collects pursuant to this section, at a minimum, on a biennial  
9 basis. Aggregate information collected pursuant to this section  
10 shall be posted on each board's internet website.

11 (e) Each board shall annually provide the data it collects  
12 pursuant to this section to the Office of Statewide Health Planning  
13 and Development in a manner directed by the office that allows  
14 for inclusion of the data into the annual report it produces pursuant  
15 to Section 128052 of the Health and Safety Code.

16 SEC. 2. Section 2717 of the Business and Professions Code is  
17 repealed.

18 ~~2717. (a) The board shall collect and analyze workforce data~~  
19 ~~from its licensees for future workforce planning. The board may~~  
20 ~~collect the data at the time of license renewal or from a~~  
21 ~~scientifically selected random sample of its licensees. The board~~  
22 ~~shall produce reports on the workforce data it collects, at a~~  
23 ~~minimum, on a biennial basis. The board shall maintain the~~  
24 ~~confidentiality of the information it receives from licensees under~~  
25 ~~this section and shall only release information in an aggregate form~~  
26 ~~that cannot be used to identify an individual. The workforce data~~  
27 ~~collected by the board shall include, at a minimum, employment~~  
28 ~~information such as hours of work, number of positions held, time~~  
29 ~~spent in direct patient care, clinical practice area, type of employer,~~  
30 ~~and work location. The data shall also include future work~~  
31 ~~intentions, reasons for leaving or reentering nursing, job satisfaction~~  
32 ~~ratings, and demographic data.~~

33 ~~(b) Aggregate information collected pursuant to this section~~  
34 ~~shall be placed on the board's Internet Web site.~~

35 ~~(c) (1) Notwithstanding subdivision (a), the board shall collect,~~  
36 ~~at least biennially, at the times of both issuing an initial license~~  
37 ~~and issuing a renewal license, all of the following data on nurses~~  
38 ~~licensed under this chapter:~~

39 ~~(A) Location of practice, including city, county, and ZIP Code.~~

40 ~~(B) Race or ethnicity, subject to paragraph (3).~~

1 ~~(C) Gender.~~

2 ~~(D) Languages spoken.~~

3 ~~(E) Educational background.~~

4 ~~(F) Classification of primary practice site among the types of~~  
5 ~~practice sites specified by the board, including, but not limited to,~~  
6 ~~clinic, hospital, managed care organization, or private practice.~~

7 ~~(2) The board shall annually provide the data collected pursuant~~  
8 ~~to paragraph (1) to the Office of Statewide Health Planning and~~  
9 ~~Development in a manner directed by the office that allows for~~  
10 ~~inclusion of the data into the annual report required by Section~~  
11 ~~128052 of the Health and Safety Code.~~

12 ~~(3) A licensee may, but is not required to, report his or her race~~  
13 ~~or ethnicity to the board.~~

14 ~~(d) The board is authorized to expend the sum of one hundred~~  
15 ~~forty-five thousand dollars (\$145,000) from the Board of~~  
16 ~~Registered Nursing Fund in the Professions and Vocations Fund~~  
17 ~~for the purpose of implementing this section.~~

18 SEC. 3. Section 2852.5 of the Business and Professions Code  
19 is repealed.

20 ~~2852.5. (a) The board shall collect, at least biennially, at the~~  
21 ~~times of both issuing an initial license and issuing a renewal~~  
22 ~~license, all of the following data on vocational nurses licensed~~  
23 ~~under this chapter:~~

24 ~~(1) Location of practice, including city, county, and ZIP Code.~~

25 ~~(2) Race or ethnicity, subject to subdivision (c).~~

26 ~~(3) Gender.~~

27 ~~(4) Languages spoken.~~

28 ~~(5) Educational background.~~

29 ~~(6) Classification of primary practice site among the types of~~  
30 ~~practice sites specified by the board, including, but not limited to,~~  
31 ~~clinic, hospital, managed care organization, or private practice.~~

32 ~~(b) The board shall annually provide the data collected pursuant~~  
33 ~~to subdivision (a) to the Office of Statewide Health Planning and~~  
34 ~~Development in a manner directed by the office that allows for~~  
35 ~~inclusion of the data into the annual report required by Section~~  
36 ~~128052 of the Health and Safety Code.~~

37 ~~(c) A licensee may, but is not required to, report his or her race~~  
38 ~~or ethnicity to the board.~~

39 SEC. 4. Section 3518.1 of the Business and Professions Code  
40 is repealed.

1     ~~3518.1. (a) The board shall collect, at least biennially, at the~~  
2 ~~times of both issuing an initial license and issuing a renewal~~  
3 ~~license, all of the following data on physician assistants licensed~~  
4 ~~under this chapter:~~

5     ~~(1) Location of practice, including city, county, and ZIP Code.~~

6     ~~(2) Race or ethnicity, subject to subdivision (c).~~

7     ~~(3) Gender.~~

8     ~~(4) Languages spoken.~~

9     ~~(5) Educational background.~~

10    ~~(6) Classification of primary practice site among the types of~~  
11 ~~practice sites specified by the board, including, but not limited to,~~  
12 ~~clinic, hospital, managed care organization, or private practice.~~

13    ~~(b) The board shall annually provide the data collected pursuant~~  
14 ~~to subdivision (a) to the Office of Statewide Health Planning and~~  
15 ~~Development in a manner directed by the office that allows for~~  
16 ~~inclusion of the data into the annual report required by Section~~  
17 ~~128052 of the Health and Safety Code.~~

18    ~~(c) A licensee may, but is not required to, report his or her race~~  
19 ~~or ethnicity to the board.~~

20    SEC. 5. Section 3770.1 of the Business and Professions Code  
21 is repealed.

22    ~~3770.1. (a) The board shall collect, at least biennially, at the~~  
23 ~~times of both issuing an initial license and issuing a renewal~~  
24 ~~license, all of the following data on respiratory therapists licensed~~  
25 ~~under this chapter:~~

26    ~~(1) Location of practice, including city, county, and ZIP Code.~~

27    ~~(2) Race or ethnicity, subject to subdivision (c).~~

28    ~~(3) Gender.~~

29    ~~(4) Languages spoken.~~

30    ~~(5) Educational background.~~

31    ~~(6) Classification of primary practice site among the types of~~  
32 ~~practice sites specified by the board, including, but not limited to,~~  
33 ~~clinic, hospital, managed care organization, or private practice.~~

34    ~~(b) The board shall annually provide the data collected pursuant~~  
35 ~~to subdivision (a) to the Office of Statewide Health Planning and~~  
36 ~~Development in a manner directed by the office that allows for~~  
37 ~~inclusion of the data into the annual report required by Section~~  
38 ~~128052 of the Health and Safety Code.~~

39    ~~(c) A licensee may, but is not required to, report his or her race~~  
40 ~~or ethnicity to the board.~~

1 SEC. 6. Section 4506 of the Business and Professions Code is  
2 repealed.

3 ~~4506. (a) The board shall collect, at least biennially, at the~~  
4 ~~times of both issuing an initial license and issuing a renewal~~  
5 ~~license, all of the following data on psychiatric technicians licensed~~  
6 ~~under this chapter:~~

7 ~~(1) Location of practice, including city, county, and ZIP Code.~~

8 ~~(2) Race or ethnicity, subject to subdivision (c).~~

9 ~~(3) Gender.~~

10 ~~(4) Languages spoken.~~

11 ~~(5) Educational background.~~

12 ~~(6) Classification of primary practice site among the types of~~  
13 ~~practice sites specified by the board, including, but not limited to,~~  
14 ~~clinic, hospital, managed care organization, or private practice.~~

15 ~~(b) The board shall annually provide the data collected pursuant~~  
16 ~~to subdivision (a) to the Office of Statewide Health Planning and~~  
17 ~~Development in a manner directed by the office that allows for~~  
18 ~~inclusion of the data into the annual report required by Section~~  
19 ~~128052 of the Health and Safety Code.~~

20 ~~(c) A licensee may, but is not required to, report his or her race~~  
21 ~~or ethnicity to the board.~~

22 SEC. 7. The Legislature finds and declares that Section 1 of  
23 this act, which adds Section 502 of the Business and Professions  
24 Code, imposes a limitation on the public's right of access to the  
25 meetings of public bodies or the writings of public officials and  
26 agencies within the meaning of Section 3 of Article I of the  
27 California Constitution. Pursuant to that constitutional provision,  
28 the Legislature makes the following findings to demonstrate the  
29 interest protected by this limitation and the need for protecting  
30 that interest:

31 In order to protect the privacy of licensees, while also gathering  
32 useful workforce data, it is necessary that some information  
33 collected from licensees only be released in aggregate form.

O

**ASSEMBLY BILL**

**No. 3045**

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**Introduced by Assembly Member Gray**

February 21, 2020

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An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 3045, as introduced, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within

the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require boards not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill's expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

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

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

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

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

- 1 SECTION 1. Section 115.7 is added to the Business and
- 2 Professions Code, to read:
- 3 115.7. (a) A board not specified in subdivision (a) of Section
- 4 115.6 shall, after appropriate investigation, issue a license to an
- 5 applicant if the applicant meets all of the following requirements:
- 6 (1) The applicant shall supply evidence satisfactory to the board
- 7 that the applicant is an honorably discharged veteran of the Armed
- 8 Forces of the United States or is married to, or in a domestic
- 9 partnership or other legal union with, an active duty member of
- 10 the Armed Forces of the United States who is assigned to a duty
- 11 station in this state under official active duty military orders.
- 12 (2) The applicant shall hold a current, active, and unrestricted
- 13 license that confers upon the applicant the authority to practice,

1 in another state, district, or territory of the United States, the  
2 profession or vocation for which the applicant seeks a license from  
3 the board.

4 (3) The applicant shall submit an application to the board that  
5 shall include a signed affidavit attesting to the fact that the  
6 applicant meets all of the requirements for the license and that the  
7 information submitted in the application is accurate, to the best of  
8 the applicant's knowledge. The application shall also include  
9 written verification from the applicant's original licensing  
10 jurisdiction stating that the applicant's license is in good standing  
11 in that jurisdiction.

12 (4) The applicant shall not have committed an act in any  
13 jurisdiction that would have constituted grounds for denial,  
14 suspension, or revocation of the license under this code at the time  
15 the act was committed. A violation of this paragraph may be  
16 grounds for the denial or revocation of a license issued by the  
17 board.

18 (5) The applicant shall not have been disciplined by a licensing  
19 entity in another jurisdiction and shall not be the subject of an  
20 unresolved complaint, review procedure, or disciplinary proceeding  
21 conducted by a licensing entity in another jurisdiction.

22 (6) The applicant shall, upon request by a board, furnish a full  
23 set of fingerprints for purposes of conducting a criminal  
24 background check.

25 (b) A board may adopt regulations necessary to administer this  
26 section.

27 SEC. 2. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.

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AMENDED IN SENATE MARCH 5, 2019

**SENATE BILL**

**No. 53**

**Introduced by Senator Wilk**

~~(Coauthor: Assembly Member Lackey)~~

**(Coauthors: Senators Bates, Glazer, Jones, and Portantino)**

*(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)*

December 10, 2018

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An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 11121 of the Government Code is  
2 amended to read:

3 11121. As used in this article, “state body” means each of the  
4 following:

5 (a) Every state board, or commission, or similar multimember  
6 body of the state that is created by statute or required by law to  
7 conduct official meetings and every commission created by  
8 executive order.

9 (b) A board, commission, committee, or similar multimember  
10 body that exercises any authority of a state body delegated to it by  
11 that state body.

12 (c) An advisory board, advisory commission, advisory  
13 committee, advisory subcommittee, or similar multimember  
14 advisory body of a state body, if created by formal action of the  
15 state body or of any member of the state body, and if the advisory  
16 body so created consists of three or more persons, except as  
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember  
19 body on which a member of a body that is a state body pursuant  
20 to this section serves in ~~his or her~~ *their* official capacity as a  
21 representative of that state body and that is supported, in whole or  
22 in part, by funds provided by the state body, whether the  
23 multimember body is organized and operated by the state body or  
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the  
26 State Bar of California, as described in Section 6001 of the  
27 Business and Professions Code. This subdivision shall become  
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the  
30 immediate preservation of the public peace, health, or safety within  
31 the meaning of Article IV of the California Constitution and shall  
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's  
2 right to access the meetings of public bodies pursuant to Section  
3 3 of Article 1 of the California Constitution, it is necessary that  
4 this act take effect immediately.

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**SENATE BILL**

**No. 66**

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**Introduced by Senators Atkins and McGuire**

*(Coauthors: Senators Bates, Beall, Chang, Dodd, Galgiani, Hertzberg, Jones, Nielsen, Portantino, Wiener, Wilk, Mitchell, Monning, and Stone)*

*(Coauthors: Assembly Members Aguiar-Curry, Berman, Carrillo, Dahle, Frazier, Gallagher, Eduardo Garcia, Gray, Maienschein, Mathis, Robert Rivas, Wood, Patterson, Rodriguez, Mark Stone, and Gonzalez)*

January 8, 2019

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An act to amend Section 14132.100 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 66, as amended, Atkins. Medi-Cal: federally qualified health center and rural health clinic services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that federally qualified health center (FQHC) services and rural health clinic (RHC) services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. "Visit" is defined as a face-to-face encounter between a patient of an FQHC or RHC and specified health care professionals, including a ~~physician~~ *physician and marriage and family therapist*. Under existing law, "physician,"

for these purposes, includes, but is not limited to, a physician and surgeon, an osteopath, and a podiatrist.

This bill would authorize reimbursement for a maximum of 2 visits taking place on the same day at a single location if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment, or if the patient has a medical visit and a mental health visit or a dental visit, as defined. The bill would authorize an FQHC or RHC that currently includes the cost of a medical visit and a mental health visit that take place on the same day at a single location as a single visit for purposes of establishing the FQHC's or RHC's rate to apply for an adjustment to its per-visit rate, and after the department has approved that rate adjustment, to bill a medical visit and a mental health visit that take place on the same day at a single location as separate visits, in accordance with the bill.

This bill would also ~~make an FQHC or RHC visit to a licensed acupuncturist reimbursable on a per-visit basis. The~~ *include a licensed acupuncturist within those health care professionals covered under the definition of "visit."* The bill would require the department, by July 1, 2020, to submit a state plan amendment to the federal Centers for Medicare and Medicaid Services to reflect certain changes described in the bill, and to seek necessary federal approvals. The bill would also make conforming and technical changes.

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

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

- 1 SECTION 1. Section 14132.100 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14132.100. (a) The federally qualified health center services
- 4 described in Section 1396d(a)(2)(C) of Title 42 of the United States
- 5 Code are covered benefits.
- 6 (b) The rural health clinic services described in Section
- 7 1396d(a)(2)(B) of Title 42 of the United States Code are covered
- 8 benefits.
- 9 (c) Federally qualified health center services and rural health
- 10 clinic services shall be reimbursed on a per-visit basis in
- 11 accordance with the definition of "visit" set forth in subdivision
- 12 (g).

(d) Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

(e) (1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of service provided by the FQHC or RHC. Rate changes based on a change in the scope of service provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or rules.

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new

1 or expanded service facilities, regulatory compliance, or changes  
2 in technology or medical practices at the center or clinic.

3 (H) Indirect medical education adjustments and a direct graduate  
4 medical education payment that reflects the costs of providing  
5 teaching services to interns and residents.

6 (I) Any changes in the scope of a project approved by the federal  
7 Health Resources and Services Administration (HRSA).

8 (3) No change in costs shall, in and of itself, be considered a  
9 scope of service change unless all of the following apply:

10 (A) The increase or decrease in cost is attributable to an increase  
11 or decrease in the scope of service defined in subdivisions (a) and  
12 (b), as applicable.

13 (B) The cost is allowable under Medicare reasonable cost  
14 principles set forth in Part 413 (commencing with Section 413) of  
15 Subchapter B of Chapter 4 of Title 42 of the Code of Federal  
16 Regulations, or its successor.

17 (C) The change in the scope of service is a change in the type,  
18 intensity, duration, or amount of services, or any combination  
19 thereof.

20 (D) The net change in the FQHC's or RHC's rate equals or  
21 exceeds 1.75 percent for the affected FQHC or RHC site. For  
22 FQHCs and RHCs that filed consolidated cost reports for multiple  
23 sites to establish the initial prospective payment reimbursement  
24 rate, the 1.75-percent threshold shall be applied to the average  
25 per-visit rate of all sites for the purposes of calculating the cost  
26 associated with a scope of service change. "Net change" means  
27 the per-visit rate change attributable to the cumulative effect of all  
28 increases and decreases for a particular fiscal year.

29 (4) An FQHC or RHC may submit requests for scope of service  
30 changes once per fiscal year, only within 90 days following the  
31 beginning of the FQHC's or RHC's fiscal year. Any approved  
32 increase or decrease in the provider's rate shall be retroactive to  
33 the beginning of the FQHC's or RHC's fiscal year in which the  
34 request is submitted.

35 (5) An FQHC or RHC shall submit a scope of service rate  
36 change request within 90 days of the beginning of any FQHC or  
37 RHC fiscal year occurring after the effective date of this section,  
38 if, during the FQHC's or RHC's prior fiscal year, the FQHC or  
39 RHC experienced a decrease in the scope of service provided that  
40 the FQHC or RHC either knew or should have known would have

1 resulted in a significantly lower per-visit rate. If an FQHC or RHC  
2 discontinues providing onsite pharmacy or dental services, it shall  
3 submit a scope of service rate change request within 90 days of  
4 the beginning of the following fiscal year. The rate change shall  
5 be effective as provided for in paragraph (4). As used in this  
6 paragraph, “significantly lower” means an average per-visit rate  
7 decrease in excess of 2.5 percent.

8 (6) Notwithstanding paragraph (4), if the approved scope of  
9 service change or changes were initially implemented on or after  
10 the first day of an FQHC’s or RHC’s fiscal year ending in calendar  
11 year 2001, but before the adoption and issuance of written  
12 instructions for applying for a scope of service change, the adjusted  
13 reimbursement rate for that scope of service change shall be made  
14 retroactive to the date the scope of service change was initially  
15 implemented. Scope of service changes under this paragraph shall  
16 be required to be submitted within the later of 150 days after the  
17 adoption and issuance of the written instructions by the department,  
18 or 150 days after the end of the FQHC’s or RHC’s fiscal year  
19 ending in 2003.

20 (7) All references in this subdivision to “fiscal year” shall be  
21 construed to be references to the fiscal year of the individual FQHC  
22 or RHC, as the case may be.

23 (f) (1) An FQHC or RHC may request a supplemental payment  
24 if extraordinary circumstances beyond the control of the FQHC  
25 or RHC occur after December 31, 2001, and PPS payments are  
26 insufficient due to these extraordinary circumstances. Supplemental  
27 payments arising from extraordinary circumstances under this  
28 subdivision shall be solely and exclusively within the discretion  
29 of the department and shall not be subject to subdivision (l). These  
30 supplemental payments shall be determined separately from the  
31 scope of service adjustments described in subdivision (e).  
32 Extraordinary circumstances include, but are not limited to, acts  
33 of nature, changes in applicable requirements in the Health and  
34 Safety Code, changes in applicable licensure requirements, and  
35 changes in applicable rules or regulations. Mere inflation of costs  
36 alone, absent extraordinary circumstances, shall not be grounds  
37 for supplemental payment. If an FQHC’s or RHC’s PPS rate is  
38 sufficient to cover its overall costs, including those associated with  
39 the extraordinary circumstances, then a supplemental payment is  
40 not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include both of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the federal Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a medical doctor, osteopath, podiatrist, ~~licensed acupuncturist~~, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of

attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, ~~or a marriage and family therapist.~~ *therapist, or a licensed acupuncturist.*

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist, dental hygienist in alternative practice, or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(3) Notwithstanding any other provision of this section, by July 1, 2018, a visit shall include a marriage and family therapist.

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity, as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code, the Medicare Program, or the Child Health and Disability Prevention (CHDP) Program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i) (1) Provided that the following entities are not operating as intermittent clinics, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, each entity shall have its reimbursement rate established in accordance with one of the methods outlined in paragraph (2) or (3), as selected by the FQHC or RHC:

(A) An entity that first qualifies as an FQHC or RHC in 2001 or later.

(B) A newly licensed facility at a new location added to an existing FQHC or RHC.

(C) An entity that is an existing FQHC or RHC that is relocated to a new site.

(2) (A) An FQHC or RHC that adds a new licensed location to its existing primary care license under paragraph (1) of subdivision (b) of Section 1212 of the Health and Safety Code may elect to have the reimbursement rate for the new location established in accordance with paragraph (3), or notwithstanding subdivision (e), an FQHC or RHC may choose to have one PPS rate for all locations that appear on its primary care license determined by submitting a change in scope of service request if both of the following requirements are met:

(i) The change in scope of service request includes the costs and visits for those locations for the first full fiscal year immediately following the date the new location is added to the FQHC's or RHC's existing licensee.

(ii) The FQHC or RHC submits the change in scope of service request within 90 days after the FQHC's or RHC's first full fiscal year.

1 (B) The FQHC's or RHC's single PPS rate for those locations  
2 shall be calculated based on the total costs and total visits of those  
3 locations and shall be determined based on the following:

4 (i) An audit in accordance with Section 14170.

5 (ii) Rate changes based on a change in scope of service request  
6 shall be evaluated in accordance with Medicare reasonable cost  
7 principles, as set forth in Part 413 (commencing with Section  
8 413.1) of Title 42 of the Code of Federal Regulations, or its  
9 successors.

10 (iii) Any approved increase or decrease in the provider's rate  
11 shall be retroactive to the beginning of the FQHC's or RHC's fiscal  
12 year in which the request is submitted.

13 (C) Except as specified in subdivision (j), this paragraph does  
14 not apply to a location that was added to an existing primary care  
15 clinic license by the State Department of Public Health, whether  
16 by a regional district office or the centralized application unit, prior  
17 to January 1, 2017.

18 (3) If an FQHC or RHC does not elect to have the PPS rate  
19 determined by a change in scope of service request, the FQHC or  
20 RHC shall have the reimbursement rate established for any of the  
21 entities identified in paragraph (1) or (2) in accordance with one  
22 of the following methods at the election of the FQHC or RHC:

23 (A) The rate may be calculated on a per-visit basis in an amount  
24 that is equal to the average of the per-visit rates of three comparable  
25 FQHCs or RHCs located in the same or adjacent area with a similar  
26 caseload.

27 (B) In the absence of three comparable FQHCs or RHCs with  
28 a similar caseload, the rate may be calculated on a per-visit basis  
29 in an amount that is equal to the average of the per-visit rates of  
30 three comparable FQHCs or RHCs located in the same or an  
31 adjacent service area, or in a reasonably similar geographic area  
32 with respect to relevant social, ~~healthcare~~ *health care* and economic  
33 characteristics.

34 (C) At a new entity's one-time election, the department shall  
35 establish a reimbursement rate, calculated on a per-visit basis, that  
36 is equal to 100 percent of the projected allowable costs to the  
37 FQHC or RHC of furnishing FQHC or RHC services during the  
38 first 12 months of operation as an FQHC or RHC. After the first  
39 12-month period, the projected per-visit rate shall be increased by  
40 the Medicare Economic Index then in effect. The projected

allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(4) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(5) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis under its existing provider number until it is informed of its new FQHC or RHC provider number, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) (1) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, or at the election of the FQHC or RHC and

1 subject to paragraph (2), a location added to an existing primary  
2 care clinic license by the State Department of Public Health prior  
3 to January 1, 2017, shall be billed by and reimbursed at the same  
4 rate as the FQHC or RHC that either established the intermittent  
5 clinic site or mobile unit, or that held the clinic license to which  
6 the location was added prior to January 1, 2017.

7 (2) If an FQHC or RHC with at least one additional location on  
8 its primary care clinic license that was added by the State  
9 Department of Public Health prior to January 1, 2017, applies for  
10 an adjustment to its per-visit rate based on a change in the scope  
11 of service provided by the FQHC or RHC as described in  
12 subdivision (e), all locations on the FQHC or RHC's primary care  
13 clinic license shall be subject to a scope of service adjustment in  
14 accordance with either paragraph (2) or (3) of subdivision (i), as  
15 selected by the FQHC or RHC.

16 (3) Nothing in this subdivision precludes or otherwise limits  
17 the right of the FQHC or RHC to request a scope of service  
18 adjustment to the rate.

19 (k) An FQHC or RHC may elect to have pharmacy or dental  
20 services reimbursed on a fee-for-service basis, utilizing the current  
21 fee schedules established for those services. These costs shall be  
22 adjusted out of the FQHC's or RHC's clinic base rate as scope of  
23 service changes. An FQHC or RHC that reverses its election under  
24 this subdivision shall revert to its prior rate, subject to an increase  
25 to account for all Medicare Economic Index increases occurring  
26 during the intervening time period, and subject to any increase or  
27 decrease associated with applicable scope of service adjustments  
28 as provided in subdivision (e).

29 (l) (1) For purposes of this subdivision, the following definitions  
30 apply:

31 (A) A "mental health visit" means a face-to-face encounter  
32 between an FQHC or RHC patient and a psychiatrist, clinical  
33 psychologist, licensed clinical social worker, or marriage and  
34 family therapist.

35 (B) A "dental visit" means a face-to-face encounter between an  
36 FQHC or RHC patient and a dentist, dental hygienist, or registered  
37 dental hygienist in alternative practice.

38 (C) "Medical visit" means a face-to-face encounter between an  
39 FQHC or RHC patient and a physician, physician assistant, nurse  
40 practitioner, certified nurse-midwife, visiting nurse, or a

1 comprehensive perinatal practitioner, as defined in Section 51179.7  
2 of Title 22 of the California Code of Regulations, providing  
3 comprehensive perinatal services.

4 (2) A maximum of two visits, as defined in subdivision (g),  
5 taking place on the same day at a single location shall be  
6 reimbursed when one or both of the following conditions exists:

7 (A) After the first visit the patient suffers illness or injury  
8 requiring additional diagnosis or treatment.

9 (B) The patient has a medical visit and a mental health visit or  
10 a dental visit.

11 (3) (A) Notwithstanding subdivision (e), an FQHC or RHC  
12 that currently includes the cost of a medical visit and a mental  
13 health visit that take place on the same day at a single location as  
14 constituting a single visit for purposes of establishing its FQHC  
15 or RHC rate may elect to apply for an adjustment to its per-visit  
16 rate, and, after the rate adjustment has been approved by the  
17 department, the FQHC or RHC shall bill a medical visit and a  
18 mental health visit that take place on the same day at a single  
19 location as separate visits.

20 (B) The department shall develop and adjust all appropriate  
21 forms to determine which FQHC's or RHC's rates shall be adjusted  
22 and to facilitate the calculation of the adjusted rates.

23 (C) An FQHC's or RHC's application for, or the department's  
24 approval of, a rate adjustment pursuant to this paragraph shall not  
25 constitute a change in scope of service within the meaning of  
26 subdivision (e).

27 (D) An FQHC or RHC that applies for an adjustment to its rate  
28 pursuant to this paragraph may continue to bill for all other FQHC  
29 or RHC visits at its existing per-visit rate, subject to reconciliation,  
30 until the rate adjustment has been approved.

31 (4) The department, by July 1, 2020, shall submit a state plan  
32 amendment to the federal Centers for Medicare and Medicaid  
33 Services reflecting the changes described in this subdivision.

34 (m) Reimbursement for Drug Medi-Cal services shall be  
35 provided pursuant to this subdivision.

36 (1) An FQHC or RHC may elect to have Drug Medi-Cal services  
37 reimbursed directly from a county or the department under contract  
38 with the FQHC or RHC pursuant to paragraph (4).

39 (2) (A) For an FQHC or RHC to receive reimbursement for  
40 Drug Medi-Cal services directly from the county or the department

1 under contract with the FQHC or RHC pursuant to paragraph (4),  
2 costs associated with providing Drug Medi-Cal services shall not  
3 be included in the FQHC's or RHC's per-visit PPS rate. For  
4 purposes of this subdivision, the costs associated with providing  
5 Drug Medi-Cal services shall not be considered to be within the  
6 FQHC's or RHC's clinic base PPS rate if in delivering Drug  
7 Medi-Cal services the clinic uses different clinical staff at a  
8 different location.

9 (B) If the FQHC or RHC does not use different clinical staff at  
10 a different location to deliver Drug Medi-Cal services, the FQHC  
11 or RHC shall submit documentation, in a manner determined by  
12 the department, that the current per-visit PPS rate does not include  
13 any costs related to rendering Drug Medi-Cal services, including  
14 costs related to utilizing space in part of the FQHC's or RHC's  
15 building, that are or were previously calculated as part of the  
16 clinic's base PPS rate.

17 (3) If the costs associated with providing Drug Medi-Cal  
18 services are within the FQHC's or RHC's clinic base PPS rate, as  
19 determined by the department, the Drug Medi-Cal services costs  
20 shall be adjusted out of the FQHC's or RHC's per-visit PPS rate  
21 as a change in scope of service.

22 (A) An FQHC or RHC shall submit to the department a scope  
23 of service change request to adjust the FQHC's or RHC's clinic  
24 base PPS rate after the first full fiscal year of rendering Drug  
25 Medi-Cal services outside of the PPS rate. Notwithstanding  
26 subdivision (e), the scope of service change request shall include  
27 a full fiscal year of activity that does not include Drug Medi-Cal  
28 services costs.

29 (B) An FQHC or RHC may submit requests for scope of service  
30 change under this subdivision only within 90 days following the  
31 beginning of the FQHC's or RHC's fiscal year. Any scope of  
32 service change request under this subdivision approved by the  
33 department shall be retroactive to the first day that Drug Medi-Cal  
34 services were rendered and reimbursement for Drug Medi-Cal  
35 services was received outside of the PPS rate, but in no case shall  
36 the effective date be earlier than January 1, 2018.

37 (C) The FQHC or RHC may bill for Drug Medi-Cal services  
38 outside of the PPS rate when the FQHC or RHC obtains approval  
39 as a Drug Medi-Cal provider and enters into a contract with a

1 county or the department to provide these services pursuant to  
2 paragraph (4).

3 (D) Within 90 days of receipt of the request for a scope of  
4 service change under this subdivision, the department shall issue  
5 the FQHC or RHC an interim rate equal to 90 percent of the  
6 FQHC's or RHC's projected allowable cost, as determined by the  
7 department. An audit to determine the final rate shall be performed  
8 in accordance with Section 14170.

9 (E) Rate changes based on a request for scope of service change  
10 under this subdivision shall be evaluated in accordance with  
11 Medicare reasonable cost principles, as set forth in Part 413  
12 (commencing with Section 413.1) of Title 42 of the Code of  
13 Federal Regulations, or its successor.

14 (F) For purposes of recalculating the PPS rate, the FQHC or  
15 RHC shall provide upon request to the department verifiable  
16 documentation as to which employees spent time, and the actual  
17 time spent, providing federally qualified health center services or  
18 rural health center services and Drug Medi-Cal services.

19 (G) After the department approves the adjustment to the FQHC's  
20 or RHC's clinic base PPS rate and the FQHC or RHC is approved  
21 as a Drug Medi-Cal provider, an FQHC or RHC shall not bill the  
22 PPS rate for any Drug Medi-Cal services provided pursuant to a  
23 contract entered into with a county or the department pursuant to  
24 paragraph (4).

25 (H) An FQHC or RHC that reverses its election under this  
26 subdivision shall revert to its prior PPS rate, subject to an increase  
27 to account for all Medicare Economic Index increases occurring  
28 during the intervening time period, and subject to any increase or  
29 decrease associated with the applicable scope of service  
30 adjustments as provided for in subdivision (e).

31 (4) Reimbursement for Drug Medi-Cal services shall be  
32 determined according to subparagraph (A) or (B), depending on  
33 whether the services are provided in a county that participates in  
34 the Drug Medi-Cal organized delivery system (DMC-ODS).

35 (A) In a county that participates in the DMC-ODS, the FQHC  
36 or RHC shall receive reimbursement pursuant to a mutually agreed  
37 upon contract entered into between the county or county designee  
38 and the FQHC or RHC. If the county or county designee refuses  
39 to contract with the FQHC or RHC, the FQHC or RHC may follow

1 the contract denial process set forth in the Special Terms and  
2 Conditions.

3 (B) In a county that does not participate in the DMC-ODS, the  
4 FQHC or RHC shall receive reimbursement pursuant to a mutually  
5 agreed upon contract entered into between the county and the  
6 FQHC or RHC. If the county refuses to contract with the FQHC  
7 or RHC, the FQHC or RHC may request to contract directly with  
8 the department and shall be reimbursed for those services at the  
9 Drug Medi-Cal fee-for-service rate.

10 (5) The department shall not reimburse an FQHC or RHC  
11 pursuant to subdivision (h) for the difference between its per-visit  
12 PPS rate and any payments for Drug Medi-Cal services made  
13 pursuant to this subdivision.

14 (6) For purposes of this subdivision, the following definitions  
15 shall apply:

16 (A) “Drug Medi-Cal organized delivery system” or  
17 “DMC-ODS” means the Drug Medi-Cal organized delivery system  
18 authorized under the California Medi-Cal 2020 Demonstration,  
19 Number 11-W-00193/9, as approved by the federal Centers for  
20 Medicare and Medicaid Services and described in the Special  
21 Terms and Conditions.

22 (B) “Special Terms and Conditions” shall have the same  
23 meaning as set forth in subdivision (o) of Section 14184.10.

24 (n) Reimbursement for specialty mental health services shall  
25 be provided pursuant to this subdivision.

26 (1) An FQHC or RHC and one or more mental health plans that  
27 contract with the department pursuant to Section 14712 may  
28 mutually elect to enter into a contract to have the FQHC or RHC  
29 provide specialty mental health services to Medi-Cal beneficiaries  
30 as part of the mental health plan’s network.

31 (2) (A) For an FQHC or RHC to receive reimbursement for  
32 specialty mental health services pursuant to a contract entered into  
33 with the mental health plan under paragraph (1), the costs  
34 associated with providing specialty mental health services shall  
35 not be included in the FQHC’s or RHC’s per-visit PPS rate. For  
36 purposes of this subdivision, the costs associated with providing  
37 specialty mental health services shall not be considered to be within  
38 the FQHC’s or RHC’s clinic base PPS rate if in delivering specialty  
39 mental health services the clinic uses different clinical staff at a  
40 different location.

1 (B) If the FQHC or RHC does not use different clinical staff at  
2 a different location to deliver specialty mental health services, the  
3 FQHC or RHC shall submit documentation, in a manner  
4 determined by the department, that the current per-visit PPS rate  
5 does not include any costs related to rendering specialty mental  
6 health services, including costs related to utilizing space in part of  
7 the FQHC's or RHC's building, that are or were previously  
8 calculated as part of the clinic's base PPS rate.

9 (3) If the costs associated with providing specialty mental health  
10 services are within the FQHC's or RHC's clinic base PPS rate, as  
11 determined by the department, the specialty mental health services  
12 costs shall be adjusted out of the FQHC's or RHC's per-visit PPS  
13 rate as a change in scope of service.

14 (A) An FQHC or RHC shall submit to the department a scope  
15 of service change request to adjust the FQHC's or RHC's clinic  
16 base PPS rate after the first full fiscal year of rendering specialty  
17 mental health services outside of the PPS rate. Notwithstanding  
18 subdivision (e), the scope of service change request shall include  
19 a full fiscal year of activity that does not include specialty mental  
20 health costs.

21 (B) An FQHC or RHC may submit requests for a scope of  
22 service change under this subdivision only within 90 days  
23 following the beginning of the FQHC's or RHC's fiscal year. Any  
24 scope of service change request under this subdivision approved  
25 by the department shall be retroactive to the first day that specialty  
26 mental health services were rendered and reimbursement for  
27 specialty mental health services was received outside of the PPS  
28 rate, but in no case shall the effective date be earlier than January  
29 1, 2018.

30 (C) The FQHC or RHC may bill for specialty mental health  
31 services outside of the PPS rate when the FQHC or RHC contracts  
32 with a mental health plan to provide these services pursuant to  
33 paragraph (1).

34 (D) Within 90 days of receipt of the request for a scope of  
35 service change under this subdivision, the department shall issue  
36 the FQHC or RHC an interim rate equal to 90 percent of the  
37 FQHC's or RHC's projected allowable cost, as determined by the  
38 department. An audit to determine the final rate shall be performed  
39 in accordance with Section 14170.

1 (E) Rate changes based on a request for scope of service change  
2 under this subdivision shall be evaluated in accordance with  
3 Medicare reasonable cost principles, as set forth in Part 413  
4 (commencing with Section 413.1) of Title 42 of the Code of  
5 Federal Regulations, or its successor.

6 (F) For the purpose of recalculating the PPS rate, the FQHC or  
7 RHC shall provide upon request to the department verifiable  
8 documentation as to which employees spent time, and the actual  
9 time spent, providing federally qualified health center services or  
10 rural health center services and specialty mental health services.

11 (G) After the department approves the adjustment to the FQHC's  
12 or RHC's clinic base PPS rate, an FQHC or RHC shall not bill the  
13 PPS rate for any specialty mental health services that are provided  
14 pursuant to a contract entered into with a mental health plan  
15 pursuant to paragraph (1).

16 (H) An FQHC or RHC that reverses its election under this  
17 subdivision shall revert to its prior PPS rate, subject to an increase  
18 to account for all Medicare Economic Index increases occurring  
19 during the intervening time period, and subject to any increase or  
20 decrease associated with the applicable scope of service  
21 adjustments as provided for in subdivision (e).

22 (4) The department shall not reimburse an FQHC or RHC  
23 pursuant to subdivision (h) for the difference between its per-visit  
24 PPS rate and any payments made for specialty mental health  
25 services under this subdivision.

26 (o) FQHCs and RHCs may appeal a grievance or complaint  
27 concerning ratesetting, scope of service changes, and settlement  
28 of cost report audits, in the manner prescribed by Section 14171.  
29 The rights and remedies provided under this subdivision are  
30 cumulative to the rights and remedies available under all other  
31 provisions of law of this state.

32 (p) The department shall promptly seek all necessary federal  
33 approvals in order to implement this section, including any  
34 amendments to the state plan. To the extent that any element or  
35 requirement of this section is not approved, the department shall  
36 submit a request to the federal Centers for Medicare and Medicaid  
37 Services for any waivers that would be necessary to implement  
38 this section.

39 (q) The department shall implement this section only to the  
40 extent that federal financial participation is available.

(r) Notwithstanding any other law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific subdivisions (m) and (n) by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific the provisions of subdivisions (m) and (n), including all of the following:

(1) Notifying provider representatives in writing of the proposed action or change. The notice shall occur, and the applicable draft provider bulletin or similar instruction, shall be made available at least 10 business days prior to the meeting described in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the proposed action or change.

(3) Allowing for written input regarding the proposed action or change, to which the department shall provide summary written responses in conjunction with the issuance of the applicable final written provider bulletin or similar instruction.

(4) Providing at least 60 days advance notice of the effective date of the proposed action or change.

**REVISIONS:**

**Heading—Line 7.**

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AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE MARCH 27, 2019

**SENATE BILL**

**No. 144**

**Introduced by Senators Mitchell and Hertzberg**  
**(Coauthor: Senator Skinner)**

January 18, 2019

An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections ~~6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205~~ and 76223 of, to add Section 6111 to, *and* to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, ~~and to repeal and add Section 68635 of the Government Code, to amend Section 11374.5 of, to add Section 11470.5 to, and to repeal Section 11470.2 of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, 273.6, 290.06, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2~~ *and* 4024.2 of, to add Section 1465.9 to, *and* to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, ~~1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266~~ of, the Penal Code, to amend Sections ~~11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8~~ *and* 42008.7 of, to add Section 44237 to, *and* to repeal Sections ~~40508.5, 40508.6, and 40611, Section 40508.5~~ of, the

Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Mitchell. Criminal fees.

(1) Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, ~~incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.~~ *and incarcerating inmates.*

This bill would repeal the authority to collect *most of* these fees, among others. The bill would make the unpaid balance of ~~any~~ *most* court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. ~~The bill would also prohibit the imposition of trial court filing fees or costs related to the persons underlying criminal conviction.~~

(2) Existing law allows the board of supervisors of any county to establish the office of the public defender and requires the public defender to defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of a crime. Existing law allows the court to hold a hearing to determine whether a defendant owns an interest in real property or other assets and to impose a lien on the property. Upon conclusion of trial, existing law allows the court to make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender. If the court finds that the defendant has the financial ability to pay, existing law requires the court to order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability.

This bill would delete the authority of the court to impose liens on the defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender. By requiring a county to provide a public defender without charge to a defendant who may have the ability to pay, this bill would impose a state-mandated local program.

~~(3) Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the~~

~~November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program. The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by  $\frac{2}{3}$  of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.~~

~~This bill would amend the act by deleting the authority of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program.~~

~~(4)~~

~~(3) Existing law allows the court to impose a civil assessment of up to \$300 against a defendant who fails, after notice and without good cause, to appear in court or who fails to pay all or any portion of a fine ordered by the court.~~

~~This bill would repeal the authority of the court to impose that assessment.~~

~~(5) Existing law, the Sexual Predator Punishment and Control Act: Jessica's Law, adopted by voters as Proposition 83 at the November 7, 2006, statewide general election, requires every person paroled after being committed to prison for a registerable sex offense to be monitored by a global positioning system for the term of their parole. The act requires the inmate to pay for the costs associated with the monitoring by a global positioning system unless the Department of Corrections and Rehabilitation finds the inmate has an inability to pay. The act allows its amendment by a statute passed by  $\frac{2}{3}$  of both houses of the Legislature.~~

~~This bill would amend the act by deleting the requirement that a parolee pay for the costs associated with being monitored by a global positioning system.~~

~~(6)~~

~~(4) Existing law requires a person who has been convicted of driving a motor vehicle under the influence of an alcoholic beverage or drug to install an ignition interlock device on the vehicle that person operates. Existing law requires a manufacturer certified to provide ignition interlock devices to adopt a fee schedule for the payment of costs of the device in an amount commensurate with a defendant's ability to pay. Existing law requires that a person subject to this requirement pay a percentage of the cost of the ignition interlock device program, up to~~

the full cost, based on the person's ~~income and to pay a fee to the Department of Motor Vehicles to cover the costs of administering the program.~~ *income.*

~~This bill would delete the requirement that the person pay the costs of the ignition interlock device program and the requirement that the person pay the fee to the department.~~

*This bill would prohibit the person from being responsible for the costs of the certified ignition interlock device or servicing by the installer of the device.*

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Approximately 80 percent of Californians in jail are indigent
- 4 and too many enter the criminal justice system due to the
- 5 criminalization of their poverty.
- 6 (b) Incarcerated people are disproportionately Black or Latinx
- 7 because these populations are overpoliced, have higher rates of
- 8 convictions following an arrest, and have the highest rates of
- 9 poverty. In fact, while Black Californians represent only 7 percent
- 10 of the state population, they make up 23 percent of the Californians
- 11 on probation and are also grossly overrepresented in felony and
- 12 misdemeanor arrests.
- 13 (c) People exiting jail or prison face higher rates of
- 14 unemployment and homelessness, due in part to racial
- 15 discrimination and the impact of their criminal conviction.
- 16 (d) The inability to meet basic needs has been found to
- 17 contribute to higher rates of recidivism and is a barrier to family
- 18 reunification.

1 (e) According to a report by the Ella Baker Center for Human  
2 Rights, the average debt incurred for court-ordered fines and fees  
3 was roughly equal to the annual income for respondents in the  
4 survey.

5 (f) A national survey of formerly incarcerated people found that  
6 families often bear the burden of fees, and that 83 percent of the  
7 people responsible for paying these costs are women.

8 (g) Because these fees are often assigned to people who simply  
9 cannot afford to pay them, they make poor people, their families,  
10 and their communities poorer.

11 (h) Criminal justice fees have no formal punitive or public safety  
12 function. Instead, they undermine public safety because the debt  
13 they cause can limit access to employment, housing, education,  
14 and public benefits, which creates additional barriers to successful  
15 reentry. Research also shows that criminal justice fees can push  
16 individuals into underground economies and can result in  
17 individuals turning to criminal activity or predatory lending to pay  
18 their debts.

19 (i) Research shows that criminal justice fees are difficult to  
20 collect and typically cost counties almost as much or more than  
21 they end up collecting in revenue.

22 (j) The use of criminal justice fees has been argued by some to  
23 be unconstitutional. On February 20, 2019, the United States  
24 Supreme Court ruled unanimously in *Timbs v. Indiana* that the  
25 Eighth Amendment's Excessive Fines Clause is an incorporated  
26 protection applicable to the states and "protects people against  
27 abuses of government's punitive or criminal-law-enforcement  
28 authority." Justice Ginsburg wrote in her decision that the  
29 constitutional protection against excessive fines is "~~fundamental~~  
30 *fundamental* to our scheme of ordered liberty with deep roots in  
31 our history and tradition."

32 SEC. 2. It is the intent of the Legislature to eliminate the range  
33 of administrative fees that agencies and courts are authorized to  
34 impose to fund elements of the criminal legal system and to  
35 eliminate all outstanding debt incurred as a result of the imposition  
36 of administrative fees.

37 SEC. 3. Section 7158 of the Business and Professions Code is  
38 amended to read:

39 7158. (a) Any person who shall accept or receive a completion  
40 certificate or other evidence that performance of a contract for a

1 work of improvement, ~~including~~ *including*, but not limited to, ~~to~~,  
2 a home improvement, is complete or satisfactorily concluded, with  
3 knowledge that the document is false and that the performance is  
4 not substantially completed, and who shall utter, offer, or use the  
5 document in connection with the making or accepting of any  
6 assignment or negotiation of the right to receive any payment from  
7 the owner, under or in connection with a contract, or for the  
8 purpose of obtaining or granting any credit or loan on the security  
9 of the right to receive any payment shall be guilty of a  
10 misdemeanor and subject to a fine of not less than five hundred  
11 dollars (\$500) nor more than five thousand dollars (\$5,000), or to  
12 imprisonment in the county jail for a term of not less than one  
13 month nor more than one year, or both.

14 (b) Any person who violates this section as part of a plan or  
15 scheme to defraud an owner of a residential or nonresidential  
16 structure, including a mobilehome or manufactured home, in  
17 connection with the offer or performance of repairs to the structure  
18 for damage caused by a natural disaster, shall be ordered by the  
19 court to make full restitution to the victim based on the person's  
20 ability to pay, as defined in paragraph (2) of subdivision (b) of  
21 Section 27755 of the Government Code. In addition to full  
22 restitution, and imprisonment authorized by subdivision (a), the  
23 court may impose a fine of not less than five hundred dollars (\$500)  
24 nor more than twenty-five thousand dollars (\$25,000), based upon  
25 the defendant's ability to pay. This subdivision applies to natural  
26 disasters for which a state of emergency is proclaimed by the  
27 Governor pursuant to Section 8625 of the Government Code or  
28 for which an emergency or major disaster is declared by the  
29 President of the United States.

30 SEC. 4. Section 7159.5 of the Business and Professions Code  
31 is amended to read:

32 7159.5. This section applies to all home improvement contracts,  
33 as defined in Section 7151.2, between an owner or tenant and a  
34 contractor, whether a general contractor or a specialty contractor,  
35 that is licensed or subject to be licensed pursuant to this chapter  
36 with regard to the transaction.

37 (a) Failure by the licensee or a person subject to be licensed  
38 under this chapter, or by their agent or salesperson, to comply with  
39 the following provisions is cause for discipline:

1 (1) The contract shall be in writing and shall include the agreed  
2 contract amount in dollars and cents. The contract amount shall  
3 include the entire cost of the contract, including profit, labor, and  
4 materials, but excluding finance charges.

5 (2) If there is a separate finance charge between the contractor  
6 and the person contracting for home improvement, the finance  
7 charge shall be set out separately from the contract amount.

8 (3) If a downpayment will be charged, the downpayment shall  
9 not exceed one thousand dollars (\$1,000) or 10 percent of the  
10 contract amount, whichever amount is less.

11 (4) If, in addition to a downpayment, the contract provides for  
12 payments to be made prior to completion of the work, the contract  
13 shall include a schedule of payments in dollars and cents  
14 specifically referencing the amount of work or services to be  
15 performed and any materials and equipment to be supplied.

16 (5) Except for a downpayment, the contractor shall neither  
17 request nor accept payment that exceeds the value of the work  
18 performed or material delivered.

19 (6) Upon any payment by the person contracting for home  
20 improvement, and prior to any further payment being made, the  
21 contractor shall, if requested, obtain and furnish to the person a  
22 full and unconditional release from any potential lien claimant  
23 claim or mechanics lien authorized pursuant to Sections 8400 and  
24 8404 of the Civil Code for any portion of the work for which  
25 payment has been made. The person contracting for home  
26 improvement may withhold all further payments until these releases  
27 are furnished.

28 (7) If the contract provides for a payment of a salesperson's  
29 commission out of the contract price, that payment shall be made  
30 on a pro rata basis in proportion to the schedule of payments made  
31 to the contractor by the disbursing party in accordance with  
32 paragraph (4).

33 (8) A contractor furnishing a performance and payment bond,  
34 lien and completion bond, or a bond equivalent or joint control  
35 approved by the registrar covering full performance and payment  
36 is exempt from paragraphs (3), (4), and (5), and need not include,  
37 as part of the contract, the statement regarding the downpayment  
38 specified in subparagraph (C) of paragraph (8) of subdivision (d)  
39 of Section 7159, the details and statement regarding progress  
40 payments specified in paragraph (9) of subdivision (d) of Section

1 7159, or the Mechanics Lien Warning specified in paragraph (4)  
2 of subdivision (e) of Section 7159. A contractor furnishing these  
3 bonds, bond equivalents, or a joint control approved by the registrar  
4 may accept payment prior to completion. If the contract provides  
5 for a contractor to furnish joint control, the contractor shall not  
6 have any financial or other interest in the joint control.  
7 Notwithstanding any other law, a licensee shall be licensed in this  
8 state in an active status for not less than two years prior to  
9 submitting an Application for Approval of Blanket Performance  
10 and Payment Bond as provided in Section 858.2 of Title 16 of the  
11 California Code of Regulations as it read on January 1, 2016.

12 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)  
13 by a licensee or a person subject to be licensed under this chapter,  
14 or by their agent or salesperson, is a misdemeanor punishable by  
15 a fine of not less than one hundred dollars (\$100) nor more than  
16 five thousand dollars (\$5,000), or by imprisonment in a county  
17 jail not exceeding one year, or by both that fine and imprisonment.

18 (1) An indictment or information against a person who is not  
19 licensed but who is required to be licensed under this chapter shall  
20 be brought, or a criminal complaint filed, for a violation of this  
21 section, in accordance with paragraph (4) of subdivision (d) of  
22 Section 802 of the Penal Code, within four years from the date of  
23 the contract or, if the contract is not reduced to writing, from the  
24 date the buyer makes the first payment to the contractor.

25 (2) An indictment or information against a person who is  
26 licensed under this chapter shall be brought, or a criminal complaint  
27 filed, for a violation of this section, in accordance with paragraph  
28 (2) of subdivision (d) of Section 802 of the Penal Code, within  
29 two years from the date of the contract or, if the contract is not  
30 reduced to writing, from the date the buyer makes the first payment  
31 to the contractor.

32 (3) The limitations on actions in this subdivision shall not apply  
33 to any administrative action filed against a licensed contractor.

34 (c) Any person who violates this section as part of a plan or  
35 scheme to defraud an owner or tenant of a residential or  
36 nonresidential structure, including a mobilehome or manufactured  
37 home, in connection with the offer or performance of repairs to  
38 the structure for damage caused by a natural disaster, shall be  
39 ordered by the court to make full restitution to the victim based  
40 on the person's ability to pay, as defined in paragraph (2) of

subdivision (b) of Section 27755 of the Government Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

SEC. 5. Section 7159.14 of the Business and Professions Code is amended to read:

7159.14. (a) This section applies to a service and repair contract as defined in Section 7159.10. A violation of this section by a licensee or a person subject to be licensed under this chapter, or by their agent or salesperson, is cause for discipline.

(1) The contract shall not exceed seven hundred fifty dollars (\$750).

(2) The contract shall be in writing and shall state the agreed contract amount, which may be stated as either a fixed contract amount in dollars and cents or, if a time and materials formula is used, as an estimated contract amount in dollars and cents.

(3) The contract amount shall include the entire cost of the contract including profit, labor, and materials, but excluding finance charges.

(4) The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.

(5) The prospective buyer shall have initiated contact with the contractor to request work.

(6) The contractor shall not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) Payment shall not be due before the project is completed.

(8) A service and repair contractor shall charge only one service charge. For purposes of this chapter, a service charge includes charges such as a service or trip charge, or an inspection fee.

(9) A service and repair contractor charging a service charge shall disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, shall disclose the amount of the service charge.

1 (10) The service and repair contractor shall offer to the customer  
2 any parts that were replaced.

3 (11) Upon any payment by the buyer, the contractor shall, if  
4 requested, obtain and furnish to the buyer a full and unconditional  
5 release from any potential lien claimant claim or mechanics lien  
6 authorized pursuant to Sections 8400 and 8404 of the Civil Code  
7 for any portion of the work for which payment has been made.

8 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of  
9 subdivision (a) by a licensee or a person subject to be licensed  
10 under this chapter, or by their agent or salesperson, is a  
11 misdemeanor punishable by a fine of not less than one hundred  
12 dollars (\$100) nor more than five thousand dollars (\$5,000), or by  
13 imprisonment in a county jail not exceeding one year, or by both  
14 that fine and imprisonment.

15 (1) An indictment or information against a person who is not  
16 licensed but who is required to be licensed under this chapter shall  
17 be brought, or a criminal complaint filed, for a violation of this  
18 section, in accordance with paragraph (4) of subdivision (d) of  
19 Section 802 of the Penal Code, within four years from the date of  
20 the contract or, if the contract is not reduced to writing, from the  
21 date the buyer makes the first payment to the contractor.

22 (2) An indictment or information against a person who is  
23 licensed under this chapter shall be brought, or a criminal complaint  
24 filed, for a violation of this section, in accordance with paragraph  
25 (2) of subdivision (d) of Section 802 of the Penal Code, within  
26 two years from the date of the contract or, if the contract is not  
27 reduced to writing, from the date the buyer makes the first payment  
28 to the contractor.

29 (3) The limitations on actions in this subdivision do not apply  
30 to any administrative action filed against a licensed contractor.

31 (c) Any person who violates this section as part of a plan or  
32 scheme to defraud an owner or tenant of a residential or  
33 nonresidential structure, including a mobilehome or manufactured  
34 home, in connection with the offer or performance of repairs to  
35 the structure for damage caused by a natural disaster, shall be  
36 ordered by the court to make full restitution to the victim based  
37 on the person's ability to pay, as defined in paragraph (2) of  
38 subdivision (b) of Section 27755 of the Government Code. In  
39 addition to full restitution, and imprisonment authorized by this  
40 section, the court may impose a fine of not less than five hundred

1 dollars (\$500) nor more than twenty-five thousand dollars  
2 (\$25,000), based upon the defendant's ability to pay. This  
3 subdivision applies to natural disasters for which a state of  
4 emergency is proclaimed by the Governor pursuant to Section  
5 8625 of the Government Code, or for which an emergency or major  
6 disaster is declared by the President of the United States.

7 SEC. 6. Section 7161 of the Business and Professions Code is  
8 amended to read:

9 7161. It is a misdemeanor for any person to engage in any of  
10 the following acts, the commission of which is cause for  
11 disciplinary action against any licensee or applicant:

12 (a) Using false, misleading, or deceptive advertising as an  
13 inducement to enter into any contract for a work of improvement,  
14 including, but not limited to, any home improvement contract,  
15 whereby any member of the public may be misled or injured.

16 (b) Making any substantial misrepresentation in the procurement  
17 of a contract for a home improvement or other work of  
18 improvement or making any false promise of a character likely to  
19 influence, persuade, or induce any person to enter into the contract.

20 (c) Any fraud in the execution of, or in the material alteration  
21 of, any contract, trust deed, mortgage, promissory note, or other  
22 document incident to a home improvement transaction or other  
23 transaction involving a work of improvement.

24 (d) Preparing or accepting any trust deed, mortgage, promissory  
25 note, or other evidence of indebtedness upon the obligations of a  
26 home improvement transaction or other transaction for a work of  
27 improvement with knowledge that it specifies a greater monetary  
28 obligation than the consideration for the improvement work, which  
29 consideration may be a time sale price.

30 (e) Directly or indirectly publishing any advertisement relating  
31 to home improvements or other works of improvement that  
32 contains an assertion, representation, or statement of fact that is  
33 false, deceptive, or misleading, or by any means advertising or  
34 purporting to offer to the general public this improvement work  
35 with the intent not to accept contracts for the particular work or at  
36 the price that is advertised or offered to the public, except that any  
37 advertisement that is subject to and complies with the existing  
38 rules, regulations, or guides of the Federal Trade Commission shall  
39 not be deemed false, deceptive, or misleading.

(f) Any person who violates subdivision (b), (c), (d), or (e) as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in paragraph (2) of subdivision (b) of Section 27755 of the Government Code. In addition to full restitution and imprisonment as authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

SEC. 7. Section 9807 of the Business and Professions Code is amended to read:

9807. (a) Notwithstanding any other law, a service dealer licensed under this chapter and authorized to engage in the electronic repair industry, as defined in subdivision (p) of Section 9801, may install, calibrate, service, maintain, and monitor certified ignition interlock devices.

(b) The bureau shall adopt regulations to implement this section consistent with the standards adopted by the Bureau of Automotive Repair and the Office of Traffic Safety under Section 9882.14.

SEC. 8. Section 9848 of the Business and Professions Code is amended to read:

9848. All proceedings to deny registration or suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9. Section 9882.14 of the Business and Professions Code is amended to read:

9882.14. (a) The bureau shall cooperate with the Office of Traffic Safety and adopt standards for the installation, maintenance, and servicing of certified ignition interlock devices by automotive repair dealers.

1 (b) The manufacturers of certified ignition interlock devices  
2 shall comply with standards established by the bureau for the  
3 installation of those ignition interlock devices.

4 (c) The bureau may charge manufacturers of certified interlock  
5 ignition devices a fee to recover the reasonable cost of monitoring  
6 installation standards.

7 SEC. 10. Section 6111 is added to the Government Code,  
8 immediately following 6110, to read:

9 6111. On and after January 1, 2020, the unpaid balance of any  
10 court-imposed costs pursuant to Section ~~6157~~, 27712, subdivision  
11 (c) or (f) of Section 29550, *and* Sections 29550.1, ~~29550.2~~ 29550.2,  
12 and 29550.3, ~~subdivision (b) of Section 68635, and Section 71386,~~  
13 as those sections read on December 31, 2019, is unenforceable  
14 and uncollectible and any portion of a judgment imposing those  
15 costs shall be vacated. ~~The unpaid balance of any court imposed~~  
16 ~~cost relating to a criminal proceeding pursuant to Section 6157 is~~  
17 ~~also unenforceable and uncollectible and any portion of a judgment~~  
18 ~~imposing those costs shall be vacated.~~

19 SEC. ~~11.~~ Section ~~6157~~ of the Government Code is amended  
20 to read:

21 ~~6157.~~ (a) The state, and each city, whether general law or  
22 chartered, county, and district, each subdivision, department, board,  
23 commission, body, or agency of the foregoing, shall accept personal  
24 checks, in addition to any other authorized form of payment, drawn  
25 in its favor or in favor of a designated official thereof, in payment  
26 for any license, permit, or fee, or in payment of any obligation  
27 owing to the public agency or trust deposit, if the person issuing  
28 the check furnishes to the person authorized to receive payment  
29 satisfactory proof of residence in this state and if the personal  
30 check is drawn on a banking institution located in this state.

31 (b) ~~If any personal check, corporate check, cashier's check,~~  
32 ~~money order, or other draft method offered in payment pursuant~~  
33 ~~to this section is returned without payment, for any reason, a~~  
34 ~~reasonable charge for the returned check, order, or draft, not to~~  
35 ~~exceed the actual costs incurred by the public agency, may be~~  
36 ~~imposed to recover the public agency's processing and collection~~  
37 ~~costs, except that a charge may not be imposed in regard to~~  
38 ~~payment made arising from a criminal proceeding. This charge~~  
39 ~~may be added to, and become part of, any underlying obligation~~  
40 ~~other than an obligation which constitutes a lien on real property,~~

1 and a different method of payment for that payment and future  
2 payments by this person may be prescribed.

3 (e) ~~The acceptance of a personal check, corporate check,~~  
4 ~~cashier's check, money order, or other draft method pursuant to~~  
5 ~~this section constitutes payment of the obligation owed to the payee~~  
6 ~~public agency to the extent of the amount of the check as of the~~  
7 ~~date of acceptance when, but not before, the check is duly paid.~~

8 (d) ~~The provisions in subdivision (b) prohibiting a returned~~  
9 ~~check charge being added to, and becoming a part of, an obligation~~  
10 ~~which constitutes a lien on real property do not apply to obligations~~  
11 ~~under the Veterans' Farm and Home Purchase Act of 1974 (Article~~  
12 ~~3.1 (commencing with Section 987.50) of Chapter 6 of Division~~  
13 ~~4 of the Military and Veterans Code).~~

14 ~~SEC. 12.~~

15 *SEC. 11.* Section 27706 of the Government Code is amended  
16 to read:

17 27706. The public defender shall perform the following duties:

18 (a) Upon request of the defendant or upon order of the court,  
19 the public defender shall defend, without expense to the defendant,  
20 any person who is not financially able to employ counsel and who  
21 is charged with the commission of any contempt or offense triable  
22 in the superior courts at all stages of the proceedings, including  
23 the preliminary examination. The public defender shall, upon  
24 request, give counsel and advice to such person about any charge  
25 against the person upon which the public defender is conducting  
26 the defense, and shall prosecute all appeals to a higher court or  
27 courts of any person who has been convicted, where, in the opinion  
28 of the public defender, the appeal will or might reasonably be  
29 expected to result in the reversal or modification of the judgment  
30 of conviction.

31 (b) Upon request, the public defender shall prosecute actions  
32 for the collection of wages and other demands of any person who  
33 is not financially able to employ counsel, where the sum involved  
34 does not exceed one hundred dollars (\$100), and where, in the  
35 judgment of the public defender, the claim urged is valid and  
36 enforceable in the courts.

37 (c) Upon request, the public defender shall defend any person  
38 who is not financially able to employ counsel in any civil litigation  
39 in which, in the judgment of the public defender, the person is  
40 being persecuted or unjustly harassed.

1 (d) Upon request, or upon order of the court, the public defender  
2 shall represent any person who is not financially able to employ  
3 counsel in proceedings under Division 4 (commencing with Section  
4 1400) of the Probate Code and Part 1 (commencing with Section  
5 5000) of Division 5 of the Welfare and Institutions Code.

6 (e) Upon order of the court, the public defender shall represent  
7 any person who is entitled to be represented by counsel but is not  
8 financially able to employ counsel in proceedings under Chapter  
9 2 (commencing with Section 500) of Part 1 of Division 2 of the  
10 Welfare and Institutions Code.

11 (f) Upon order of the court the public defender shall represent  
12 any person who is required to have counsel pursuant to Section  
13 686.1 of the Penal Code.

14 (g) Upon the order of the court or upon the request of the person  
15 involved, the public defender may represent any person who is not  
16 financially able to employ counsel in a proceeding of any nature  
17 relating to the nature or conditions of detention, of other restrictions  
18 prior to adjudication, of treatment, or of punishment resulting from  
19 criminal or juvenile proceedings.

20 ~~SEC. 13.~~

21 *SEC. 12.* Section 27707 of the Government Code is amended  
22 to read:

23 27707. The court in which the proceeding is pending may make  
24 the final determination in each case as to whether a defendant or  
25 person described in Section 27706 is financially able to employ  
26 counsel and qualifies for the services of the public defender. The  
27 public defender shall, however, render legal services as provided  
28 in subdivisions (a), ~~(b)~~ (b), and (c) of Section 27706 for any person  
29 the public defender determines is not financially able to employ  
30 counsel until such time as a contrary determination is made by the  
31 court. If a contrary determination is made, the public defender  
32 thereafter may not render services for such person except in a  
33 proceeding to review the determination of that issue or in an  
34 unrelated proceeding. In order to assist the court or public defender  
35 in making the determination, the court or the public defender may  
36 require a defendant or person requesting services of the public  
37 defender to file a financial statement under penalty of perjury. The  
38 financial statement shall be confidential and privileged and shall  
39 not be admissible as evidence in any criminal proceeding except  
40 the prosecution of an alleged offense of perjury based upon false

1 material contained in the financial statement. The financial  
2 statement shall be made available to the prosecution only for  
3 purposes of investigation of an alleged offense of perjury based  
4 upon false material contained in the financial statement at the  
5 conclusion of the proceedings for which such financial statement  
6 was required to be submitted.

7 ~~SEC. 14.~~

8 *SEC. 13.* Section 27712 of the Government Code is repealed.

9 ~~SEC. 15.~~

10 *SEC. 14.* Section 27750 of the Government Code is amended  
11 to read:

12 27750. The board of supervisors of any county may designate  
13 a county officer to make financial evaluations of defendants and  
14 other persons liable for reimbursable costs under the law. A county  
15 officer so designated shall be known as the county financial  
16 evaluation officer, whose duties shall be to determine, according  
17 to the standards set by the board of supervisors and at the direction  
18 of the court, the financial ability of parties who have incurred, or  
19 will incur, court-related or court-ordered costs, which costs by law  
20 must be waived or the services provided free of charge if the party  
21 is indigent.

22 ~~SEC. 16.~~

23 *SEC. 15.* Section 27752 of the Government Code is amended  
24 to read:

25 27752. A county financial evaluation officer is authorized to  
26 make financial evaluations and collect moneys pursuant to Section  
27 3112 of the Family Code, Sections 1203.1 and 1205 of the Penal  
28 Code, and Sections 353, 376, 700, 727, 751, 903, 903.1, 903.2,  
29 and 903.45 of the Welfare and Institutions Code.

30 ~~SEC. 17.~~

31 *SEC. 16.* Section 27753 of the Government Code is repealed.

32 ~~SEC. 18.~~

33 *SEC. 17.* Section 27756 of the Government Code is amended  
34 to read:

35 27756. Notwithstanding Section 903.4 of the Welfare and  
36 Institutions Code, in any county where the board of supervisors  
37 has designated a county financial evaluation officer, the county  
38 financial evaluation officer shall make financial evaluations of  
39 parental liability for reimbursements and other court-ordered costs  
40 pursuant to Sections 903, 903.1, 903.2, and 903.45 of the Welfare

1 and Institutions Code, as directed by the board of supervisors, or  
2 as established by order of the juvenile court, and may enforce the  
3 court order as any other civil judgment, including any balance  
4 remaining unpaid after jurisdiction of the minor has terminated.

5 ~~SEC. 19.~~

6 *SEC. 18.* Section 27757 of the Government Code is amended  
7 to read:

8 27757. (a) Except as otherwise ordered by the juvenile court,  
9 a county financial evaluation officer, upon satisfactory proof, may  
10 reduce, cancel, or remit the costs and charges listed in Sections  
11 903, 903.1, 903.2, and 903.45 of the Welfare and Institutions Code,  
12 or established by order of the juvenile court.

13 (b) The county financial evaluation officer may, following entry  
14 of an order by the juvenile court that a minor person be represented  
15 by the public defender or private attorney or be placed or detained  
16 in, or committed to, a county institution or other place, make an  
17 investigation to determine the moneys, the property, or interest in  
18 property, if any, the minor person has, and whether the minor has  
19 a duly appointed and acting guardian to protect the minor's  
20 property interests. The county financial evaluation officer may  
21 also make an investigation to determine whether the minor person  
22 has any relative or relatives responsible under the provisions of  
23 this chapter, and may ascertain the financial condition of that  
24 relative or those relatives to determine whether they are financially  
25 able to pay those charges.

26 (c) In any case where a county has expended money for the  
27 support and maintenance of any dependent child or other minor  
28 person, or has furnished support and maintenance, and the court  
29 has not made an order of reimbursement to the county, in whole  
30 or in part, as provided by law, or the court has made and  
31 subsequently revoked that order, if the dependent child or other  
32 minor person or parent, guardian, or other person liable for the  
33 support of the dependent child or other minor person acquires  
34 property, money, or estate subsequent to the date the juvenile court  
35 assumed jurisdiction over the dependent child or minor person, or  
36 subsequent to the date the order of reimbursement was revoked,  
37 the county shall have a claim for that reimbursement against the  
38 dependent child or other minor person or parent, ~~guardian~~  
39 *guardian*, or other person responsible for the support and  
40 maintenance. The claim shall be enforced by the county financial

1 evaluation officer or the local child support agency, as the case  
2 may be.

3 (d) (1) This section does not apply to a minor who is adjudged  
4 a ward of the juvenile court, who is placed on probation pursuant  
5 to Section 725 of the Welfare and Institutions Code, who is the  
6 subject of a petition that has been filed to adjudge the minor a ward  
7 of the juvenile court, or who is the subject of a program of  
8 supervision undertaken pursuant to Section 654 of the Welfare  
9 and Institutions Code.

10 (2) Notwithstanding paragraph (1), this section applies to a  
11 minor who is designated as a dual status child pursuant to Section  
12 241.1 of the Welfare and Institutions Code, for purposes of the  
13 dependency jurisdiction only and not for purposes of the  
14 delinquency jurisdiction.

15 ~~SEC. 20.~~

16 *SEC. 19.* Section 29550 of the Government Code is amended  
17 to read:

18 29550. (a) (1) Subject to subdivision (d) of Section 29551, a  
19 county may impose a fee upon a city, special district, school  
20 district, community college district, college, or university for  
21 reimbursement of county expenses incurred with respect to the  
22 booking or other processing of persons arrested by an employee  
23 of that city, special district, school district, community college  
24 district, college, or university, where the arrested persons are  
25 brought to the county jail for booking or detention. The fee imposed  
26 by a county pursuant to this section shall not exceed the actual  
27 administrative costs, including applicable overhead costs as  
28 permitted by federal Circular A-87 standards, as defined in  
29 subdivision (c), incurred in booking or otherwise processing  
30 arrested persons. For the 2005–06 fiscal year and each fiscal year  
31 thereafter, the fee imposed by a county pursuant to this subdivision  
32 shall not exceed one-half of the actual administrative costs,  
33 including applicable overhead costs as permitted by federal Circular  
34 A-87 standards, as defined in subdivision (c), incurred in booking  
35 or otherwise processing arrested persons. A county may submit  
36 an invoice to a city, special district, school district, community  
37 college district, college, or university for these expenses incurred  
38 by the county on and after July 1, 1990. Counties shall fully  
39 disclose the costs allocated as federal Circular A-87 overhead.

1 (2) Any county that imposes a fee pursuant to this section shall  
2 negotiate a reduced fee with any city, special district, school  
3 district, community college district, college, or university within  
4 the county for any services that are performed by the arresting  
5 agency in the processing of arrestees that do not have to be  
6 duplicated by the county.

7 (3) This subdivision shall not apply to counties that are under  
8 a contractual agreement with a city, special district, school district,  
9 community college district, college, or university within the county  
10 that is subject to the fee.

11 (b) The exemption of a local agency from the payment of a fee  
12 pursuant to this subdivision does not exempt the person arrested  
13 from the payment of fees for booking or other processing.

14 (1) Notwithstanding subdivision (a), a city, special district,  
15 school district, community college district, college, or university  
16 shall not be charged fees for arrests on any bench warrant for  
17 failure to appear in court, nor on any arrest warrant issued in  
18 connection with a crime not committed within the entity's  
19 jurisdiction.

20 (2) Notwithstanding subdivision (a), a city, special district,  
21 school district, community college district, college, or university  
22 shall not be charged fees for a person who is ordered by a court to  
23 be remanded to the county jail except that a county may charge a  
24 fee to recover those direct costs for those functions required to  
25 book a person pursuant to subdivision (g) of Section 853.6 of the  
26 Penal Code.

27 (3) Notwithstanding subdivision (a), a city, special district,  
28 school district, community college district, college, or university  
29 shall not be charged fees for arrests made pursuant to arrest  
30 warrants originating outside of its jurisdiction.

31 (4) Notwithstanding subdivision (a), no fees shall be charged  
32 to a city, special district, school district, community college district,  
33 college, or university on parole violation arrests or  
34 probation-ordered returns to custody, unless a new charge has been  
35 filed for a crime committed in the jurisdiction of the arresting city,  
36 district, college, or university.

37 (5) An agency making a mutual aid request shall pay fees in  
38 accordance with subdivision (a) that result from arrests made in  
39 response to the mutual aid request except that in the event the  
40 Governor declares a state of emergency, no agency shall be charged

1 fees for any arrest made during any riot, disturbance, or event that  
2 is subject to the declaration.

3 (6) Notwithstanding subdivision (a), no fees shall be charged  
4 to a city, special district, school district, community college district,  
5 college, or university for the arrest of a prisoner who has escaped  
6 from a county, state, or federal detention or corrections facility.

7 (7) Notwithstanding subdivision (a), no fees shall be charged  
8 to a city, special district, school district, community college district,  
9 college, or university for arrestees held in temporary detention at  
10 a court facility for purposes of arraignment when the arrestee has  
11 been previously booked at an entity detention facility.

12 (8) Notwithstanding subdivision (a), no fees shall be charged  
13 to a city, special district, school district, community college district,  
14 college, or university as the result of an arrest made by its officer  
15 assigned to a formal multiagency task force in which the county  
16 is a participant. For the purposes of this section, “formal task force”  
17 means a task force that has been established by written agreement  
18 of the participating agencies.

19 (9) In those counties where the cities and the county participate  
20 in a consolidated booking program and where prior to arraignment  
21 an arrestee is transferred from a city detention facility to a county  
22 detention facility, the city shall not be charged for those tasks listed  
23 in subdivision (c) that are a part of the consolidated booking  
24 program which were completed by the city prior to delivering the  
25 arrestee to the county detention facility. However, the county may  
26 charge the actual administrative costs for those additional tasks  
27 listed in subdivision (c) that are performed in order to receive the  
28 arrestee into the county detention facility. For the 2005–06 fiscal  
29 year and each fiscal year thereafter, the county may charge up to  
30 one-half of the actual administrative costs for those additional  
31 tasks listed in subdivision (c) that are performed in order to receive  
32 the arrestee into the county detention facility.

33 (c) As used in this section, “actual administrative costs” include  
34 only those costs for functions that are performed in order to receive  
35 an arrestee into a county detention facility. Operating expenses of  
36 the county jail facility including capital costs and those costs  
37 involved in the housing, feeding, and care of inmates shall not be  
38 included in calculating “actual administrative costs.” “Actual  
39 administrative costs” may include the cost of notifying any local  
40 agency, special district, school district, community college district,

1 college college, or university of any change in the fee charged by  
2 a county pursuant to this section. “Actual administrative costs”  
3 may include any one or more of the following as related to  
4 receiving an arrestee into the county detention facility:

5 (1) The searching, wristbanding, bathing, clothing,  
6 fingerprinting, photographing, and medical and mental screening  
7 of an arrestee.

8 (2) Document preparation, retrieval, updating, filing, and court  
9 scheduling related to receiving an arrestee into the detention  
10 facility.

11 (3) Warrant service, processing, and detainer.

12 (4) Inventory of an arrestee’s money and creation of cash  
13 accounts.

14 (5) Inventory and storage of an arrestee’s property.

15 (6) Inventory, laundry, and storage of an arrestee’s clothing.

16 (7) The classification of an arrestee.

17 (8) The direct costs of automated services utilized in paragraphs  
18 (1) to (7), inclusive.

19 (9) Unit management and supervision of the detention function  
20 as related to paragraphs (1) to (8), inclusive.

21 ~~SEC. 21.~~

22 *SEC. 20.* Section 29550.1 of the Government Code is repealed.

23 ~~SEC. 22.~~

24 *SEC. 21.* Section 29550.2 of the Government Code is repealed.

25 ~~SEC. 23.~~

26 *SEC. 22.* Section 29550.3 of the Government Code is repealed.

27 ~~SEC. 24.~~

28 *SEC. 23.* Section 29551 of the Government Code is amended  
29 to read:

30 29551. (a) The board of supervisors or city council of any  
31 county, city and county, or city that opts to receive funds pursuant  
32 to Section 29552 shall establish a local detention facility revenue  
33 account, on behalf of the sheriff or the official responsible for local  
34 detention facilities in the county, city and county, or city, into  
35 which shall be deposited funds paid by the Controller, pursuant to  
36 Section 29552. The funds in the local detention facility revenue  
37 account shall be used exclusively for the purpose of operation,  
38 renovation, remodeling, or constructing local detention facilities  
39 and related equipment.

(b) (1) If an appropriation for the purposes specified in Section 29552 is made in any fiscal year, a county, city and county, or city, may charge a jail access fee to a local agency that exceeds the agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) at a rate not to exceed the actual cost of booking an arrested person into the local detention facility, for each booking in excess of the three-year average. A local agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) shall be recalculated each year. The jail access fee shall be calculated and paid on a monthly basis, and all revenue derived from the jail access fee shall be deposited into the local detention facility revenue account created pursuant to subdivision (a).

(2) Bookings for violations of each of the following shall be used to determine a local agency's three-year average:

(A) Municipal code violations.

(B) Misdemeanor violations, except ~~driving under the influence~~ *driving-under-the-influence* offenses and domestic violence misdemeanor offenses, including enforcement of protective orders.

(c) Cities that operate Type One facilities within a county shall be eligible to receive funds from the county's local detention facility revenue account. Cities that operate Type One facilities and charged booking fees pursuant to Section 29550.3 during the 2006–07 fiscal year shall receive funds in an amount proportional to the number of persons booked into the city's Type One facility for which the city charged fees to the arresting agency.

(d) Every year in which at least the sum of thirty-five million dollars (\$35,000,000) is appropriated for the purposes of Section 29552, counties, cities and counties, and cities are prohibited from collecting fees pursuant to Section 29550 from other public entities. In any fiscal year in which the appropriation for the purposes of Section 29552 is less than thirty-five million dollars (\$35,000,000), a county, city and county, or a city may collect fees pursuant to Section 29550 up to a rate, adjusted as provided in subdivision (e), in proportion to the amount that the amount appropriated is less than thirty-five million dollars (\$35,000,000).

(e) The maximum rate of the fee charged by each local agency pursuant to subdivision (d) shall be the rate charged as of June 30, 2006, pursuant to Section 29550, increased for each subsequent

1 fiscal year by the California Consumer Price Index as reported by  
2 the Department of Finance plus 1 percent, compounded annually.

3 ~~SEC. 25.~~

4 *SEC. 24.* Section 50050 of the Government Code is amended  
5 to read:

6 50050. For purposes of this article, “local agency” includes all  
7 districts. Except as otherwise provided by law, money, excluding  
8 restitution to victims, that is not the property of a local agency that  
9 remains unclaimed in its treasury or in the official custody of its  
10 officers for three years is the property of the local agency after  
11 notice if not claimed or if no verified complaint is filed and served.  
12 At any time after the expiration of the three-year period, the  
13 treasurer of the local agency may cause a notice to be published  
14 once a week for two successive weeks in a newspaper of general  
15 circulation published in the local agency. At the expiration of the  
16 three-year period, money representing restitution collected on  
17 behalf of victims shall be deposited into the Restitution Fund or  
18 used by the local agency for purposes of victim services. If a local  
19 agency elects to use the money for purposes of victim services,  
20 the local agency shall first document that it has made a reasonable  
21 effort to locate and notify the victim to whom the restitution is  
22 owed. With respect to moneys deposited with the county treasurer  
23 pursuant to Section 7663 of the Probate Code, this three-year period  
24 to claim money held by a local agency is extended for an infant  
25 or person of unsound mind until one year from the date their  
26 disability ceases.

27 For purposes of this section, “infant” and “person of unsound  
28 mind” have the same meaning as given to those terms as used in  
29 Section 1441 of the Code of Civil Procedure.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 68085 of the Government Code is amended  
32 to read:

33 68085. (a) (1) There is hereby established the Trial Court  
34 Trust Fund, the proceeds of which shall be apportioned for the  
35 purposes authorized in this section, including apportionment to  
36 the trial courts to fund trial court operations, as defined in Section  
37 77003.

38 (2) The apportionment payments shall be made by the  
39 Controller. The final payment from the Trial Court Trust Fund for

1 each fiscal year shall be made on or before August 31 of the  
2 subsequent fiscal year.

3 (A) Notwithstanding any other provision of law, in order to  
4 promote statewide efficiency, the Judicial Council may authorize  
5 the direct payment or reimbursement or both of actual costs from  
6 the Trial Court Trust Fund or the State Trial Court Improvement  
7 and Modernization Fund to fund the costs of operating one or more  
8 trial courts upon the authorization of the participating courts. These  
9 paid or reimbursed costs may be for services provided to the court  
10 or courts by the Administrative Office of the Courts or payment  
11 for services or property of any kind contracted for by the court or  
12 courts or on behalf of the courts by the Administrative Office of  
13 the Courts. The amount of appropriations from the State Trial  
14 Court Improvement and Modernization Fund under this subdivision  
15 may not exceed 20 percent of the amount deposited in the State  
16 Trial Court Improvement and Modernization Fund pursuant to  
17 subdivision (a) of Section 77205. The direct payment or  
18 reimbursement of costs from the Trial Court Trust Fund may be  
19 supported by the reduction of a participating court's allocation  
20 from the Trial Court Trust Fund to the extent that the court's  
21 expenditures for the program are reduced and the court is supported  
22 by the expenditure. The Judicial Council shall provide the affected  
23 trial courts with quarterly reports on expenditures from the Trial  
24 Court Trust Fund incurred as authorized by this subdivision. The  
25 Judicial Council shall establish procedures to provide for the  
26 administration of this paragraph in a way that promotes the  
27 effective, efficient, reliable, and accountable operation of the trial  
28 courts.

29 (B) As used in subparagraph (A), the term "costs of operating  
30 one or more trial courts" includes any expenses related to operation  
31 of the court or performance of its functions, including, but not  
32 limited to, statewide administrative and information technology  
33 infrastructure supporting the courts. The term "costs of operating  
34 one or more trial courts" is not restricted to items considered "court  
35 operations" pursuant to Section 77003, but is subject to policies,  
36 procedures, and criteria established by the Judicial Council, and  
37 may not include an item that is a cost that must otherwise be paid  
38 by the county or city and county in which the court is located.

39 (b) Notwithstanding any other provision of law, the fees listed  
40 in subdivision (c) shall all be deposited upon collection in a special

1 account in the county treasury, and transmitted monthly to the  
2 State Treasury for deposit in the Trial Court Trust Fund.

3 (c) (1) Except as specified in subdivision (d), this section applies  
4 to all fees collected on or before December 31, 2005, pursuant to  
5 Sections 631.3, 116.230, and 403.060 of the Code of Civil  
6 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,  
7 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,  
8 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,  
9 68086, 72055, 72056, 72056.01, and 72060.

10 (2) Notwithstanding any other provision of law, except as  
11 specified in subdivision (d) of this section and subdivision (a) of  
12 Section 68085.7, this section applies to all fees and fines collected  
13 on or before December 31, 2005, pursuant to Sections 116.390,  
14 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,  
15 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,  
16 Sections 26824, 26828, 26829, 26834, and 72059 of the  
17 Government Code, and subdivisions (b) and (c) of Section 166 of  
18 the Penal Code.

19 (3) If any of the fees provided for in this subdivision are partially  
20 waived by court order, and the fee is to be divided between the  
21 Trial Court Trust Fund and any other fund, the amount of the partial  
22 waiver shall be deducted from the amount to be distributed to each  
23 fund in the same proportion as the amount of each distribution  
24 bears to the total amount of the fee.

25 (d) This section does not apply to that portion of a filing fee  
26 collected pursuant to Section 26820.4, 26826, 26827, 72055, or  
27 72056 that is allocated for dispute resolution pursuant to Section  
28 470.3 of the Business and Professions Code, the county law library  
29 pursuant to Section 6320 of the Business and Professions Code,  
30 the Judges' Retirement Fund pursuant to Section 26822.3,  
31 automated recordkeeping or conversion to micrographics pursuant  
32 to Sections 26863 and 68090.7, and courthouse financing pursuant  
33 to Section 76238. This section also does not apply to fees collected  
34 pursuant to subdivisions (a) and (c) of Section 27361.

35 (e) This section applies to all payments required to be made to  
36 the State Treasury by any county or city and county pursuant to  
37 Section 77201, 77201.1, or 77205.

38 (f) Notwithstanding any other provision of law, an agency shall  
39 not change the amounts allocated to any of the funds described in  
40 subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the State Treasury no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the interest and penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:

(1) Calculate interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first.

(2) Calculate a penalty at a daily rate equivalent to 1 ½ percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.

(j) (1) Interest or penalty amounts calculated pursuant to subdivision (i) shall be paid by the county, city and county, or court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the interest or penalty was calculated. Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller.

(2) Notwithstanding Section 77009, any interest or penalty on a delinquent payment that a court is required to make pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

1 (3) The Controller may permit a county, city and county, or  
2 court to pay the interest or penalty amounts according to a payment  
3 schedule in the event of a large interest or penalty amount that  
4 causes a hardship to the paying entity.

5 (4) The party responsible for the error or other action that caused  
6 the failure to pay may include, but is not limited to, the party that  
7 collected the funds who is not the party responsible for remitting  
8 the funds to the Trial Court Trust Fund, if the collecting party  
9 failed or delayed in providing the remitting party with sufficient  
10 information needed by the remitting party to distribute the funds.

11 (k) The Trial Court Trust Fund shall be invested in the Surplus  
12 Money Investment Fund and all interest earned shall be allocated  
13 to the Trial Court Trust Fund quarterly and shall be allocated  
14 among the courts in accordance with the requirements of  
15 subdivision (a).

16 (l) It is the intent of the Legislature that the revenues required  
17 to be deposited into the Trial Court Trust Fund be remitted as soon  
18 after collection by the courts as possible.

19 (m) Except for subdivisions (a) and (k), this section does not  
20 apply to fees and fines that are listed in subdivision (a) of Section  
21 68085.1 that are collected on or after January 1, 2006.

22 (n) The changes made to subdivisions (i) and (j) of this section  
23 by the act adding this subdivision shall apply to all delinquent  
24 payments for which no final audit has been issued by the Controller  
25 prior to January 1, 2008.

26 (o) The Judicial Council shall not expend any of these funds on  
27 the system known as the Court Case Management System, except  
28 for the maintenance and operation of Court Case Management  
29 System Version 2 and Version 3.

30 (p) Nothing in this section or any other provision of law shall  
31 be construed to authorize the Judicial Council to redirect funds  
32 from the Trial Court Trust Fund for any purpose other than for  
33 allocation to trial courts or as otherwise specifically appropriated  
34 by statute.

35 ~~SEC. 27.~~

36 *SEC. 26.* Section 68085.1 of the Government Code is amended  
37 to read:

38 68085.1. (a) This section applies to all fees and fines that are  
39 collected on or after January 1, 2006, under all of the following:

1 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,  
2 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,  
3 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of  
4 Section 411.21 of, subdivision (b) of Section 631 of, and Chapter  
5 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the  
6 Code of Civil Procedure.

7 (2) Section 3112 of the Family Code.

8 (3) Section 31622 of the Food and Agricultural Code.

9 (4) Subdivision (d) of Section 6103.5, Sections 68086 and  
10 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and  
11 69953.5, and Chapter 5.8 (commencing with Section 70600).

12 (5) Section 103470 of the Health and Safety Code.

13 (6) Subdivisions (b) and (c) of Section 166 of the Penal Code.

14 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate  
15 Code.

16 (8) Sections 14607.6 and 16373 of the Vehicle Code.

17 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002  
18 of the Family Code, and Section 1513.1 of the Probate Code, if  
19 the reimbursement is for expenses incurred by the court.

20 (10) Section 3153 of the Family Code, if the amount is paid to  
21 the court for the cost of counsel appointed by the court to represent  
22 a child.

23 (b) Each superior court shall deposit all fees and fines listed in  
24 subdivision (a), as soon as practicable after collection and on a  
25 regular basis, into a bank account established for this purpose by  
26 the Administrative Office of the Courts. Upon direction of the  
27 Administrative Office of the Courts, the county shall deposit civil  
28 assessments it collects under the sections listed in subdivision (a)  
29 as soon as practicable after collection and on a regular basis into  
30 the bank account established for this purpose and specified by the  
31 Administrative Office of the Courts. The deposits shall be made  
32 as required by rules adopted by, and financial policies and  
33 procedures authorized by, the Judicial Council under subdivision  
34 (a) of Section 77206. Within 15 days after the end of the month  
35 in which the fees and fines are collected, each court, and each  
36 county that collects any fines or fees under subdivision (a), shall  
37 provide the Administrative Office of the Courts with a report of  
38 the fees by categories as specified by the Administrative Office  
39 of the Courts. The Administrative Office of the Courts and any  
40 court may agree upon a time period greater than 15 days, but in

1 no case more than 30 days after the end of the month in which the  
2 fees and fines are collected. The fees and fines listed in subdivision  
3 (a) shall be distributed as provided in this section.

4 (c) (1) Within 45 calendar days after the end of the month in  
5 which the fees and fines listed in subdivision (a) are collected, the  
6 Administrative Office of the Courts shall make the following  
7 distributions:

8 (A) To the small claims advisory services, as described in  
9 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

10 (B) To dispute resolution programs, as described in subdivision  
11 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

12 (C) To the county law library funds, as described in Sections  
13 116.230 and 116.760 of the Code of Civil Procedure, subdivision  
14 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and  
15 Section 70621 of this code, and Section 14607.6 of the Vehicle  
16 Code.

17 (D) To the courthouse construction funds in the Counties of  
18 Riverside, San Bernardino, and San Francisco, as described in  
19 Sections 70622, 70624, and 70625.

20 (E) To the Trial Court Trust Fund, as described in subdivision  
21 (e) of Section 70626, to be used by the Judicial Council to  
22 implement and administer the civil representation pilot program  
23 under Section 68651.

24 (2) If any distribution under this subdivision is delinquent, the  
25 Administrative Office of the Courts shall add a penalty to the  
26 distribution as specified in subdivision (i).

27 (d) Within 45 calendar days after the end of the month in which  
28 the fees and fines listed in subdivision (a) are collected, the  
29 amounts remaining after the distributions in subdivision (c) shall  
30 be transmitted to the State Treasury for deposit in the Trial Court  
31 Trust Fund and other funds as required by law. This remittance  
32 shall be accompanied by a remittance advice identifying the  
33 collection month and the appropriate account in the Trial Court  
34 Trust Fund or other fund to which it is to be deposited. Upon the  
35 receipt of any delinquent payment required under this subdivision,  
36 the Controller shall calculate a penalty as provided under  
37 subdivision (i).

38 (e) From the money transmitted to the State Treasury under  
39 subdivision (d), the Controller shall make deposits as follows:

1 (1) Into the State Court Facilities Construction Fund, the Judges'  
2 Retirement Fund, and the Equal Access Fund, as described in  
3 subdivision (c) of Section 68085.3 and subdivision (c) of Section  
4 68085.4.

5 (2) Into the Health Statistics Special Fund, as described in  
6 subdivision (b) of Section 70670 of this code and Section 103730  
7 of the Health and Safety Code.

8 (3) Into the Family Law Trust Fund, as described in Section  
9 70674.

10 (4) Into the Immediate and Critical Needs Account of the State  
11 Court Facilities Construction Fund, established in Section 70371.5,  
12 as described in Sections 68085.3, 68085.4, and 70657.5, and  
13 subdivision (e) of Section 70617.

14 (5) The remainder of the money shall be deposited into the Trial  
15 Court Trust Fund.

16 (f) The amounts collected by each superior court under Section  
17 116.232, subdivision (g) of Section 411.20, and subdivision (g) of  
18 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,  
19 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of  
20 Section 6103.5, subdivision (d) of Section 68511.3 and Sections  
21 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386  
22 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the  
23 Probate Code shall be added to the monthly apportionment for that  
24 court under subdivision (a) of Section 68085.

25 (g) If any of the fees provided in subdivision (a) are partially  
26 waived by court order or otherwise reduced, and the fee is to be  
27 divided between the Trial Court Trust Fund and any other fund or  
28 account, the amount of the reduction shall be deducted from the  
29 amount to be distributed to each fund in the same proportion as  
30 the amount of each distribution bears to the total amount of the  
31 fee. If the fee is paid by installment payments, the amount  
32 distributed to each fund or account from each installment shall  
33 bear the same proportion to the installment payment as the full  
34 distribution to that fund or account does to the full fee. If a court  
35 collects a fee that was incurred before January 1, 2006, under a  
36 provision that was the predecessor to one of the paragraphs  
37 contained in subdivision (a), the fee may be deposited as if it were  
38 collected under the paragraph of subdivision (a) that corresponds  
39 to the predecessor of that paragraph and distributed in prorated

1 amounts to each fund or account to which the fee in subdivision  
2 (a) must be distributed.

3 (h) Except as provided in Sections 470.5 and 6322.1 of the  
4 Business and Professions Code, and Sections 70622, 70624, and  
5 70625 of this code, an agency shall not take action to change the  
6 amounts allocated to any of the funds described in subdivision (c),  
7 (d), or (e).

8 (i) The amount of the penalty on any delinquent payment under  
9 subdivision (c) or (d) shall be calculated by multiplying the amount  
10 of the delinquent payment at a daily rate equivalent to 1 ½ percent  
11 per month for the number of days the payment is delinquent. The  
12 penalty shall be paid from the Trial Court Trust Fund. Penalties  
13 on delinquent payments under subdivision (d) shall be calculated  
14 only on the amounts to be distributed to the Trial Court Trust Fund  
15 and the State Court Facilities Construction Fund, and each penalty  
16 shall be distributed proportionately to the funds to which the  
17 delinquent payment was to be distributed.

18 (j) If a delinquent payment under subdivision (c) or (d) results  
19 from a delinquency by a superior court under subdivision (b), the  
20 court shall reimburse the Trial Court Trust Fund for the amount  
21 of the penalty. Notwithstanding Section 77009, any penalty on a  
22 delinquent payment that a court is required to reimburse pursuant  
23 to this section shall be paid from the court operations fund for that  
24 court. The penalty shall be paid by the court to the Trial Court  
25 Trust Fund no later than 45 days after the end of the month in  
26 which the penalty was calculated. If the penalty is not paid within  
27 the specified time, the Administrative Office of the Courts may  
28 reduce the amount of a subsequent monthly allocation to the court  
29 by the amount of the penalty on the delinquent payment.

30 (k) If a delinquent payment under subdivision (c) or (d) results  
31 from a delinquency by a county in transmitting fees and fines listed  
32 in subdivision (a) to the bank account established for this purpose,  
33 as described in subdivision (b), the county shall reimburse the Trial  
34 Court Trust Fund for the amount of the penalty. The penalty shall  
35 be paid by the county to the Trial Court Trust Fund no later than  
36 45 days after the end of the month in which the penalty was  
37 calculated.

38 ~~SEC. 28:~~

39 *SEC. 27.* Section 68085.5 of the Government Code is amended  
40 to read:

1 68085.5. (a) Notwithstanding any other provision of law,  
2 except subdivision (h) and Section 68085.6, the fees and fines  
3 collected pursuant to Sections 116.390, 116.570, 116.760, 116.860,  
4 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code  
5 of Civil Procedure, Sections 26824, 26828, 26829, 26834, and  
6 72059 of the Government Code, and Section 1835 of the Probate  
7 Code, that are not part of a local revenue sharing agreement or  
8 practice shall be deposited in a special account in the county  
9 treasury and transmitted therefrom monthly to the Controller for  
10 deposit in the Trial Court Trust Fund.

11 (b) Notwithstanding any other provision of law, except  
12 subdivision (h) and Section 68085.6, the fees and fines collected  
13 pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854,  
14 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the  
15 Government Code, Section 103470 of the Health and Safety Code,  
16 Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343,  
17 7660, and 13201 of the Probate Code, and Section 14607.6 of the  
18 Vehicle Code, that are not subject to a local revenue sharing  
19 agreement or practice, shall be deposited in a special account in  
20 the county treasury.

21 (c) If a superior court incurs the cost or provides the services  
22 specified in subdivision (b), the fees and fines collected shall be  
23 transmitted from the special account in the county treasury monthly  
24 to the Controller for deposit in the Trial Court Trust Fund.

25 (d) (1) Until July 1, 2005, each superior court and each county  
26 shall maintain the distribution of revenue from the fees specified  
27 in subdivisions (a) and (b) that is in effect pursuant to an agreement  
28 or practice that is in place at the time this section takes effect.

29 (2) In order to ensure that expenditures from revenue sharing  
30 agreements are consistent with Judicial Council fiscal and  
31 budgetary policy, the Administrative Director of the Courts shall  
32 review and approve all distribution of revenue agreements that are  
33 negotiated after the effective date of this section. If approval of an  
34 agreement negotiated after the effective date of this section is not  
35 granted, the director shall advise the court and county of the reasons  
36 for not granting approval and suggest modifications that will make  
37 the agreement consistent with the Judicial Council fiscal and  
38 budgetary policies.

39 (e) The Administrative Office of the Courts and the California  
40 State Association of Counties shall jointly determine and administer

1 on or after January 1, 2004, and on or after January 1, 2005, all of  
2 the following:

3 (1) The amount of revenue that was deposited in the Trial Court  
4 Trust Fund pursuant to subdivisions (a) and (b) during the calendar  
5 year that just ended.

6 (2) The difference between the amount specified in subdivision  
7 (c) and thirty-one million dollars (\$31,000,000).

8 (3) A county-by-county transfer of the amount specified in  
9 paragraph (2) to the Trial Court Trust Fund in two equal  
10 installments, on February 15 and May 15, in each fiscal year.

11 (4) Any payment to correct for an overpayment or underpayment  
12 made for the 2003–04 fiscal year, shall be paid to the appropriate  
13 party on or before September 15, 2004. Any payment to correct  
14 for an overpayment or underpayment made for the 2004–05 fiscal  
15 year, shall be paid to the appropriate party on or before November  
16 15, 2005.

17 (5) The sum of the amounts specified in paragraphs (1) and (2)  
18 may not exceed thirty-one million dollars (\$31,000,000), and shall  
19 be deposited in the Trial Court Trust Fund.

20 (6) Counties that have not paid amounts billed under this section  
21 for the 2003–04 or 2004–05 fiscal year shall pay the amounts still  
22 owing to the Trial Court Trust Fund on or before September 1,  
23 2005. If payment is not received on or before September 1, 2005,  
24 it shall be considered delinquent and subject to the penalties set  
25 forth in Section 68085.

26 (7) Penalty amounts calculated under paragraph (6) shall be  
27 paid by the county or the city and county to the Trial Court Trust  
28 Fund no later than 45 days after the end of the month in which the  
29 penalty was calculated.

30 (f) Each superior court and each county shall provide detailed  
31 quarterly reports of the revenues generated by the fees and fines  
32 specified in subdivisions (a) and (b), Sections 177.5 and 1218 of  
33 the Code of Civil Procedure, and Section 166 of the Penal Code.  
34 The reports shall include the total amount collected and retained  
35 by the court or county and the existing distribution of those fees.

36 (g) No other transfers of the fees and fines specified in  
37 subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of  
38 Civil Procedure, and Section 166 of the Penal Code shall take  
39 effect prior to July 1, 2005.

(h) This section does not apply to fees and fines specified in subdivisions (a), (b), and (f) that are collected on or after July 1, 2005.

(i) Nothing in this section shall be deemed to alter or make void the shift of responsibility for court funding from the counties to the state.

~~SEC. 29.~~

SEC. 28. Section 68085.7 of the Government Code is amended to read:

68085.7. (a) (1) Notwithstanding any other provision of law, Section 68085.5 does not apply to the following fees and fines collected on or after July 1, 2005: any fees and fines specified in subdivision (a) or (b) of Section 68085.5, Section 177.5 or 1218 of the Code of Civil Procedure, or Section 166 of the Penal Code. Commencing July 1, 2005, these fees and fines shall be distributed as provided by Section 68085, except that the fees listed in subdivision (b) of Section 68085.5 and the fee in Section 1835 of the Probate Code shall be distributed to the court or the county, whichever provided the services for which the fee is charged or incurred the costs reimbursed by the fee.

(2) Notwithstanding any other provision of law, until January 1, 2006, upon direction of the Administrative Office of the Courts, the court and the county shall deposit the money each collects under the sections listed in paragraph (2) of subdivision (c) of Section 68085 as soon as practicable after collection and on a regular basis into a bank account established for this purpose and specified by the Administrative Office of the Courts. The deposits shall be made as required by rules adopted by by, and financial policies and procedures authorized by by, the Judicial Council under subdivision (a) of Section 77206 of the Government Code. Within 15 days after the end of the month in which the money is collected, the court and the county each shall provide the Administrative Office of the Courts with a report of the money it collects, as specified by the Administrative Office of the Courts. The money shall be transmitted to the State Controller for deposit in the Trial Court Trust Fund by the Administrative Office of the Courts.

(3) Commencing January 1, 2006, the fees and fines listed in Section 68085.5 shall be distributed as provided by Section 68085.1, or if no provision is made in Section 68085.1, as specified

1 in the section that provides for the fee or fine. The fees in Sections  
2 26840.1, 26847, 26854, 26855.1, 26855.2, and 27293 shall be  
3 distributed to the county.

4 (b) The amount of the reduction under this section for each  
5 county shall be determined by agreement between the  
6 Administrative Office of the Courts (AOC) and the California  
7 State Association of Counties (CSAC). Each county and each  
8 superior court shall exchange relevant factual information to  
9 determine and jointly report to the AOC and the CSAC the total  
10 amount the county received from civil assessments for the 2003–04  
11 fiscal year, both gross and net after costs, on or before August 31,  
12 2005. If the court and the county do not agree on the amount, the  
13 court and the county shall each report the amount each believes is  
14 correct to the AOC and the CSAC on or before August 31, 2005.

15 (c) The AOC and the CSAC shall agree on the amount of the  
16 reduction for each county under this section on or before October  
17 31, 2005. If a court or county disagrees with the amount agreed to  
18 by the AOC and the CSAC for that county, the court or county  
19 may appeal to the AOC and the CSAC for an adjustment. The  
20 AOC and the CSAC shall determine whether to make any requested  
21 adjustment.

22 (d) If the AOC and the CSAC do not agree on the amount of  
23 the reduction for a county, they may request a mutually  
24 agreed-upon third party to arbitrate and determine the amount. The  
25 amount shall be determined on or before December 31, 2005.

26 (e) The costs of collecting civil assessments applied in  
27 determining net civil assessments are only those costs used to  
28 collect those civil assessments.

29 ~~SEC. 30.~~

30 *SEC. 29.* Section 68085.8 of the Government Code is amended  
31 to read:

32 68085.8. (a) On or before December 31, 2005, the  
33 Administrative Office of the Courts (AOC) and the California  
34 State Association of Counties (CSAC) shall complete an initial  
35 review of the impact upon individual counties and courts of the  
36 changes in revenue distributions and payment obligations under  
37 Sections ~~68085.6~~, 68085.6 and 68085.7 for the purpose of  
38 correcting inequities that may result from these changes. The AOC  
39 and CSAC shall work with counties and courts to develop and  
40 implement procedures to correct inequities resulting from either

1 the implementation of these changes or any changes in the  
2 provision of services or benefits under any of the following  
3 circumstances:

4 (1) Institution of new civil assessment programs after the  
5 2003–04 fiscal year.

6 (2) Substantial impacts on memoranda of understanding or other  
7 agreements that are existing or pending as of June 10, 2005, or  
8 practices in effect at that time, which agreements and practices  
9 contemplate the use of revenues transferred under the act that  
10 added this section.

11 (3) The demonstration by clear evidence that the information  
12 used as the basis for determining a reduction under Section  
13 68085.7, or for determining a county's obligation under Section  
14 68085.6, results in an inequity, and that the inequity imposes an  
15 undue hardship on the court or county.

16 (b) Inequities may be corrected by one or more of the following  
17 mechanisms:

18 (1) Adjustment of the amount of a county's obligation under  
19 subdivision (a) of Section 68085.6.

20 (2) Adjustment of allocations to a trial court from the Trial Court  
21 Trust Fund under subdivision (a) of Section 68085.

22 (3) If necessary, with agreement of the court and county,  
23 adjustments of the rights and duties of the parties under memoranda  
24 of understanding or other agreements or practices.

25 The adjustments under paragraphs (1) to (3), inclusive, may be  
26 temporary or permanent. Adjustments under this section shall be  
27 made only with the mutual agreement of the AOC and CSAC.

28 ~~SEC. 31. Section 68635 of the Government Code is repealed.~~

29 ~~SEC. 32. Section 68635 is added to the Government Code, to~~  
30 ~~read:~~

31 ~~68635. Notwithstanding any other law, a person who is~~  
32 ~~sentenced to state prison or confined in a county jail shall not be~~  
33 ~~required to pay any trial court filing fees or costs related to the~~  
34 ~~person's underlying criminal conviction for which the person is~~  
35 ~~incarcerated.~~

36 ~~SEC. 33. Section 71380 of the Government Code is amended~~  
37 ~~to read:~~

38 ~~71380. The Controller shall establish, supervise, and maintain~~  
39 ~~trial court revenue distribution guidelines, including a program to~~  
40 ~~audit the accuracy of distributions as provided by law, to ensure~~

1 that all fines, penalties, and forfeitures assessed by courts, and  
2 their collection and appropriate disbursement, shall be properly  
3 accounted for and distributed. The trial court revenue distribution  
4 guidelines shall apply to superior courts, counties, including  
5 counties' probation departments, central collection bureaus, and  
6 any other agencies or entities having a role in this process.

7 SEC. 34. Section 71386 of the Government Code is amended  
8 to read:

9 71386. (a) Each superior court shall adopt a written policy,  
10 consistent with rules adopted by, or trial court financial policies  
11 and procedures authorized by, the Judicial Council under  
12 subdivision (a) of Section 77206, governing the acceptance of  
13 checks and money orders in payment of any fines or bail deposits.  
14 The policy shall permit clerks to accept checks and money orders  
15 under conditions that tend to assure their validity.

16 (b) A court shall accept a personal check, bank cashier's check,  
17 or money order for payment of any fee or fine, or for a deposit of  
18 bail for any offense that is not declared to be a felony, provided  
19 the check or money order meets the criteria established in  
20 subdivision (a). However, no court shall be required to accept a  
21 check in excess of three hundred dollars (\$300) from a defendant  
22 in custody as a deposit of bail for any alleged violation of the Penal  
23 Code.

24 (c) The acceptance of a check pursuant to this section constitutes  
25 payment of the obligation owed to the payee public agency to the  
26 extent of the amount of the check as of the date of acceptance.

27 SEC. 35.

28 SEC. 30. Section 76000.10 of the Government Code is amended  
29 to read:

30 76000.10. (a) This section shall be known, and may be cited,  
31 as the Emergency Medical Air Transportation Act.

32 (b) For purposes of this section:

33 (1) "Department" means the State Department of Health Care  
34 Services.

35 (2) "Director" means the Director of Health Care Services.

36 (3) "Provider" means a provider of emergency medical air  
37 transportation services.

38 (4) "Rotary wing" means a type of aircraft, commonly referred  
39 to as a helicopter, that generates lift through the use of wings,  
40 known as rotor blades, that revolve around a mast.

1 (5) “Fixed wing” means a type of aircraft, commonly referred  
2 to as an airplane, that generates lift through the use of the forward  
3 motion of the aircraft and wings that do not revolve around a mast  
4 but are fixed in relation to the fuselage of the aircraft.

5 (6) “Air mileage rate” means the per-mileage reimbursement  
6 rate paid for services rendered by rotary-wing and fixed-wing  
7 providers.

8 (c) (1) For purposes of implementing this section, a penalty of  
9 four dollars (\$4) shall be imposed upon every conviction for a  
10 violation of the Vehicle Code or a local ordinance adopted pursuant  
11 to the Vehicle Code, except parking offenses subject to Article 3  
12 (commencing with Section 40200) of Chapter 1 of Division 17 of  
13 the Vehicle Code.

14 (2) The penalty described in this subdivision is in addition to  
15 the state penalty assessed pursuant to Section 1464 of the Penal  
16 Code. However, this penalty shall not be included in the base fine  
17 used to calculate the state penalty assessment pursuant to  
18 subdivision (a) of Section 1464 of the Penal Code, the state  
19 surcharge levied pursuant to Section 1465.7 of the Penal Code,  
20 and the state court construction penalty pursuant to Section 70372  
21 of this code, and to calculate the other additional penalties levied  
22 pursuant to this chapter.

23 (d) The county or the court that imposed the fine shall, in  
24 accordance with the procedures set out in Section 68101, transfer  
25 moneys collected pursuant to this section to the Treasurer for  
26 deposit into the Emergency Medical Air Transportation and  
27 Children’s Coverage Fund, which is hereby established in the State  
28 Treasury. Notwithstanding Section 16305.7, the Emergency  
29 Medical Air Transportation and Children’s Coverage Fund shall  
30 include interest and dividends earned on money in the fund. Any  
31 law that references the Emergency Medical Air Transportation  
32 Act Fund, as previously established by this subdivision, shall be  
33 construed to reference the Emergency Medical Air Transportation  
34 and Children’s Coverage Fund, effective January 1, 2018.

35 (e) (1) The Emergency Medical Air Transportation and  
36 Children’s Coverage Fund shall be administered by the State  
37 Department of Health Care Services. Moneys in the Emergency  
38 Medical Air Transportation and Children’s Coverage Fund shall  
39 be made available, upon appropriation by the Legislature, to the  
40 department for any of the following purposes:

1 (A) For children's health care coverage.

2 (B) For emergency medical air transportation provider payments,  
3 as follows:

4 (i) For payment of the administrative costs of the department  
5 in administering emergency medical air transportation provider  
6 payments.

7 (ii) Twenty percent of the appropriated money remaining after  
8 payment of administrative costs pursuant to clause (i) shall be used  
9 to offset the state portion of the Medi-Cal reimbursement rate for  
10 emergency medical air transportation services.

11 (iii) Eighty percent of the appropriated money remaining after  
12 payment of administrative costs pursuant to clause (i) shall be used  
13 to augment emergency medical air transportation reimbursement  
14 payments made through the Medi-Cal program, as set forth in  
15 paragraphs (2) and (3).

16 (2) If money in the Emergency Medical Air Transportation and  
17 Children's Coverage Fund is made available to the department for  
18 the purpose described in subparagraph (B) of paragraph (1), both  
19 of the following shall occur:

20 (A) The department shall seek to obtain federal matching funds  
21 by using the moneys in the Emergency Medical Air Transportation  
22 and Children's Coverage Fund for the purpose of augmenting  
23 Medi-Cal reimbursement paid to emergency medical air  
24 transportation providers.

25 (B) The director shall augment emergency medical air  
26 transportation provider payments in accordance with a federally  
27 approved reimbursement methodology. The director may seek  
28 federal approvals or waivers as may be necessary to implement  
29 this section and to obtain federal financial participation to the  
30 maximum extent possible for the payments under this section.

31 (3) (A) Upon appropriation by the Legislature, the department  
32 shall use moneys in the Emergency Medical Air Transportation  
33 and Children's Coverage Fund and any federal matching funds to  
34 do any of the following:

35 (i) Fund children's health care coverage.

36 (ii) Increase the Medi-Cal reimbursement for emergency medical  
37 air transportation services in an amount not to exceed normal and  
38 customary charges charged by the providers.

39 (B) Notwithstanding any other law, and pursuant to this section,  
40 if money in the Emergency Medical Air Transportation and

Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services if both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund will cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph (1).

(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

(f) The assessment of penalties pursuant to this section shall terminate on January 1, 2020. Penalties assessed before January 1, 2020, shall cease to be collected, administered, and distributed as of that date. On January 1, 2020, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation and Children's Coverage Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally, or funding children's health care coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

~~SEC. 36.~~

*SEC. 31.* Section 76223 of the Government Code is amended to read:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1,

1 2004, between the board of supervisors and the presiding judge of  
2 the superior court:

3 (a) The presiding judge of the superior court may agree to make  
4 available court funds, up to a stated amount, other than funds  
5 received from the Trial Court Trust Fund or other state sources,  
6 in the courthouse construction fund.

7 (b) The total amounts deposited under subdivision (a) may not  
8 exceed in any fiscal year the amount payable on the construction  
9 costs less (1) any amounts paid by the courthouse construction  
10 fund and (2) any other amounts paid from other sources except for  
11 any amounts paid pursuant to subdivision (b).

12 (c) The total amounts deposited under subdivision (b) shall not  
13 exceed in any fiscal year the amount payable on the construction  
14 costs less (1) any amounts paid by the courthouse construction  
15 fund, (2) any amounts paid pursuant to subdivision (a) of this  
16 section, and (3) any other amounts paid from other sources except  
17 for any amounts paid pursuant to subdivision (b).

18 (d) If legislation is passed and becomes effective transferring  
19 the responsibility for court facilities to the state, and the legislation  
20 permits the transfer of the bonded indebtedness or other  
21 encumbrance on court facilities together with revenue sources for  
22 payment of the bonded indebtedness or other encumbrance, the  
23 revenue sources provided for by this section may also be transferred  
24 to the state.

25 (e) As used in this section, the costs of construction also includes  
26 the payment on the bonded indebtedness or other encumbrance  
27 used to finance the construction.

28 ~~SEC. 37. Section 77009 of the Government Code is amended~~  
29 ~~to read:~~

30 ~~77009. (a) The Judicial Council may establish bank accounts~~  
31 ~~for the superior courts and require the courts to deposit moneys~~  
32 ~~for trial court operations, and any other moneys under the control~~  
33 ~~of the courts, into those accounts. Deposits to these accounts shall~~  
34 ~~include, but are not limited to, the following:~~

35 ~~(1) Moneys appropriated in the Budget Act and allocated or~~  
36 ~~reallocated to the superior court by the Judicial Council.~~

37 ~~(2) Moneys held in trust.~~

38 ~~(3) Other moneys as deemed necessary or appropriate.~~

39 ~~(b) Subdivision (a) shall not apply to payments from a party or~~  
40 ~~a defendant received by the superior court for any criminal fines~~

1 or forfeitures. However, the court and county may enter into a  
2 contract for the court to provide depository services in an account  
3 established by the Judicial Council for criminal fines and  
4 forfeitures, with the approval of the Administrative Director of the  
5 Courts. The contract shall identify the scope of service, method  
6 of service delivery, term of agreement, anticipated service  
7 outcomes, and the cost of the service. The amount of any indirect  
8 or overhead costs shall be individually stated with the method of  
9 calculation of the indirect or overhead costs.

10 (e) Moneys deposited into a bank account established pursuant  
11 to subdivision (a) for the Trial Court Operations Fund that are  
12 appropriated in the Budget Act and allocated or reallocated to the  
13 superior court by the Judicial Council shall be payable only for  
14 the purposes set forth in Sections 77003 and 77006.5, and for  
15 services purchased by the court pursuant to subdivisions (b) and  
16 (e) of Section 77212.

17 (d) (1) All moneys received by a superior court from any source  
18 for court operating and program purposes shall be deposited into  
19 a bank account established pursuant to subdivision (a) and  
20 accounted for in the Trial Court Operations Fund. Moneys that are  
21 received to fulfill the requirements of Article 4 (commencing with  
22 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division  
23 14 (commencing with Section 10000) of the Family Code shall be  
24 identified and maintained in a separate account established in the  
25 fund for this purpose.

26 (2) All other moneys deposited into a bank account established  
27 pursuant to subdivision (a) and accounted for in the Trial Court  
28 Operations Fund that are received for purposes other than court  
29 operations, as defined in Section 77003 and Rule 10.810 of the  
30 California Rules of Court, shall be identified and maintained in  
31 separate accounts in the fund.

32 (3) This subdivision shall not apply to either of the following:

33 (A) Moneys received by the courts pursuant to paragraph (2)  
34 of subdivision (a) of this section and Section 68084, if those  
35 moneys are not for court operating or program purposes.

36 (B) Payments from a party or a defendant received by the county  
37 for any fines or forfeitures; moneys collected by the superior court  
38 under Chapter 5.8 (commencing with Section 70600); or fines to  
39 which Section 68085.1 applies.

1     ~~(e) The presiding judge of the superior court, or the judge's~~  
2     ~~designee, shall authorize and direct all expenditures by the court~~  
3     ~~for operating and program purposes from any account established~~  
4     ~~under subdivision (b) or (c).~~

5     ~~(f) The Judicial Council, in consultation with the Controller's~~  
6     ~~office, shall establish procedures to implement this section and to~~  
7     ~~provide for payment of trial court operations expenses, as described~~  
8     ~~in Sections 77003 and 77006.5, incurred on July 1, 1997, and~~  
9     ~~thereafter.~~

10    ~~(g) (1) If the Judicial Council has not established bank accounts~~  
11    ~~pursuant to subdivision (a), the court shall contract with the county~~  
12    ~~for fiscal services. Each board of supervisors shall maintain in the~~  
13    ~~county treasury a Trial Court Operations Fund, which will operate~~  
14    ~~as an agency fund. All moneys appropriated in the Budget Act and~~  
15    ~~allocated and reallocated to the superior court in the county by the~~  
16    ~~Judicial Council shall be deposited into the fund.~~

17    ~~(2) Moneys deposited into the fund that are appropriated for the~~  
18    ~~Trial Court Operations Fund in the Budget Act and allocated or~~  
19    ~~reallocated to the superior court by the Judicial Council shall be~~  
20    ~~payable only for the purposes set forth in Sections 77003 and~~  
21    ~~77006.5, and for services purchased by the court pursuant to~~  
22    ~~subdivisions (b) and (c) of Section 77212. The presiding judge of~~  
23    ~~the superior court, or the judge's designee, shall authorize and~~  
24    ~~direct expenditures from the fund and the county auditor-controller~~  
25    ~~shall make payments from the funds as directed. Approval of the~~  
26    ~~board of supervisors is not required for expenditure from this fund.~~

27    ~~(3) All moneys received by a superior court from any source~~  
28    ~~for court operating and program purposes shall be deposited in the~~  
29    ~~fund, except as provided in this subdivision. Moneys that are~~  
30    ~~received to fulfill the requirements of Article 4 (commencing with~~  
31    ~~Section 4250) of Chapter 2 of Part 2 of Division 9 and Division~~  
32    ~~14 (commencing with Section 10000) of the Family Code shall be~~  
33    ~~identified and maintained in a separate account established in the~~  
34    ~~fund for this purpose. All other moneys that are received for~~  
35    ~~purposes other than court operations, as defined in Section 77003~~  
36    ~~and Rule 10.810 of the California Rules of Court, shall be identified~~  
37    ~~and maintained in one or more separate accounts established in~~  
38    ~~the fund pursuant to procedures adopted by the Judicial Council.~~  
39    ~~This subdivision shall only apply to moneys received by the courts~~

1 for operating and program purposes. This subdivision shall not  
2 apply to either of the following:

3 (A) Moneys received by the courts pursuant to Section 68084,  
4 if those funds are not for court operating or program purposes.

5 (B) Payments from a party or a defendant received by the county  
6 for any fines or forfeitures; moneys collected by the superior court  
7 under Chapter 5.8 (commencing with Section 70600); or fines to  
8 which Section 68085.1 applies.

9 (4) Interest received by a county that is attributable to investment  
10 of moneys, which interest is required by this subdivision to be  
11 deposited in the superior court's fund, shall be deposited in the  
12 fund and shall be used for trial court operations purposes.

13 (5) In no event shall interest be charged to the superior court's  
14 fund, except as provided in Section 77009.1.

15 (6) Reasonable administrative expenses incurred by the county  
16 associated with the operation of this fund shall be charged to the  
17 superior court.

18 (7) A county, or city and county, may bill the superior court  
19 within its jurisdiction for costs for services provided by the county,  
20 or city and county, as described in Sections 77003 and 77212,  
21 including indirect costs as described in paragraph (7) of subdivision  
22 (a) of Section 77003 and Section 77212. The costs billed by the  
23 county, or the city and the county, pursuant to this subdivision  
24 shall not exceed the costs incurred by the county, or the city and  
25 the county, of providing similar services to county departments or  
26 special districts.

27 (8) Pursuant to Section 77206, the Controller, at the request of  
28 the Legislature, may perform financial and fiscal compliance audits  
29 of this fund. The Judicial Council or its representatives may  
30 perform audits, reviews, and investigations of this fund wherever  
31 the records may be located.

32 (h) The Judicial Council or its representatives may perform  
33 audits, reviews, and investigations of superior court operations  
34 and records wherever they may be located.

35 SEC. 38. Section 77203 of the Government Code is amended  
36 to read:

37 77203. (a) Prior to June 30, 2014, a trial court may carry over  
38 all unexpended funds from the courts operating budget from the  
39 prior fiscal year.

1 ~~(b) Commencing June 30, 2014, a trial court may carry over~~  
2 ~~unexpended funds in an amount not to exceed 1 percent of the~~  
3 ~~court's operating budget from the prior fiscal year. The calculation~~  
4 ~~of the 1 percent authorized to be carried over from the previous~~  
5 ~~fiscal year shall not include funds received by the court pursuant~~  
6 ~~to the following:~~

7 ~~(1) Section 470.5 of the Business and Professions Code.~~

8 ~~(2) Section 116.230 of the Code of Civil Procedure, except for~~  
9 ~~those funds transmitted to the Controller for deposit in the Trial~~  
10 ~~Court Trust Fund pursuant to subdivision (h) of that section.~~

11 ~~(3) Subdivision (f) of Section 13963, Sections 26731, 66006,~~  
12 ~~68090.8, 70640, 70678, and 76223, subdivision (b) of Section~~  
13 ~~77207.5, and subdivision (h) of Section 77209.~~

14 ~~(4) The portion of filing fees collected for conversion to~~  
15 ~~micrographics pursuant to former Section 26863, as that section~~  
16 ~~read immediately before its repeal, and Section 27361.4.~~

17 ~~(5) Sections 1027 and 1463.007, subdivision (a) of Section~~  
18 ~~1463.22, and Sections 4750 and 6005, of the Penal Code.~~

19 ~~(6) Section 11205.2 of the Vehicle Code.~~

20 ~~SEC. 39. Section 77205 of the Government Code is amended~~  
21 ~~to read:~~

22 ~~77205. (a) Notwithstanding any other provision of law, in any~~  
23 ~~year in which a county collects fee, fine, and forfeiture revenue~~  
24 ~~for deposit into the county general fund pursuant to Sections~~  
25 ~~1463.001 and 1464 of the Penal Code, Sections 42007 and 42008~~  
26 ~~of the Vehicle Code, and Sections 27361 and 76000 of the~~  
27 ~~Government Code that would have been deposited into the General~~  
28 ~~Fund pursuant to these sections as they read on December 31,~~  
29 ~~1997, and that exceeds the amount specified in paragraph (2) of~~  
30 ~~subdivision (b) of Section 77201 for the 1997–98 fiscal year, and~~  
31 ~~paragraph (2) of subdivision (b) of Section 77201.1 for the 1998–99~~  
32 ~~fiscal year, and thereafter, the excess amount shall be divided~~  
33 ~~between the county or city and county and the state, with 50 percent~~  
34 ~~of the excess transferred to the state for deposit in the State Trial~~  
35 ~~Court Improvement and Modernization Fund and 50 percent of~~  
36 ~~the excess deposited into the county general fund. The Judicial~~  
37 ~~Council shall allocate 80 percent of the amount deposited in the~~  
38 ~~State Trial Court Improvement and Modernization Fund pursuant~~  
39 ~~to this subdivision each fiscal year that exceeds the amount~~  
40 ~~deposited in the 2002–03 fiscal year among:~~

~~(1) The trial court in the county from which the revenue was deposited.~~

~~(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.~~

~~(3) For retention in the State Trial Court Improvement and Modernization Fund.~~

~~For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.~~

~~(b) Any amounts required to be distributed to the state pursuant to subdivision (a) shall be remitted to the Controller no later than 45 days after the end of the fiscal year in which those fees, fines, and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the quarter of collection and stating that the amount should be deposited in the State Trial Court Improvement and Modernization Fund.~~

~~(c) Notwithstanding subdivision (a), the following counties whose base-year remittance requirement was reduced pursuant to subdivision (c) of Section 77201.1 shall not be required to split their annual fee, fine, and forfeiture revenues as provided in this section until such revenues exceed the following amounts:~~

| County            | Amount       |
|-------------------|--------------|
| Placer .....      | \$ 1,554,677 |
| Riverside .....   | 11,028,078   |
| San Joaquin ..... | 3,694,810    |
| San Mateo .....   | 5,304,995    |
| Ventura .....     | 4,637,294    |

~~SEC. 40. Section 11374.5 of the Health and Safety Code is amended to read:~~

~~11374.5. (a) Any manufacturer of a controlled substance who disposes of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law regulating the disposal of hazardous substances or hazardous waste is guilty of a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years or in the county jail not exceeding one year.~~

1 ~~(b) As used in this section the following terms have the~~  
2 ~~following meaning:~~

3 ~~(1) “Dispose” means to abandon, deposit, intern, or otherwise~~  
4 ~~discard as a final action after use has been achieved or a use is no~~  
5 ~~longer intended.~~

6 ~~(2) “Hazardous substance” has the same meaning as defined~~  
7 ~~in Section 25316.~~

8 ~~(3) “Hazardous waste” has the same meaning as defined in~~  
9 ~~Section 25117.~~

10 ~~SEC. 41. Section 11470.2 of the Health and Safety Code is~~  
11 ~~repealed.~~

12 ~~SEC. 42. Section 11470.5 is added to the Health and Safety~~  
13 ~~Code, to read:~~

14 ~~11470.5. On and after January 1, 2020, the unpaid balance of~~  
15 ~~any court-imposed costs pursuant to Sections 11374.5 and 11470.2,~~  
16 ~~as those sections read on December 31, 2019, is unenforceable~~  
17 ~~and uncollectible and any portion of a judgment imposing those~~  
18 ~~costs shall be vacated.~~

19 ~~SEC. 43.~~

20 ~~SEC. 32. Section 273a of the Penal Code is amended to read:~~

21 ~~273a. (a) Any person who, under circumstances or conditions~~  
22 ~~likely to produce great bodily harm or death, willfully causes or~~  
23 ~~permits any child to suffer, or inflicts thereon unjustifiable physical~~  
24 ~~pain or mental suffering, or having the care or custody of any child,~~  
25 ~~willfully causes or permits the person or health of that child to be~~  
26 ~~injured, or willfully causes or permits that child to be placed in a~~  
27 ~~situation where the child’s person or health is endangered, shall~~  
28 ~~be punished by imprisonment in a county jail not exceeding one~~  
29 ~~year, or in the state prison for two, four, or six years.~~

30 ~~(b) Any person who, under circumstances or conditions other~~  
31 ~~than those likely to produce great bodily harm or death, willfully~~  
32 ~~causes or permits any child to suffer, or inflicts thereon~~  
33 ~~unjustifiable physical pain or mental suffering, or having the care~~  
34 ~~or custody of any child, willfully causes or permits the person or~~  
35 ~~health of that child to be injured, or willfully causes or permits~~  
36 ~~that child to be placed in a situation where the child’s person or~~  
37 ~~health may be endangered, is guilty of a misdemeanor.~~

38 ~~(c) If a person is convicted of violating this section and probation~~  
39 ~~is granted, the court shall require the following minimum~~  
40 ~~conditions of probation:~~

1 (1) A mandatory minimum period of probation of 48 months.

2 (2) A criminal court protective order protecting the victim from  
3 further acts of violence or threats, and, if appropriate, residence  
4 exclusion or stay-away conditions.

5 (3) Successful completion of no less than one year of a child  
6 abuser's treatment counseling program approved by the probation  
7 department. The defendant shall be ordered to begin participation  
8 in the program immediately upon the grant of probation. The  
9 counseling program shall meet the criteria specified in Section  
10 273.1. The defendant shall produce documentation of program  
11 enrollment to the court within 30 days of enrollment, along with  
12 quarterly progress reports.

13 (4) If the offense was committed while the defendant was under  
14 the influence of drugs or alcohol, the defendant shall abstain from  
15 the use of drugs or alcohol during the period of probation and shall  
16 be subject to random drug testing by the defendant's probation  
17 officer.

18 (5) The court may waive any of the minimum conditions of  
19 probation of this subdivision upon a finding that the condition  
20 would not be in the best interests of justice. The court shall state  
21 on the record its reasons for any waiver.

22 ~~SEC. 44.~~

23 *SEC. 33.* Section 273d of the Penal Code is amended to read:

24 273d. (a) Any person who willfully inflicts upon a child any  
25 cruel or inhuman corporal punishment or an injury resulting in a  
26 traumatic condition is guilty of a felony and shall be punished by  
27 imprisonment pursuant to subdivision (h) of Section 1170 for two,  
28 four, or six years, or in a county jail for not more than one year,  
29 by a fine of up to six thousand dollars (\$6,000), or by both that  
30 imprisonment and fine.

31 (b) Any person who is found guilty of violating subdivision (a)  
32 shall receive a four-year enhancement for a prior conviction of  
33 that offense provided that no additional term shall be imposed  
34 under this subdivision for any prison term or term imposed under  
35 the provisions of subdivision (h) of Section 1170 served prior to  
36 a period of 10 years in which the defendant remained free of both  
37 the commission of an offense that results in a felony conviction  
38 and prison custody or custody in a county jail under the provisions  
39 of subdivision (h) of Section 1170.

1 (c) If a person is convicted of violating this section and probation  
2 is granted, the court shall require the following minimum  
3 conditions of probation:

4 (1) A mandatory minimum period of probation of 36 months.

5 (2) A criminal court protective order protecting the victim from  
6 further acts of violence or threats, and, if appropriate, residence  
7 exclusion or stay-away conditions.

8 (3) Successful completion of no less than one year of a child  
9 abuser's treatment counseling program. The defendant shall be  
10 ordered to begin participation in the program immediately upon  
11 the grant of probation. The counseling program shall meet the  
12 criteria specified in Section 273.1. The defendant shall produce  
13 documentation of program enrollment to the court within 30 days  
14 of enrollment, along with quarterly progress reports.

15 (4) If the offense was committed while the defendant was under  
16 the influence of drugs or alcohol, the defendant shall abstain from  
17 the use of drugs or alcohol during the period of probation and shall  
18 be subject to random drug testing by the defendant's probation  
19 officer.

20 (5) The court may waive any of the minimum conditions of  
21 probation specified in this subdivision upon a finding that the  
22 condition would not be in the best interests of justice. The court  
23 shall state on the record its reasons for any waiver.

24 ~~SEC. 45.~~

25 *SEC. 34.* Section 273.1 of the Penal Code is amended to read:

26 273.1. (a) Any treatment program to which a child abuser  
27 convicted of a violation of Section 273a or 273d is referred as a  
28 condition of probation shall meet the following criteria:

29 (1) Substantial expertise and experience in the treatment of  
30 victims of child abuse and the families in which abuse and violence  
31 have occurred.

32 (2) Staff providing direct service are therapists licensed to  
33 practice in this state or are under the direct supervision of a  
34 therapist licensed to practice in this state.

35 (3) Utilization of a treatment regimen designed to specifically  
36 address the offense, including methods of preventing and breaking  
37 the cycle of family violence, anger management, and parenting  
38 education that focuses, among other things, on means of identifying  
39 the developmental and emotional needs of the child.

1 (4) Utilization of group and individual therapy and counseling,  
2 with groups no larger than 12 persons.

3 (5) Capability of identifying substance abuse and either treating  
4 the abuse or referring the offender to a substance abuse program,  
5 to the extent that the court has not already done so.

6 (6) Entry into a written agreement with the defendant that  
7 includes an outline of the components of the program, the  
8 attendance requirements, a requirement to attend group session  
9 free of chemical influence, and a statement that the defendant may  
10 be removed from the program if it is determined that the defendant  
11 is not benefiting from the program or is disruptive to the program.

12 (7) The program may include, on the recommendation of the  
13 treatment counselor, family counseling. However, no child victim  
14 shall be compelled or required to participate in the program,  
15 including family counseling, and no program may condition a  
16 defendant's enrollment on participation by the child victim. The  
17 treatment counselor shall privately advise the child victim that  
18 their participation is voluntary.

19 (b) If the program finds that the defendant is unsuitable, the  
20 program shall immediately contact the probation department or  
21 the court. The probation department or court shall either recalendar  
22 the case for hearing or refer the defendant to an appropriate  
23 alternative child abuser's treatment counseling program.

24 (c) Upon request by the child abuser's treatment counseling  
25 program, the court shall provide the defendant's arrest report, prior  
26 incidents of violence, and treatment history to the program.

27 (d) The child abuser's treatment counseling program shall  
28 provide the probation department and the court with periodic  
29 progress reports at least every three months that include attendance,  
30 fee payment history, and program compliance. The program shall  
31 submit a final evaluation that includes the program's evaluation  
32 of the defendant's progress, and recommendation for either  
33 successful or unsuccessful termination of the program.

34 SEC. 46. Section 273.6 of the Penal Code is amended to read:

35 273.6. (a) ~~Any intentional and knowing violation of a~~  
36 ~~protective order, as defined in Section 6218 of the Family Code,~~  
37 ~~or of an order issued pursuant to Section 527.6, 527.8, or 527.85~~  
38 ~~of the Code of Civil Procedure, or Section 15657.03 of the Welfare~~  
39 ~~and Institutions Code, is a misdemeanor punishable by a fine of~~  
40 ~~not more than one thousand dollars (\$1,000), or by imprisonment~~

1 in a county jail for not more than one year, or by both that fine and  
2 imprisonment.

3 ~~(b) In the event of a violation of subdivision (a) that results in~~  
4 ~~physical injury, the person shall be punished by a fine of not more~~  
5 ~~than two thousand dollars (\$2,000), or by imprisonment in a county~~  
6 ~~jail for not less than 30 days nor more than one year, or by both~~  
7 ~~that fine and imprisonment. However, if the person is imprisoned~~  
8 ~~in a county jail for at least 48 hours, the court may, in the interest~~  
9 ~~of justice and for reasons stated on the record, reduce or eliminate~~  
10 ~~the 30-day minimum imprisonment required by this subdivision.~~  
11 ~~In determining whether to reduce or eliminate the minimum~~  
12 ~~imprisonment pursuant to this subdivision, the court shall consider~~  
13 ~~the seriousness of the facts before the court, whether there are~~  
14 ~~additional allegations of a violation of the order during the~~  
15 ~~pendency of the case before the court, the probability of future~~  
16 ~~violations, the safety of the victim, and whether the defendant has~~  
17 ~~successfully completed or is making progress with counseling.~~

18 ~~(c) Subdivisions (a) and (b) shall apply to the following court~~  
19 ~~orders:~~

20 ~~(1) Any order issued pursuant to Section 6320 or 6389 of the~~  
21 ~~Family Code.~~

22 ~~(2) An order excluding one party from the family dwelling or~~  
23 ~~from the dwelling of the other.~~

24 ~~(3) An order enjoining a party from specified behavior that the~~  
25 ~~court determined was necessary to effectuate the order described~~  
26 ~~in subdivision (a).~~

27 ~~(4) Any order issued by another state that is recognized under~~  
28 ~~Part 5 (commencing with Section 6400) of Division 10 of the~~  
29 ~~Family Code.~~

30 ~~(d) A subsequent conviction for a violation of an order described~~  
31 ~~in subdivision (a), occurring within seven years of a prior~~  
32 ~~conviction for a violation of an order described in subdivision (a)~~  
33 ~~and involving an act of violence or “a credible threat” of violence,~~  
34 ~~as defined in subdivision (c) of Section 139, is punishable by~~  
35 ~~imprisonment in a county jail not to exceed one year, or pursuant~~  
36 ~~to subdivision (h) of Section 1170.~~

37 ~~(e) In the event of a subsequent conviction for a violation of an~~  
38 ~~order described in subdivision (a) for an act occurring within one~~  
39 ~~year of a prior conviction for a violation of an order described in~~  
40 ~~subdivision (a) that results in physical injury to a victim, the person~~

1 shall be punished by a fine of not more than two thousand dollars  
2 (\$2,000), or by imprisonment in a county jail for not less than six  
3 months nor more than one year, by both that fine and  
4 imprisonment, or by imprisonment pursuant to subdivision (h) of  
5 Section 1170. However, if the person is imprisoned in a county  
6 jail for at least 30 days, the court may, in the interest of justice and  
7 for reasons stated in the record, reduce or eliminate the six-month  
8 minimum imprisonment required by this subdivision. In  
9 determining whether to reduce or eliminate the minimum  
10 imprisonment pursuant to this subdivision, the court shall consider  
11 the seriousness of the facts before the court, whether there are  
12 additional allegations of a violation of the order during the  
13 pendency of the case before the court, the probability of future  
14 violations, the safety of the victim, and whether the defendant has  
15 successfully completed or is making progress with counseling.

16 (f) The prosecuting agency of each county shall have the primary  
17 responsibility for the enforcement of orders described in  
18 subdivisions (a), (b), (d), and (e).

19 (g) (1) Every person who owns, possesses, purchases, or  
20 receives a firearm knowing the person is prohibited from doing so  
21 by the provisions of a protective order as defined in Section 136.2  
22 of this code, Section 6218 of the Family Code, or Section 527.6,  
23 527.8, or 527.85 of the Code of Civil Procedure, or Section  
24 15657.03 of the Welfare and Institutions Code, shall be punished  
25 under Section 29825.

26 (2) Every person subject to a protective order described in  
27 paragraph (1) shall not be prosecuted under this section for owning,  
28 possessing, purchasing, or receiving a firearm to the extent that  
29 firearm is granted an exemption pursuant to subdivision (f) of  
30 Section 527.9 of the Code of Civil Procedure, or subdivision (h)  
31 of Section 6389 of the Family Code.

32 (h) If probation is granted upon conviction of a violation of  
33 subdivision (a), (b), (c), (d), or (e), the court shall impose probation  
34 consistent with Section 1203.097, and the conditions of probation  
35 may include, in lieu of a fine, that the defendant reimburse the  
36 victim for reasonable costs of counseling and other reasonable  
37 expenses that the court finds are the direct result of the defendant's  
38 offense.

39 (i) For any order to pay a fine, make payments to a battered  
40 women's shelter, or pay restitution as a condition of probation

1 under subdivision (e), the court shall make a determination of the  
2 defendant's ability to pay. In no event shall any order to make  
3 payments to a battered women's shelter be made if it would impair  
4 the ability of the defendant to pay direct restitution to the victim  
5 or court-ordered child support. Where the injury to a married person  
6 is caused in whole or in part by the criminal acts of the person's  
7 spouse in violation of this section, the community property may  
8 not be used to discharge the liability of the offending spouse for  
9 restitution to the injured spouse, required by Section 1203.04, as  
10 operative on or before August 2, 1995, or Section 1202.4, or to a  
11 shelter for costs with regard to the injured spouse and dependents,  
12 required by this section, until all separate property of the offending  
13 spouse is exhausted.

14 SEC. 47. Section 290.06 of the Penal Code is amended to read:  
15 290.06. The static SARATSO, as set forth in Section 290.04,  
16 shall be administered as follows:

17 (a) (1) The Department of Corrections and Rehabilitation shall  
18 assess every eligible person who is incarcerated in state prison.  
19 Whenever possible, the assessment shall take place at least four  
20 months, but no sooner than 10 months, prior to release from  
21 incarceration.

22 (2) The department shall assess every eligible person who is on  
23 parole if the person was not assessed prior to release from state  
24 prison. Whenever possible, the assessment shall take place at least  
25 four months, but no sooner than 10 months, prior to termination  
26 of parole. The department shall record in a database the risk  
27 assessment scores of persons assessed pursuant to this paragraph  
28 and paragraph (1), and any risk assessment score that was  
29 submitted to the department by a probation officer pursuant to  
30 Section 1203.

31 (3) The department shall assess every person on parole  
32 transferred from any other state or by the federal government to  
33 this state who has been, or is hereafter convicted in any other court,  
34 including any state, federal, or military court, of any offense that,  
35 if committed or attempted in this state, would have been punishable  
36 as one or more of the offenses described in subdivision (e) of  
37 Section 290. The assessment required by this paragraph shall occur  
38 no later than 60 days after a determination by the Department of  
39 Justice that the person is required to register as a sex offender in  
40 California pursuant to Section 290.005.

~~(4) The State Department of State Hospitals shall assess every eligible person who is committed to that department. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment. The State Department of State Hospitals shall record in a database the risk assessment scores of persons assessed pursuant to this paragraph and any risk assessment score that was submitted to the department by a probation officer pursuant to Section 1203.~~

~~(5) Commencing January 1, 2010, the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall send the scores obtained in accordance with paragraphs (2), (3), and (4) to the Department of Justice not later than 30 days after the date of the assessment. The risk assessment score of an offender shall be made part of the offender's file maintained by the Department of Justice as soon as possible without financial impact, but no later than January 1, 2012.~~

~~(6) Each probation department shall, prior to sentencing, assess every eligible person as defined in subdivision (e), whether or not a report is prepared pursuant to Section 1203.~~

~~(7) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (6). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.~~

~~(b) Eligible persons not assessed pursuant to subdivision (a) may be assessed as follows:~~

~~(1) Upon request of the law enforcement agency in the jurisdiction in which the person is registered pursuant to Sections 290 to 290.023, inclusive, the person shall be assessed. The law enforcement agency may enter into a memorandum of understanding with a probation department to perform the assessment. In the alternative, the law enforcement agency may arrange to have personnel trained to perform the risk assessment in accordance with subdivision (d) of Section 290.05.~~

~~(2) Eligible persons not assessed pursuant to subdivision (a) may request that a risk assessment be performed. A request form shall be available at registering law enforcement agencies. The risk assessment so requested shall be performed either by the probation department, if a memorandum of understanding is established between the law enforcement agency and the probation~~

1 department, or by personnel who have been trained to perform risk  
2 assessment in accordance with subdivision (d) of Section 290.05.

3 (e) ~~For purposes of this section, “eligible person” means a person~~  
4 ~~who was convicted of an offense that requires the person to register~~  
5 ~~as a sex offender pursuant to the Sex Offender Registration Act~~  
6 ~~and who is eligible for assessment, pursuant to the official Coding~~  
7 ~~Rules designated for use with the risk assessment instrument by~~  
8 ~~the author of any risk assessment instrument (SARATSO) selected~~  
9 ~~by the SARATSO Review Committee.~~

10 (d) ~~Persons authorized to perform risk assessments pursuant to~~  
11 ~~this section, Section 1203, and Section 706 of the Welfare and~~  
12 ~~Institutions Code shall be immune from liability for good faith~~  
13 ~~conduct under this act.~~

14 ~~SEC. 48:~~

15 *SEC. 35.* Section 295 of the Penal Code is amended to read:

16 295. (a) This chapter shall be known and may be cited as the  
17 DNA and Forensic Identification Database and Data Bank Act of  
18 1998, as amended.

19 (b) The people of the State of California set forth all of the  
20 following:

21 (1) Deoxyribonucleic acid (DNA) and forensic identification  
22 analysis is a useful law enforcement tool for identifying and  
23 prosecuting criminal offenders and exonerating the innocent.

24 (2) It is the intent of the people of the State of California, in  
25 order to further the purposes of this chapter, to require DNA and  
26 forensic identification data bank samples from all persons,  
27 including juveniles, for the felony and misdemeanor offenses  
28 described in subdivision (a) of Section 296.

29 (3) It is necessary to enact this act defining and governing the  
30 state’s DNA and forensic identification database and data bank in  
31 order to clarify existing law and to enable the state’s DNA and  
32 Forensic Identification Database and Data Bank Program to become  
33 a more effective law enforcement tool.

34 (c) The purpose of the DNA and Forensic Identification  
35 Database and Data Bank Program is to assist federal, state, and  
36 local criminal justice and law enforcement agencies within and  
37 outside California in the expeditious and accurate detection and  
38 prosecution of individuals responsible for sex offenses and other  
39 crimes, the exclusion of suspects who are being investigated for

1 these crimes, and the identification of missing and unidentified  
2 persons, particularly abducted children.

3 (d) Like the collection of fingerprints, the collection of DNA  
4 samples pursuant to this chapter is an administrative requirement  
5 to assist in the accurate identification of criminal offenders.

6 (e) Unless otherwise requested by the Department of Justice,  
7 collection of biological samples for DNA analysis from qualifying  
8 persons under this chapter is limited to collection of inner cheek  
9 cells of the mouth (buccal swab samples).

10 (f) The Department of Justice DNA Laboratory may obtain  
11 through federal, state, or local law enforcement agencies blood  
12 specimens from qualifying persons as defined in subdivision (a)  
13 of Section 296, and according to procedures set forth in Section  
14 298, when it is determined in the discretion of the Department of  
15 Justice that such specimens are necessary in a particular case or  
16 would aid the department in obtaining an accurate forensic DNA  
17 profile for identification purposes.

18 (g) The Department of Justice, through its DNA Laboratory,  
19 shall be responsible for the management and administration of the  
20 state's DNA and Forensic Identification Database and Data Bank  
21 Program and for liaison with the Federal Bureau of Investigation  
22 (FBI) regarding the state's participation in a national or  
23 international DNA database and data bank program such as the  
24 FBI's Combined DNA Index System (CODIS) that allows the  
25 storage and exchange of DNA records submitted by state and local  
26 forensic DNA laboratories nationwide.

27 (h) The Department of Justice shall be responsible for  
28 implementing this chapter.

29 (1) The Department of Justice DNA Laboratory, and the  
30 Department of Corrections and Rehabilitation may adopt policies  
31 and enact regulations for the implementation of this chapter, as  
32 necessary, to give effect to the intent and purpose of this chapter,  
33 and to ensure that data bank blood specimens, buccal swab samples,  
34 and thumb and palm print impressions as required by this chapter  
35 are collected from qualifying persons in a timely manner, as soon  
36 as possible after arrest, conviction, or a plea or finding of guilty,  
37 no contest, or not guilty by reason of insanity, or upon any  
38 disposition rendered in the case of a juvenile who is adjudicated  
39 under Section 602 of the Welfare and Institutions Code for  
40 commission of any of this chapter's enumerated qualifying

1 offenses, including attempts, or when it is determined that a  
2 qualifying person has not given the required specimens, ~~samples~~  
3 *samples*, or print impressions. Before adopting any policy or  
4 regulation implementing this chapter, the Department of  
5 Corrections and Rehabilitation shall seek advice from and consult  
6 with the Department of Justice DNA Laboratory Director.

7 (2) Given the specificity of this chapter, and except as provided  
8 in subdivision (c) of Section 298.1, any administrative bulletins,  
9 notices, regulations, policies, procedures, or guidelines adopted  
10 by the Department of Justice and its DNA Laboratory or the  
11 Department of Corrections and Rehabilitation for the purpose of  
12 ~~the~~ implementing this chapter are exempt from the provisions of  
13 the Administrative Procedure Act, Chapter 3.5 (commencing with  
14 Section 11340), Chapter 4 (commencing with Section 11370),  
15 Chapter 4.5 (commencing with Section 11400), and Chapter 5  
16 (commencing with Section 11500) of Part 1 of Division 3 of Title  
17 2 of the Government Code.

18 (3) The Department of Corrections and Rehabilitation shall  
19 submit copies of any of its policies and regulations with respect  
20 to this chapter to the Department of Justice DNA Laboratory  
21 Director, and quarterly shall submit to the director written reports  
22 updating the director as to the status of its compliance with this  
23 chapter.

24 (4) On or before April 1 in the year following adoption of the  
25 act that added this paragraph, and quarterly thereafter, the  
26 Department of Justice DNA Laboratory shall submit a quarterly  
27 report to be published electronically on a Department of Justice  
28 internet website and made available for public review. The  
29 quarterly report shall state the total number of samples received,  
30 the number of samples received from the Department of  
31 Corrections and Rehabilitation, the number of samples fully  
32 analyzed for inclusion in the CODIS database, and the number of  
33 profiles uploaded into the CODIS database for the reporting period.  
34 Each quarterly report shall state the total, annual, and quarterly  
35 number of qualifying profiles in the Department of Justice DNA  
36 Laboratory data bank both from persons and case evidence, and  
37 the number of hits and investigations aided, as reported to the  
38 National DNA Index System. The quarterly report shall also  
39 confirm the laboratory's accreditation status and participation in

1 CODIS and shall include an accounting of the funds collected,  
2 expended, and disbursed pursuant to subdivision (k).

3 (5) On or before April 1 in the year following adoption of the  
4 act that added this paragraph, and quarterly thereafter, the  
5 Department of Corrections and Rehabilitation shall submit a  
6 quarterly report to be published electronically on a Department of  
7 Corrections and Rehabilitation internet website and made available  
8 for public review. The quarterly report shall state the total number  
9 of inmates housed in state correctional facilities, including a  
10 breakdown of those housed in state prisons, camps, community  
11 correctional facilities, and other facilities such as prisoner mother  
12 facilities. Each quarterly report shall also state the total, annual,  
13 and quarterly number of inmates who have yet to provide  
14 specimens, ~~samples~~ *samples*, and print impressions pursuant to  
15 this chapter and the number of specimens, ~~samples~~ *samples*, and  
16 print impressions that have yet to be forwarded to the Department  
17 of Justice DNA Laboratory within 30 days of collection.

18 (i) (1) When the specimens, samples, and print impressions  
19 required by this chapter are collected at a county jail or other  
20 county facility, including a private community correctional facility,  
21 the county sheriff or chief administrative officer of the county jail  
22 or other *county* facility shall be responsible for ensuring all of the  
23 following:

24 (A) The requisite specimens, samples, and print impressions  
25 are collected from qualifying persons immediately following arrest,  
26 conviction, or adjudication, or during the booking or intake or  
27 reception center process at that facility, or reasonably promptly  
28 thereafter.

29 (B) The requisite specimens, samples, and print impressions  
30 are collected as soon as administratively practicable after a  
31 qualifying person reports to the facility for the purpose of providing  
32 specimens, samples, and print impressions.

33 (C) The specimens, samples, and print impressions collected  
34 pursuant to this chapter are forwarded immediately to the  
35 Department of Justice, and in compliance with department policies.

36 (2) The specimens, samples, and print impressions required by  
37 this chapter shall be collected by a person using a collection kit  
38 approved by the Department of Justice and in accordance with the  
39 requirements and procedures set forth in subdivision (b) of Section  
40 298.

1 (3) The counties shall be reimbursed for the costs of obtaining  
2 specimens, samples, and print impressions subject to the conditions  
3 and limitations set forth by the Department of Justice policies  
4 governing reimbursement for collecting specimens, samples, and  
5 print impressions pursuant to Section 76104.6 of the Government  
6 Code.

7 (j) The trial court may order that the defendant be assessed a  
8 reasonable portion of the cost of obtaining specimens, samples,  
9 and print impressions in furtherance of this chapter and the funds  
10 collected pursuant to this subdivision shall be deposited in the  
11 DNA Identification Fund as created by Section 76104.6 of the  
12 Government Code.

13 (k) The Department of Justice DNA Laboratory shall be known  
14 as the Jan Bashinski DNA Laboratory.

15 ~~SEC. 49. Section 597.3 of the Penal Code is amended to read:~~

16 ~~597.3. (a) Every person who operates a live animal market~~  
17 ~~shall do all of the following:~~

18 ~~(1) Provide that no animal will be dismembered, flayed, cut~~  
19 ~~open, or have its skin, scales, feathers, or shell removed while the~~  
20 ~~animal is still alive.~~

21 ~~(2) Provide that no live animals will be confined, held, or~~  
22 ~~displayed in a manner that results, or is likely to result, in injury,~~  
23 ~~starvation, dehydration, or suffocation.~~

24 ~~(b) As used in this section:~~

25 ~~(1) "Animal" means frogs, turtles, and birds sold for the purpose~~  
26 ~~of human consumption, with the exception of poultry.~~

27 ~~(2) "Live animal market" means a retail food market where, in~~  
28 ~~the regular course of business, animals are stored alive and sold~~  
29 ~~to consumers for the purpose of human consumption.~~

30 ~~(c) Any person who fails to comply with any requirement of~~  
31 ~~subdivision (a) shall for the first violation, be given a written~~  
32 ~~warning in a written language that is understood by the person~~  
33 ~~receiving the warning. A second or subsequent violation of~~  
34 ~~subdivision (a) shall be an infraction, punishable by a fine of not~~  
35 ~~less than two hundred fifty dollars (\$250), nor more than one~~  
36 ~~thousand dollars (\$1,000). However, a fine paid for a second~~  
37 ~~violation of subdivision (a) shall be deferred for six months if a~~  
38 ~~course is available that is administered by a state or local agency~~  
39 ~~on state law and local ordinances relating to live animal markets.~~

1 ~~If the defendant successfully completes that course within six~~  
2 ~~months of entry of judgment, the fine shall be waived.~~

3 ~~SEC. 50.~~

4 *SEC. 36.* Section 670 of the Penal Code is amended to read:

5 670. (a) Any person who violates Section 7158 or 7159 of, or  
6 subdivision (b), (c), (d), or (e) of Section 7161 of, the Business  
7 and Professions Code or Section 470, 484, 487, or 532 of this code  
8 as part of a plan or scheme to defraud an owner or lessee of a  
9 residential or nonresidential structure in connection with the offer  
10 or performance of repairs to the structure for damage caused by a  
11 natural disaster specified in subdivision (b), shall be subject to the  
12 penalties and enhancements specified in subdivisions (c) and (d).  
13 The existence of any fact which would bring a person under this  
14 section shall be alleged in the information or indictment and either  
15 admitted by the defendant in open court, or found to be true by the  
16 jury trying the issue of guilt or by the court where guilt is  
17 established by a plea of guilty or nolo contendere or by trial by  
18 the court sitting without a jury.

19 (b) This section applies to natural disasters for which a state of  
20 emergency is proclaimed by the Governor pursuant to Section  
21 8625 of the Government Code or for which an emergency or major  
22 disaster is declared by the President of the United States.

23 (c) The maximum or prescribed amounts of fines for offenses  
24 subject to this section shall be doubled. If the person has been  
25 previously convicted of a felony offense specified in subdivision  
26 (a), the person shall receive a one-year enhancement in addition  
27 to, and to run consecutively to, the term of imprisonment for any  
28 felony otherwise prescribed by this subdivision.

29 (d) Additionally, the court shall order any person sentenced  
30 pursuant to this section to make full restitution to the victim or to  
31 make restitution to the victim based on the person's ability to pay,  
32 as defined in paragraph (2) of subdivision (b) of Section 27755 of  
33 the Government Code. The payment of the restitution ordered by  
34 the court pursuant to this subdivision shall be made a condition of  
35 any probation granted by the court for an offense punishable under  
36 this section. Notwithstanding any other provision of law, the period  
37 of probation shall be at least five years or until full restitution is  
38 made to the victim, whichever first occurs.

39 (e) Notwithstanding any other provision of law, the prosecuting  
40 agency shall be entitled to recover its costs of investigation and

1 prosecution from any fines imposed for a conviction under this  
2 section.

3 ~~SEC. 51.~~

4 *SEC. 37.* Section 987 of the Penal Code is amended to read:

5 987. (a) In a noncapital case, if the defendant appears for  
6 arraignment without counsel, the defendant shall be informed by  
7 the court that it is their right to have counsel before being arraigned,  
8 and shall be asked if they desire the assistance of counsel. If the  
9 defendant desires and is unable to employ counsel the court shall  
10 assign counsel to defend them.

11 (b) In a capital case, if the defendant appears for arraignment  
12 without counsel, the court shall inform the defendant that they  
13 shall be represented by counsel at all stages of the preliminary and  
14 trial proceedings and that the representation is at their expense if  
15 they are able to employ counsel or at public expense if they are  
16 unable to employ counsel, inquire of them whether they are able  
17 to employ counsel and, if so, whether they desire to employ counsel  
18 of their choice or to have counsel assigned, and allow them a  
19 reasonable time to send for their chosen or assigned counsel. If  
20 the defendant is unable to employ counsel, the court shall assign  
21 counsel to defend them. If the defendant is able to employ counsel  
22 and either refuses to employ counsel or appears without counsel  
23 after having had a reasonable time to employ counsel, the court  
24 shall assign counsel.

25 The court shall at the first opportunity inform the defendant's  
26 trial counsel, whether retained by the defendant or court-appointed,  
27 of the additional duties imposed upon trial counsel in any capital  
28 case as set forth in paragraph (1) of subdivision (b) of Section  
29 1240.1.

30 (c) In order to assist the court in determining whether a  
31 defendant is able to employ counsel in any case, the court may  
32 require a defendant to file a financial statement or other financial  
33 information under penalty of perjury with the court or, in its  
34 discretion, order a defendant to appear before a county officer  
35 designated by the court to make an inquiry into the ability of the  
36 defendant to employ their own counsel. If a county officer is  
37 designated, the county officer shall provide to the court a written  
38 recommendation and the reason or reasons in support of the  
39 recommendation. The determination by the court shall be made  
40 on the record. Except as provided in Section 1214, the financial

1 statement or other financial information obtained from the  
2 defendant shall be confidential and privileged and shall not be  
3 admissible in evidence in any criminal proceeding except the  
4 prosecution of an alleged offense of perjury based upon false  
5 material contained in the financial statement. The financial  
6 statement shall be made available to the prosecution only for  
7 purposes of investigation of an alleged offense of perjury based  
8 upon false material contained in the financial statement at the  
9 conclusion of the proceedings for which the financial statement  
10 was required to be submitted.

11 (d) In a capital case, the court may appoint an additional attorney  
12 as a cocounsel upon a written request of the first attorney  
13 appointed. The request shall be supported by an affidavit of the  
14 first attorney setting forth in detail the reasons why a second  
15 attorney should be appointed. Any affidavit filed with the court  
16 shall be confidential and privileged. The court shall appoint a  
17 second attorney when it is convinced by the reasons stated in the  
18 affidavit that the appointment is necessary to provide the defendant  
19 with effective representation. If the request is denied, the court  
20 shall state on the record its reasons for denial of the request.

21 ~~SEC. 52.~~

22 *SEC. 38.* Section 987.2 of the Penal Code is amended to read:

23 987.2. (a) In any case in which a person, including a person  
24 who is a minor, desires but is unable to employ counsel, and in  
25 which counsel is assigned in the superior court to represent the  
26 person in a criminal trial, proceeding, or appeal, the following  
27 assigned counsel shall receive a reasonable sum for compensation  
28 and for necessary expenses, the amount of which shall be  
29 determined by the court, to be paid out of the general fund of the  
30 county:

31 (1) In a county or city and county in which there is no public  
32 defender.

33 (2) In a county of the first, second, or third class where there is  
34 no contract for criminal defense services between the county and  
35 one or more responsible attorneys.

36 (3) In a case in which the court finds that, because of a conflict  
37 of interest or other reasons, the public defender has properly  
38 refused.

39 (4) In a county of the first, second, or third class where attorneys  
40 contracted by the county are unable to represent the person accused.

1 (b) The sum provided for in subdivision (a) may be determined  
2 by contract between the court and one or more responsible  
3 attorneys after consultation with the board of supervisors as to the  
4 total amount of compensation and expenses to be paid, which shall  
5 be within the amount of funds allocated by the board of supervisors  
6 for the cost of assigned counsel in those cases.

7 (c) In counties that utilize an assigned private counsel system  
8 as either the primary method of public defense or as the method  
9 of appointing counsel in cases where the public defender is  
10 unavailable, the county, the courts, or the local county bar  
11 association working with the courts are encouraged to do all of  
12 the following:

13 (1) Establish panels that shall be open to members of the State  
14 Bar of California.

15 (2) Categorize attorneys for panel placement on the basis of  
16 experience.

17 (3) Refer cases to panel members on a rotational basis within  
18 the level of experience of each panel, except that a judge may  
19 exclude an individual attorney from appointment to an individual  
20 case for good cause.

21 (4) Seek to educate those panel members through an approved  
22 training program.

23 (d) In a county of the first, second, or third class, the court shall  
24 first utilize the services of the public defender to provide criminal  
25 defense services for indigent defendants. In the event that the public  
26 defender is unavailable and the county and the courts have  
27 contracted with one or more responsible attorneys or with a panel  
28 of attorneys to provide criminal defense services for indigent  
29 defendants, the court shall utilize the services of the  
30 county-contracted attorneys prior to assigning any other private  
31 counsel. Nothing in this subdivision shall be construed to require  
32 the appointment of counsel in any case in which the counsel has  
33 a conflict of interest. In the interest of justice, a court may depart  
34 from that portion of the procedure requiring appointment of a  
35 county-contracted attorney after making a finding of good cause  
36 and stating the reasons therefor on the record.

37 (e) In a county of the first, second, or third class, the court shall  
38 first utilize the services of the public defender to provide criminal  
39 defense services for indigent defendants. In the event that the public  
40 defender is unavailable and the county has created a second public

1 defender and contracted with one or more responsible attorneys  
2 or with a panel of attorneys to provide criminal defense services  
3 for indigent defendants, and if the quality of representation  
4 provided by the second public defender is comparable to the quality  
5 of representation provided by the public defender, the court shall  
6 next utilize the services of the second public defender and then  
7 the services of the county-contracted attorneys prior to assigning  
8 any other private counsel. Nothing in this subdivision shall be  
9 construed to require the appointment of counsel in any case in  
10 which the counsel has a conflict of interest. In the interest of justice,  
11 a court may depart from that portion of the procedure requiring  
12 appointment of the second public defender or a county-contracted  
13 attorney after making a finding of good cause and stating the  
14 reasons therefor on the record.

15 (f) In any case in which counsel is assigned as provided in  
16 subdivision (a), that counsel appointed by the court and any  
17 court-appointed licensed private investigator shall have the same  
18 rights and privileges to information as the public defender and the  
19 public defender investigator. It is the intent of the Legislature in  
20 enacting this subdivision to equalize any disparity that exists  
21 between the ability of private, court-appointed counsel and  
22 investigators, and public defenders and public defender  
23 investigators, to represent their clients. This subdivision is not  
24 intended to grant to private investigators access to any confidential  
25 Department of Motor Vehicles' information not otherwise available  
26 to them. This subdivision is not intended to extend to private  
27 investigators the right to issue subpoenas.

28 (g) Notwithstanding any other provision of this section, where  
29 an indigent defendant is first charged in one county and establishes  
30 an attorney-client relationship with the public defender, defense  
31 services contract attorney, or private attorney, and where the  
32 defendant is then charged with an offense in a second or subsequent  
33 county, the court in the second or subsequent county may appoint  
34 the same counsel as was appointed in the first county to represent  
35 the defendant when all of the following conditions are met:

36 (1) The offense charged in the second or subsequent county  
37 would be joinable for trial with the offense charged in the first if  
38 it took place in the same county, or involves evidence which would  
39 be cross-admissible.

1 (2) The court finds that the interests of justice and economy will  
2 be best served by unitary representation.

3 (3) Counsel appointed in the first county consents to the  
4 appointment.

5 (h) The county may recover costs of public defender services  
6 under Chapter 6 (commencing with Section 4750) of Title 5 of  
7 Part 3 for any case subject to Section 4750.

8 (i) Counsel shall be appointed to represent, in a misdemeanor  
9 case, a person who desires but is unable to employ counsel, when  
10 it appears that the appointment is necessary to provide an adequate  
11 and effective defense for the defendant. Appointment of counsel  
12 in an infraction case is governed by Section 19.6.

13 (j) As used in this section, “county of the first, second, or third  
14 class” means the county of the first class, county of the second  
15 class, and county of the third class as provided by Sections 28020,  
16 28022, 28023, and 28024 of the Government Code.

17 ~~SEC. 53.~~

18 *SEC. 39.* Section 987.4 of the Penal Code is repealed.

19 ~~SEC. 54.~~

20 *SEC. 40.* Section 987.5 of the Penal Code is repealed.

21 ~~SEC. 55.~~

22 *SEC. 41.* Section 987.8 of the Penal Code is repealed.

23 ~~SEC. 56.~~

24 *SEC. 42.* Section 987.81 of the Penal Code is repealed.

25 ~~SEC. 57.~~

26 *SEC. 43.* Section 1000.3 of the Penal Code is amended to read:

27 1000.3. (a) If it appears to the prosecuting attorney, the court,  
28 or the probation department that the defendant is performing  
29 unsatisfactorily in the assigned program, that the defendant is  
30 convicted of an offense that reflects the defendant’s propensity for  
31 violence, or that the defendant is convicted of a felony, the  
32 prosecuting attorney, the court on its own, or the probation  
33 department may make a motion for termination from pretrial  
34 diversion.

35 (b) After notice to the defendant, the court shall hold a hearing  
36 to determine whether pretrial diversion shall be terminated.

37 (c) If the court finds that the defendant is not performing  
38 satisfactorily in the assigned program, or the court finds that the  
39 defendant has been convicted of a crime as indicated in subdivision

1 (a), the court shall schedule the matter for further proceedings as  
2 otherwise provided in this code.

3 (d) If the defendant has completed pretrial diversion, at the end  
4 of that period, the criminal charge or charges shall be dismissed.

5 (e) Prior to dismissing the charge or charges or terminating  
6 pretrial diversion, the court shall consider the defendant's ability  
7 to pay and whether the defendant has paid a diversion restitution  
8 fee pursuant to Section 1001.90, if ordered, and has met their  
9 financial obligation to the program, if any.

10 ~~SEC. 58.~~

11 *SEC. 44.* Section 1001.15 of the Penal Code is repealed.

12 ~~SEC. 59.~~

13 *SEC. 45.* Section 1001.16 of the Penal Code is repealed.

14 ~~SEC. 60.~~

15 *SEC. 46.* Section 1001.90 of the Penal Code is amended to  
16 read:

17 1001.90. (a) For all persons charged with a felony or  
18 misdemeanor whose case is diverted by the court pursuant to this  
19 title, the court shall impose on the defendant a diversion restitution  
20 fee in addition to any other administrative fee provided or imposed  
21 under the law. This fee shall not be imposed upon persons whose  
22 case is diverted by the court pursuant to Chapter 2.8 (commencing  
23 with Section 1001.20).

24 (b) The diversion restitution fee imposed pursuant to this section  
25 shall be set at the discretion of the court and shall be commensurate  
26 with the seriousness of the offense, but shall not be less than one  
27 hundred dollars (\$100), and not more than one thousand dollars  
28 (\$1,000).

29 (c) The diversion restitution fee shall be ordered regardless of  
30 the defendant's present ability to pay. However, if the court finds  
31 that there are compelling and extraordinary reasons, the court may  
32 waive imposition of the fee. When the waiver is granted, the court  
33 shall state on the record all reasons supporting the waiver. Except  
34 as provided in this subdivision, the court shall impose the separate  
35 and additional diversion restitution fee required by this section.

36 (d) In setting the amount of the diversion restitution fee in excess  
37 of the ~~one hundred dollar~~ *one-hundred-dollar* (\$100) minimum,  
38 the court shall consider any relevant factors, including, but not  
39 limited to, the defendant's ability to pay, the seriousness and  
40 gravity of the offense and the circumstances of its commission,

1 any economic gain derived by the defendant as a result of the  
2 crime, and the extent to which any other person suffered any losses  
3 as a result of the crime. Those losses may include pecuniary losses  
4 to the victim or the victim's dependents as well as intangible losses,  
5 such as psychological harm caused by the crime. Consideration  
6 of a defendant's ability to pay may include the defendant's future  
7 earning capacity. A defendant shall bear the burden of  
8 demonstrating the lack of the defendant's ability to pay. Express  
9 findings by the court as to the factors bearing on the amount of  
10 the fee shall not be required. A separate hearing for the diversion  
11 restitution fee shall not be required.

12 (e) The court shall not limit the ability of the state to enforce  
13 the fee imposed by this section in the manner of a judgment in a  
14 civil action. The court shall not modify the amount of this fee  
15 except to correct an error in the setting of the amount of the fee  
16 imposed.

17 (f) The fee imposed pursuant to this section shall be immediately  
18 deposited in the Restitution Fund for use pursuant to Section 13967  
19 of the Government Code.

20 (g) As used in this section, "diversion" also means deferred  
21 entry of judgment pursuant to Chapter 2.5 (commencing with  
22 Section 1000).

23 ~~SEC. 61.~~

24 *SEC. 47.* Section 1202.4 of the Penal Code is amended to read:

25 1202.4. (a) (1) It is the intent of the Legislature that a victim  
26 of crime who incurs an economic loss as a result of the commission  
27 of a crime shall receive restitution directly from a defendant  
28 convicted of that crime.

29 (2) Upon a person being convicted of a crime in the State of  
30 California, the court shall order the defendant to pay a fine in the  
31 form of a penalty assessment in accordance with Section 1464.

32 (3) The court, in addition to any other penalty provided or  
33 imposed under the law, shall order the defendant to pay both of  
34 the following:

35 (A) A restitution fine in accordance with subdivision (b).

36 (B) Restitution to the victim or victims, if any, in accordance  
37 with subdivision (f), which shall be enforceable as if the order  
38 were a civil judgment.

39 (b) In every case where a person is convicted of a crime, the  
40 court shall impose a separate and additional restitution fine, unless

1 it finds compelling and extraordinary reasons for not doing so and  
2 states those reasons on the record.

3 (1) The restitution fine shall be set at the discretion of the court  
4 and commensurate with the seriousness of the offense. If the person  
5 is convicted of a felony, the fine shall not be less than three hundred  
6 dollars (\$300) and not more than ten thousand dollars (\$10,000).  
7 If the person is convicted of a misdemeanor, the fine shall not be  
8 less than one hundred fifty dollars (\$150) and not more than one  
9 thousand dollars (\$1,000).

10 (2) In setting a felony restitution fine, the court may determine  
11 the amount of the fine as the product of the minimum fine pursuant  
12 to paragraph (1) multiplied by the number of years of imprisonment  
13 the defendant is ordered to serve, multiplied by the number of  
14 felony counts of which the defendant is convicted.

15 (c) The court shall impose the restitution fine unless it finds  
16 compelling and extraordinary reasons for not doing so and states  
17 those reasons on the record. A defendant's inability to pay shall  
18 not be considered a compelling and extraordinary reason not to  
19 impose a restitution fine. Inability to pay may be considered only  
20 in increasing the amount of the restitution fine in excess of the  
21 minimum fine pursuant to paragraph (1) of subdivision (b). The  
22 court may specify that funds confiscated at the time of the  
23 defendant's arrest, except for funds confiscated pursuant to Chapter  
24 8 (commencing with Section 11469) of Division 10 of the Health  
25 and Safety Code, be applied to the restitution fine if the funds are  
26 not exempt for spousal or child support or subject to any other  
27 legal exemption.

28 (d) In setting the amount of the fine pursuant to subdivision (b)  
29 in excess of the minimum fine pursuant to paragraph (1) of  
30 subdivision (b), the court shall consider any relevant factors,  
31 including, but not limited to, the defendant's inability to pay, the  
32 seriousness and gravity of the offense and the circumstances of its  
33 commission, any economic gain derived by the defendant as a  
34 result of the crime, the extent to which any other person suffered  
35 losses as a result of the crime, and the number of victims involved  
36 in the crime. Those losses may include pecuniary losses to the  
37 victim or the victim's dependents as well as intangible losses, such  
38 as psychological harm caused by the crime. Consideration of a  
39 defendant's inability to pay may include the defendant's future  
40 earning capacity. A defendant shall bear the burden of

1 demonstrating the defendant's inability to pay. Express findings  
2 by the court as to the factors bearing on the amount of the fine  
3 shall not be required. A separate hearing for the fine shall not be  
4 required.

5 (e) The restitution fine shall not be subject to penalty  
6 assessments authorized in Section 1464 or Chapter 12  
7 (commencing with Section 76000) of Title 8 of the Government  
8 Code, or the state surcharge authorized in Section 1465.7, and  
9 shall be deposited in the Restitution Fund in the State Treasury.

10 (f) Except as provided in subdivisions (p) and (q), in every case  
11 in which a victim has suffered economic loss as a result of the  
12 defendant's conduct, the court shall require that the defendant  
13 make restitution to the victim or victims in an amount established  
14 by court order, based on the amount of loss claimed by the victim  
15 or victims or any other showing to the court. If the amount of loss  
16 cannot be ascertained at the time of sentencing, the restitution  
17 order shall include a provision that the amount shall be determined  
18 at the direction of the court. The court shall order full restitution.  
19 The court may specify that funds confiscated at the time of the  
20 defendant's arrest, except for funds confiscated pursuant to Chapter  
21 8 (commencing with Section 11469) of Division 10 of the Health  
22 and Safety Code, be applied to the restitution order if the funds  
23 are not exempt for spousal or child support or subject to any other  
24 legal exemption.

25 (1) The defendant has the right to a hearing before a judge to  
26 dispute the determination of the amount of restitution. The court  
27 may modify the amount, on its own motion or on the motion of  
28 the district attorney, the victim or victims, or the defendant. If a  
29 motion is made for modification of a restitution order, the victim  
30 shall be notified of that motion at least 10 days prior to the  
31 proceeding held to decide the motion. A victim at a restitution  
32 hearing or modification hearing described in this paragraph may  
33 testify by live, two-way audio and video transmission, if testimony  
34 by live, two-way audio and video transmission is available at the  
35 court.

36 (2) Determination of the amount of restitution ordered pursuant  
37 to this subdivision shall not be affected by the indemnification or  
38 subrogation rights of a third party. Restitution ordered pursuant to  
39 this subdivision shall be ordered to be deposited in the Restitution  
40 Fund to the extent that the victim, as defined in subdivision (k),

1 has received assistance from the California Victim Compensation  
2 Board pursuant to Chapter 5 (commencing with Section 13950)  
3 of Part 4 of Division 3 of Title 2 of the Government Code.

4 (3) To the extent possible, the restitution order shall be prepared  
5 by the sentencing court, shall identify each victim and each loss  
6 to which it pertains, and shall be of a dollar amount that is sufficient  
7 to fully reimburse the victim or victims for every determined  
8 economic loss incurred as the result of the defendant's criminal  
9 conduct, including, but not limited to, all of the following:

10 (A) Full or partial payment for the value of stolen or damaged  
11 property. The value of stolen or damaged property shall be the  
12 replacement cost of like property, or the actual cost of repairing  
13 the property when repair is possible.

14 (B) Medical expenses.

15 (C) Mental health counseling expenses.

16 (D) Wages or profits lost due to injury incurred by the victim,  
17 and if the victim is a minor, wages or profits lost by the minor's  
18 parent, parents, guardian, or guardians, while caring for the injured  
19 minor. Lost wages shall include commission income as well as  
20 base wages. Commission income shall be established by evidence  
21 of commission income during the 12-month period prior to the  
22 date of the crime for which restitution is being ordered, unless  
23 good cause for a shorter time period is shown.

24 (E) Wages or profits lost by the victim, and if the victim is a  
25 minor, wages or profits lost by the minor's parent, parents,  
26 guardian, or guardians, due to time spent as a witness or in assisting  
27 the police or prosecution. Lost wages shall include commission  
28 income as well as base wages. Commission income shall be  
29 established by evidence of commission income during the  
30 12-month period prior to the date of the crime for which restitution  
31 is being ordered, unless good cause for a shorter time period is  
32 shown.

33 (F) Noneconomic losses, including, but not limited to,  
34 psychological harm, for felony violations of Section 288, 288.5,  
35 or 288.7.

36 (G) Interest, at the rate of 10 percent per annum, that accrues  
37 as of the date of sentencing or loss, as determined by the court.

38 (H) Actual and reasonable attorney's fees and other costs of  
39 collection accrued by a private entity on behalf of the victim.

1 (I) Expenses incurred by an adult victim in relocating away  
2 from the defendant, including, but not limited to, deposits for  
3 utilities and telephone service, deposits for rental housing,  
4 temporary lodging and food expenses, clothing, and personal items.  
5 Expenses incurred pursuant to this section shall be verified by law  
6 enforcement to be necessary for the personal safety of the victim  
7 or by a mental health treatment provider to be necessary for the  
8 emotional well-being of the victim.

9 (J) Expenses to install or increase residential security incurred  
10 related to a violation of Section 273.5, or a violent felony as defined  
11 in subdivision (c) of Section 667.5, including, but not limited to,  
12 a home security device or system, or replacing or increasing the  
13 number of locks.

14 (K) Expenses to retrofit a residence or vehicle, or both, to make  
15 the residence accessible to or the vehicle operational by the victim,  
16 if the victim is permanently disabled, whether the disability is  
17 partial or total, as a direct result of the crime.

18 (L) Expenses for a period of time reasonably necessary to make  
19 the victim whole, for the costs to monitor the credit report of, and  
20 for the costs to repair the credit of, a victim of identity theft, as  
21 defined in Section 530.5.

22 (4) (A) If, as a result of the defendant's conduct, the Restitution  
23 Fund has provided assistance to or on behalf of a victim or  
24 derivative victim pursuant to Chapter 5 (commencing with Section  
25 13950) of Part 4 of Division 3 of Title 2 of the Government Code,  
26 the amount of assistance provided shall be presumed to be a direct  
27 result of the defendant's criminal conduct and shall be included  
28 in the amount of the restitution ordered.

29 (B) The amount of assistance provided by the Restitution Fund  
30 shall be established by copies of bills submitted to the California  
31 Victim Compensation Board reflecting the amount paid by the  
32 board and whether the services for which payment was made were  
33 for medical or dental expenses, funeral or burial expenses, mental  
34 health counseling, wage or support losses, or rehabilitation.  
35 Certified copies of these bills provided by the board and redacted  
36 to protect the privacy and safety of the victim or any legal privilege,  
37 together with a statement made under penalty of perjury by the  
38 custodian of records that those bills were submitted to and were  
39 paid by the board, shall be sufficient to meet this requirement.

1 (C) If the defendant offers evidence to rebut the presumption  
2 established by this paragraph, the court may release additional  
3 information contained in the records of the board to the defendant  
4 only after reviewing that information in camera and finding that  
5 the information is necessary for the defendant to dispute the amount  
6 of the restitution order.

7 (5) Except as provided in paragraph (6), in any case in which  
8 an order may be entered pursuant to this subdivision, the defendant  
9 shall prepare and file a disclosure identifying all assets, income,  
10 and liabilities in which the defendant held or controlled a present  
11 or future interest as of the date of the defendant's arrest for the  
12 crime for which restitution may be ordered. The financial disclosure  
13 statements shall be made available to the victim and the board  
14 pursuant to Section 1214. The disclosure shall be signed by the  
15 defendant upon a form approved or adopted by the Judicial Council  
16 for the purpose of facilitating the disclosure. A defendant who  
17 willfully states as true a material matter that the defendant knows  
18 to be false on the disclosure required by this subdivision is guilty  
19 of a misdemeanor, unless this conduct is punishable as perjury or  
20 another provision of law provides for a greater penalty.

21 (6) A defendant who fails to file the financial disclosure required  
22 in paragraph (5), but who has filed a financial affidavit or financial  
23 information pursuant to subdivision (c) of Section 987, shall be  
24 deemed to have waived the confidentiality of that affidavit or  
25 financial information as to a victim in whose favor the order of  
26 restitution is entered pursuant to subdivision (f). The affidavit or  
27 information shall serve in lieu of the financial disclosure required  
28 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
29 apply.

30 (7) Except as provided in paragraph (6), the defendant shall file  
31 the disclosure with the clerk of the court no later than the date set  
32 for the defendant's sentencing, unless otherwise directed by the  
33 court. The disclosure may be inspected or copied as provided by  
34 subdivision (b), (c), or (d) of Section 1203.05.

35 (8) In its discretion, the court may relieve the defendant of the  
36 duty under paragraph (7) of filing with the clerk by requiring that  
37 the defendant's disclosure be submitted as an attachment to, and  
38 be available to, those authorized to receive the following:

1 (A) A report submitted pursuant to subparagraph (D) of  
2 paragraph (2) of subdivision (b) of Section 1203 or subdivision  
3 (g) of Section 1203.

4 (B) A stipulation submitted pursuant to paragraph (4) of  
5 subdivision (b) of Section 1203.

6 (C) A report by the probation officer, or information submitted  
7 by the defendant applying for a conditional sentence pursuant to  
8 subdivision (d) of Section 1203.

9 (9) The court may consider a defendant's unreasonable failure  
10 to make a complete disclosure pursuant to paragraph (5) as any of  
11 the following:

12 (A) A circumstance in aggravation of the crime in imposing a  
13 term under subdivision (b) of Section 1170.

14 (B) A factor indicating that the interests of justice would not be  
15 served by admitting the defendant to probation under Section 1203.

16 (C) A factor indicating that the interests of justice would not be  
17 served by conditionally sentencing the defendant under Section  
18 1203.

19 (D) A factor indicating that the interests of justice would not  
20 be served by imposing less than the maximum fine and sentence  
21 fixed by law for the case.

22 (10) A defendant's failure or refusal to make the required  
23 disclosure pursuant to paragraph (5) shall not delay entry of an  
24 order of restitution or pronouncement of sentence. In appropriate  
25 cases, the court may do any of the following:

26 (A) Require the defendant to be examined by the district attorney  
27 pursuant to subdivision (h).

28 (B) If sentencing the defendant under Section 1170, provide  
29 that the victim shall receive a copy of the portion of the probation  
30 report filed pursuant to Section 1203.10 concerning the defendant's  
31 employment, occupation, finances, and liabilities.

32 (C) If sentencing the defendant under Section 1203, set a date  
33 and place for submission of the disclosure required by paragraph  
34 (5) as a condition of probation or suspended sentence.

35 (11) If a defendant has any remaining unpaid balance on a  
36 restitution order or fine 120 days prior to the defendant's scheduled  
37 release from probation or 120 days prior to the defendant's  
38 completion of a conditional sentence, the defendant shall prepare  
39 and file a new and updated financial disclosure identifying all  
40 assets, income, and liabilities in which the defendant holds or

1 controls or has held or controlled a present or future interest during  
2 the defendant's period of probation or conditional sentence. The  
3 financial disclosure shall be made available to the victim and the  
4 board pursuant to Section 1214. The disclosure shall be signed  
5 and prepared by the defendant on the same form as described in  
6 paragraph (5). A defendant who willfully states as true a material  
7 matter that the defendant knows to be false on the disclosure  
8 required by this subdivision is guilty of a misdemeanor, unless  
9 this conduct is punishable as perjury or another provision of law  
10 provides for a greater penalty. The financial disclosure required  
11 by this paragraph shall be filed with the clerk of the court no later  
12 than 90 days prior to the defendant's scheduled release from  
13 probation or completion of the defendant's conditional sentence.

14 (12) In cases where an employer is convicted of a crime against  
15 an employee, a payment to the employee or the employee's  
16 dependent that is made by the employer's workers' compensation  
17 insurance carrier shall not be used to offset the amount of the  
18 restitution order unless the court finds that the defendant  
19 substantially met the obligation to pay premiums for that insurance  
20 coverage.

21 (g) A defendant's inability to pay shall not be a consideration  
22 in determining the amount of a restitution order.

23 (h) The district attorney may request an order of examination  
24 pursuant to the procedures specified in Article 2 (commencing  
25 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
26 2 of the Code of Civil Procedure, in order to determine the  
27 defendant's financial assets for purposes of collecting on the  
28 restitution order.

29 (i) A restitution order imposed pursuant to subdivision (f) shall  
30 be enforceable as if the order were a civil judgment.

31 (j) The making of a restitution order pursuant to subdivision (f)  
32 shall not affect the right of a victim to recovery from the Restitution  
33 Fund as otherwise provided by law, except to the extent that  
34 restitution is actually collected pursuant to the order. Restitution  
35 collected pursuant to this subdivision shall be credited to any other  
36 judgments for the same losses obtained against the defendant  
37 arising out of the crime for which the defendant was convicted.

38 (k) For purposes of this section, "victim" shall include all of  
39 the following:

40 (1) The immediate surviving family of the actual victim.

1 (2) A corporation, business trust, estate, trust, partnership,  
2 association, joint venture, government, governmental subdivision,  
3 agency, or instrumentality, or any other legal or commercial entity  
4 when that entity is a direct victim of a crime.

5 (3) A person who has sustained economic loss as the result of  
6 a crime and who satisfies any of the following conditions:

7 (A) At the time of the crime was the parent, grandparent, sibling,  
8 spouse, child, or grandchild of the victim.

9 (B) At the time of the crime was living in the household of the  
10 victim.

11 (C) At the time of the crime was a person who had previously  
12 lived in the household of the victim for a period of not less than  
13 two years in a relationship substantially similar to a relationship  
14 listed in subparagraph (A).

15 (D) Is another family member of the victim, including, but not  
16 limited to, the victim's ~~fiancé or fiancée~~, *fiance*, and who witnessed  
17 the crime.

18 (E) Is the primary caretaker of a minor victim.

19 (4) A person who is eligible to receive assistance from the  
20 Restitution Fund pursuant to Chapter 5 (commencing with Section  
21 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

22 (5) A governmental entity that is responsible for repairing,  
23 replacing, or restoring public or privately owned property that has  
24 been defaced with graffiti or other inscribed material, as defined  
25 in subdivision (e) of Section 594, and that has sustained an  
26 economic loss as the result of a violation of Section 594, 594.3,  
27 594.4, 640.5, 640.6, or 640.7.

28 (l) In every case in which the defendant is granted probation,  
29 the court shall make the payment of restitution fines and orders  
30 imposed pursuant to this section a condition of probation. Any  
31 portion of a restitution order that remains unsatisfied after a  
32 defendant is no longer on probation shall continue to be enforceable  
33 by a victim pursuant to Section 1214 until the obligation is  
34 satisfied.

35 (m) If the court finds and states on the record compelling and  
36 extraordinary reasons why a restitution fine should not be required,  
37 the court shall order, as a condition of probation, that the defendant  
38 perform specified community service, unless it finds and states on  
39 the record compelling and extraordinary reasons not to require  
40 community service in addition to the finding that a restitution fine

1 should not be required. Upon revocation of probation, the court  
2 shall impose the restitution fine pursuant to this section.

3 (n) The provisions of Section 13963 of the Government Code  
4 shall apply to restitution imposed pursuant to this section.

5 (o) The court clerk shall notify the California Victim  
6 Compensation and Government Claims Board within 90 days of  
7 an order of restitution being imposed if the defendant is ordered  
8 to pay restitution to the board due to the victim receiving  
9 compensation from the Restitution Fund. Notification shall be  
10 accomplished by mailing a copy of the court order to the board,  
11 which may be done periodically by bulk mail or email.

12 (p) Upon conviction for a violation of Section 236.1, the court  
13 shall, in addition to any other penalty or restitution, order the  
14 defendant to pay restitution to the victim in a case in which a victim  
15 has suffered economic loss as a result of the defendant's conduct.  
16 The court shall require that the defendant make restitution to the  
17 victim or victims in an amount established by court order, based  
18 on the amount of loss claimed by the victim or victims or another  
19 showing to the court. In determining restitution pursuant to this  
20 section, the court shall base its order upon the greater of the  
21 following: the gross value of the victim's labor or services based  
22 upon the comparable value of similar services in the labor market  
23 in which the offense occurred, or the value of the victim's labor  
24 as guaranteed under California law, or the actual income derived  
25 by the defendant from the victim's labor or services or any other  
26 appropriate means to provide reparations to the victim.

27 (q) (1) In addition to any other penalty or fine, the court shall  
28 order a person who has been convicted of a violation of Section  
29 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording  
30 or audiovisual work to make restitution to an owner or lawful  
31 producer, or trade association acting on behalf of the owner or  
32 lawful producer, of a phonograph record, disc, wire, tape, film, or  
33 other device or article from which sounds or visual images are  
34 derived that suffered economic loss resulting from the violation.  
35 The order of restitution shall be based on the aggregate wholesale  
36 value of lawfully manufactured and authorized devices or articles  
37 from which sounds or visual images are devised corresponding to  
38 the number of nonconforming devices or articles involved in the  
39 offense, unless a higher value can be proved in the case of (A) an  
40 unreleased audio work, or (B) an audiovisual work that, at the time

1 of unauthorized distribution, has not been made available in copies  
2 for sale to the general public in the United States on a digital  
3 versatile disc. For purposes of this subdivision, possession of  
4 nonconforming devices or articles intended for sale constitutes  
5 actual economic loss to an owner or lawful producer in the form  
6 of displaced legitimate wholesale purchases. The order of  
7 restitution shall also include reasonable costs incurred as a result  
8 of an investigation of the violation undertaken by the owner, lawful  
9 producer, or trade association acting on behalf of the owner or  
10 lawful producer. "Aggregate wholesale value" means the average  
11 wholesale value of lawfully manufactured and authorized sound  
12 or audiovisual recordings. Proof of the specific wholesale value  
13 of each nonconforming device or article is not required.

14 (2) As used in this subdivision, "audiovisual work" and  
15 "recording" shall have the same meaning as in Section 653w.

16 ~~SEC. 62.~~

17 *SEC. 48.* Section 1202.42 of the Penal Code is amended to  
18 read:

19 1202.42. Upon entry of a restitution order under subdivision  
20 (c) of Section 13967 of the Government Code, as operative on or  
21 before September 28, 1994, paragraph (3) of subdivision (a) of  
22 Section 1202.4 of this code, or Section 1203.04 as operative on or  
23 before August 2, 1995, the following shall apply:

24 (a) The court shall enter a separate order for income deduction  
25 upon determination of the defendant's ability to pay, regardless  
26 of the probation status, in accordance with Section 1203.  
27 Determination of a defendant's ability to pay may include the  
28 defendant's future earning capacity. A defendant shall bear the  
29 burden of demonstrating lack of the defendant's ability to pay.  
30 Express findings by the court as to the factors bearing on the  
31 amount of the fine shall not be required.

32 (b) (1) In any case in which the court enters a separate order  
33 for income deduction under this section, the order shall be stayed  
34 until the agency in the county responsible for collection of  
35 restitution determines that the defendant has failed to meet the  
36 defendant's obligation under the restitution order and the defendant  
37 has not provided the agency with good cause for the failure in  
38 accordance with paragraph (2).

39 (2) If the agency responsible for collection of restitution receives  
40 information that the defendant has failed to meet the defendant's

1 obligation under the restitution order, the agency shall request the  
2 defendant to provide evidence indicating that timely payments  
3 have been made or provide information establishing good cause  
4 for the failure. If the defendant fails to either provide the agency  
5 with the evidence or fails to establish good cause within five days  
6 of the request, the agency shall immediately inform the defendant  
7 of that fact, and shall inform the clerk of the court in order that an  
8 income deduction order will be served pursuant to subdivision (f)  
9 following a 15-day appeal period. The defendant may apply for a  
10 hearing to contest the lifting of the stay pursuant to subdivision  
11 (f).

12 (c) The income deduction order shall direct a payer to deduct  
13 from all income due and payable to the defendant the amount  
14 required by the court to meet the defendant's obligation.

15 (d) The income deduction order shall be effective so long as the  
16 order for restitution upon which it is based is effective or until  
17 further order of the court.

18 (e) When the court orders the income deduction, the court shall  
19 furnish to the defendant a statement of the defendant's rights,  
20 remedies, and duties in regard to the income deduction order. The  
21 statement shall state all of the following:

22 (1) The total amount of income to be deducted for each pay  
23 period.

24 (2) That the income deduction order applies to current and  
25 subsequent payers and periods of employment.

26 (3) That a copy of the income deduction order will be served  
27 on the defendant's payer or payers.

28 (4) That enforcement of the income deduction order may only  
29 be contested on the ground of mistake of fact regarding the amount  
30 of restitution owed.

31 (5) That the defendant is required to notify the clerk of the court  
32 within seven days after changes in the defendant's address, payers,  
33 and the addresses of the defendant's payers.

34 (6) That the court order will be stayed in accordance with  
35 subdivision (b) and that a hearing is available in accordance with  
36 subdivision (f).

37 (f) (1) Upon receiving the notice described in paragraph (2) of  
38 subdivision (b), the clerk of the court or officer of the agency  
39 responsible for collection of restitution shall serve an income  
40 deduction order and the notice to payer on the defendant's payer

1 unless the defendant has applied for a hearing to contest the  
2 enforcement of the income deduction order.

3 (2) (A) Service by or upon any person who is a party to a  
4 proceeding under this section shall be made in the manner  
5 prescribed for service upon parties in a civil action.

6 (B) Service upon the defendant's payer or successor payer under  
7 this section shall be made by prepaid certified mail, return receipt  
8 requested.

9 (3) The defendant, within 15 days after being informed that the  
10 order staying the income deduction order will be lifted, may apply  
11 for a hearing to contest the enforcement of the income deduction  
12 order on the ground of mistake of fact regarding the amount of  
13 restitution owed or on the ground that the defendant has established  
14 good cause for the nonpayment. The timely request for a hearing  
15 shall stay the service of an income deduction order on all payers  
16 of the defendant until a hearing is held and a determination is made  
17 as to whether the enforcement of the income deduction order is  
18 proper.

19 (4) The notice to any payer required by this subdivision shall  
20 contain only information necessary for the payer to comply with  
21 the income deduction order. The notice shall do all of the  
22 following:

23 (A) Require the payer to deduct from the defendant's income  
24 the amount specified in the income deduction order, and to pay  
25 that amount to the clerk of the court.

26 (B) Instruct the payer to implement the income deduction order  
27 no later than the first payment date that occurs more than 14 days  
28 after the date the income deduction order was served on the payer.

29 (C) Instruct the payer to forward, within two days after each  
30 payment date, to the clerk of the court the amount deducted from  
31 the defendant's income and a statement as to whether the amount  
32 totally or partially satisfies the periodic amount specified in the  
33 income deduction order.

34 (D) Specify that if a payer fails to deduct the proper amount  
35 from the defendant's income, the payer is liable for the amount  
36 the payer should have deducted, plus costs, interest, and reasonable  
37 attorney's fees.

38 (E) State that the income deduction order and the notice to payer  
39 are binding on the payer until further notice by the court or until  
40 the payer no longer provides income to the defendant.

1 (F) Instruct the payer that, when the payer no longer provides  
2 income to the defendant, the payer shall notify the clerk of the  
3 court and shall also provide the defendant's last known address  
4 and the name and address of the defendant's new payer, if known,  
5 and that, if the payer violates this provision, the payer is subject  
6 to a civil penalty not to exceed two hundred fifty dollars (\$250)  
7 for the first violation or five hundred dollars (\$500) for any  
8 subsequent violation.

9 (G) State that the payer shall not discharge, refuse to employ,  
10 or take disciplinary action against the defendant because of an  
11 income deduction order and shall state that a violation of this  
12 provision subjects the payer to a civil penalty not to exceed two  
13 hundred fifty dollars (\$250) for the first violation or five hundred  
14 dollars (\$500) for any subsequent violation.

15 (H) Inform the payer that when the payer receives income  
16 deduction orders requiring that the income of two or more  
17 defendants be deducted and sent to the same clerk of a court, the  
18 payer may combine the amounts that are to be paid to the  
19 depository in a single payment as long as the payer identifies that  
20 portion of the payment attributable to each defendant.

21 (I) Inform the payer that if the payer receives more than one  
22 income deduction order against the same defendant, the payer shall  
23 contact the court for further instructions.

24 (5) The clerk of the court shall enforce income deduction orders  
25 against the defendant's successor payer who is located in this state  
26 in the same manner prescribed in this subdivision for the  
27 enforcement of an income deduction order against a payer.

28 (6) A person may not discharge, refuse to employ, or take  
29 disciplinary action against an employee because of the enforcement  
30 of an income deduction order. An employer who violates this  
31 provision is subject to a civil penalty not to exceed two hundred  
32 fifty dollars (\$250) for the first violation or five hundred dollars  
33 (\$500) for any subsequent violation.

34 (7) When a payer no longer provides income to a defendant,  
35 the payer shall notify the clerk of the court and shall provide the  
36 defendant's last known address and the name and address of the  
37 defendant's new payer, if known. A payer who violates this  
38 provision is subject to a civil penalty not to exceed two hundred  
39 fifty dollars (\$250) for the first violation or five hundred dollars  
40 (\$500) for a subsequent violation.

(g) If the defendant has failed to meet the defendant's obligation under the restitution order and the defendant has not provided good cause for the failure in accordance with the process set forth in paragraph (2) of subdivision (b), the court may, upon the request of the prosecuting attorney, order that the prosecuting attorney be given authority to use lien procedures applicable to the defendant, including, but not limited to, a writ of attachment of property. This authority is in addition to any authority granted to the prosecuting attorney in subdivision (h).

(1) If the court authorizes a lien or other similar encumbrance on real property pursuant to this subdivision, the court shall, within 15 days, furnish to the defendant a statement of the defendant's rights, remedies, and duties in regard to the order. The statement shall state all of the following:

(A) That the lien is enforceable and collectible by execution issued by order of the court, except that a lien shall not be enforced by writ of execution on a defendant's principal place of residence.

(B) A legal description of the property to be encumbered.

(C) The total amount of restitution still owed by the defendant.

(D) That enforcement of the lien order may only be contested on the ground of mistake of fact regarding the amount of restitution owed or on the ground of mistake of fact regarding the defendant's ownership interest of the property to be encumbered.

(E) That a hearing is available in accordance with paragraph (2).

(F) That, upon paying the restitution order in full, the defendant may petition the court for a full release of any related encumbrance in accordance with paragraph (3).

(2) The defendant, within 15 days after being informed that a lien or other similar encumbrance on real property has been ordered, may apply for a hearing to contest the enforcement order on the ground of mistake of fact regarding the amount of restitution owed, on the ground of mistake of fact regarding the defendant's ownership interest of the property to be encumbered, or on the ground that the defendant has established good cause for the nonpayment. The timely request for a hearing shall stay any execution on the lien until a hearing is held and a determination is made as to whether the enforcement order is proper.

(3) Upon payment of the restitution order in full, the defendant may petition the court to issue an order directing the clerk of the

1 court to execute a full reconveyance of title, a certificate of  
2 discharge, or a full release of any lien against real property created  
3 to secure performance of the restitution order.

4 (4) Neither a prosecutorial agency nor a prosecuting attorney  
5 shall be liable for an injury caused by an act or omission in  
6 exercising the authority granted by this subdivision.

7 (h) If there is no agency in the county responsible for the  
8 collection of restitution, the county probation office or the  
9 prosecuting attorney may carry out the functions and duties of  
10 such an agency as specified in subdivisions (b) and (f).

11 (i) A prosecuting attorney shall not make any collection against,  
12 or take any percentage of, the defendant's income or assets to  
13 reimburse the prosecuting attorney for administrative costs in  
14 carrying out any action authorized by this section.

15 (j) As used in this section, "good cause" for failure to meet an  
16 obligation or "good cause" for nonpayment means, but shall not  
17 be limited to, any of the following:

18 (1) That there has been a substantial change in the defendant's  
19 economic circumstances, such as involuntary unemployment,  
20 involuntary cost-of-living increases, or costs incurred as the result  
21 of medical circumstances or a natural disaster.

22 (2) That the defendant reasonably believes there has been an  
23 administrative error with regard to the defendant's obligation for  
24 payment.

25 (3) Any other similar and justifiable reasons.

26 ~~SEC. 63.~~

27 *SEC. 49.* Section 1203 of the Penal Code is amended to read:

28 1203. (a) As used in this code, "probation" means the  
29 suspension of the imposition or execution of a sentence and the  
30 order of conditional and revocable release in the community under  
31 the supervision of a probation officer. As used in this code,  
32 "conditional sentence" means the suspension of the imposition or  
33 execution of a sentence and the order of revocable release in the  
34 community subject to conditions established by the court without  
35 the supervision of a probation officer. It is the intent of the  
36 Legislature that both conditional sentence and probation are  
37 authorized whenever probation is authorized in any code as a  
38 sentencing option for infractions or misdemeanors.

39 (b) (1) Except as provided in subdivision (j), if a person is  
40 convicted of a felony and is eligible for probation, before judgment

1 is pronounced, the court shall immediately refer the matter to a  
2 probation officer to investigate and report to the court, at a specified  
3 time, upon the circumstances surrounding the crime and the prior  
4 history and record of the person, which may be considered either  
5 in aggravation or mitigation of the punishment.

6 (2) (A) The probation officer shall immediately investigate and  
7 make a written report to the court of the officer's findings and  
8 recommendations, including the officer's recommendations as to  
9 the granting or denying of probation and the conditions of  
10 probation, if granted.

11 (B) Pursuant to Section 828 of the Welfare and Institutions  
12 Code, the probation officer shall include in the officer's report any  
13 information gathered by a law enforcement agency relating to the  
14 taking of the defendant into custody as a minor, which shall be  
15 considered for purposes of determining whether adjudications of  
16 commissions of crimes as a juvenile warrant a finding that there  
17 are circumstances in aggravation pursuant to Section 1170 or to  
18 deny probation.

19 (C) If the person was convicted of an offense that requires the  
20 person to register as a sex offender pursuant to Sections 290 to  
21 290.023, inclusive, or if the probation report recommends that  
22 registration be ordered at sentencing pursuant to Section 290.006,  
23 the probation officer's report shall include the results of the  
24 State-Authorized Risk Assessment Tool for Sex Offenders  
25 (SARATSO) administered pursuant to Sections 290.04 to 290.06,  
26 inclusive, if applicable.

27 (D) The probation officer may also include in the report the  
28 officer's recommendation of both of the following:

29 (i) The amount the defendant should be required to pay as a  
30 restitution fine pursuant to subdivision (b) of Section 1202.4.

31 (ii) Whether the court shall require, as a condition of probation,  
32 restitution to the victim or to the Restitution Fund and the amount  
33 thereof.

34 (E) The report shall be made available to the court and the  
35 prosecuting and defense attorneys at least five days, or upon request  
36 of the defendant or prosecuting attorney nine days, prior to the  
37 time fixed by the court for the hearing and determination of the  
38 report, and shall be filed with the clerk of the court as a record in  
39 the case at the time of the hearing. The time within which the report  
40 shall be made available and filed may be waived by written

1 stipulation of the prosecuting and defense attorneys that is filed  
2 with the court or an oral stipulation in open court that is made and  
3 entered upon the minutes of the court.

4 (3) At a time fixed by the court, the court shall hear and  
5 determine the application, if one has been made, or, in any case,  
6 the suitability of probation in the particular case. At the hearing,  
7 the court shall consider any report of the probation officer,  
8 including the results of the SARATSO, if applicable, and shall  
9 make a statement that it has considered the report, which shall be  
10 filed with the clerk of the court as a record in the case. If the court  
11 determines that there are circumstances in mitigation of the  
12 punishment prescribed by law or that the ends of justice would be  
13 served by granting probation to the person, it may place the person  
14 on probation. If probation is denied, the clerk of the court shall  
15 immediately send a copy of the report to the Department of  
16 Corrections and Rehabilitation at the prison or other institution to  
17 which the person is delivered.

18 (4) The preparation of the report or the consideration of the  
19 report by the court may be waived only by a written stipulation of  
20 the prosecuting and defense attorneys that is filed with the court  
21 or an oral stipulation in open court that is made and entered upon  
22 the minutes of the court, except that a waiver shall not be allowed  
23 unless the court consents thereto. However, if the defendant is  
24 ultimately sentenced and committed to the state prison, a probation  
25 report shall be completed pursuant to Section 1203c.

26 (c) If a defendant is not represented by an attorney, the court  
27 shall order the probation officer who makes the probation report  
28 to discuss its contents with the defendant.

29 (d) If a person is convicted of a misdemeanor, the court may  
30 either refer the matter to the probation officer for an investigation  
31 and a report or summarily pronounce a conditional sentence. If  
32 the person was convicted of an offense that requires the person to  
33 register as a sex offender pursuant to Sections 290 to 290.023,  
34 inclusive, or if the probation officer recommends that the court,  
35 at sentencing, order the offender to register as a sex offender  
36 pursuant to Section 290.006, the court shall refer the matter to the  
37 probation officer for the purpose of obtaining a report on the results  
38 of the State-Authorized Risk Assessment Tool for Sex Offenders  
39 administered pursuant to Sections 290.04 to 290.06, inclusive, if  
40 applicable, which the court shall consider. If the case is not referred

1 to the probation officer, in sentencing the person, the court may  
2 consider any information concerning the person that could have  
3 been included in a probation report. The court shall inform the  
4 person of the information to be considered and permit the person  
5 to answer or controvert the information. For this purpose, upon  
6 the request of the person, the court shall grant a continuance before  
7 the judgment is pronounced.

8 (e) Except in unusual cases where the interests of justice would  
9 best be served if the person is granted probation, probation shall  
10 not be granted to any of the following persons:

11 (1) Unless the person had a lawful right to carry a deadly  
12 weapon, other than a firearm, at the time of the perpetration of the  
13 crime or arrest, any person who has been convicted of arson,  
14 robbery, carjacking, burglary, burglary with explosives, rape with  
15 force or violence, torture, aggravated mayhem, murder, attempt  
16 to commit murder, trainwrecking, kidnapping, escape from the  
17 state prison, or a conspiracy to commit one or more of those crimes  
18 and who was armed with the weapon at either of those times.

19 (2) Any person who used, or attempted to use, a deadly weapon  
20 upon a human being in connection with the perpetration of the  
21 crime of which the person has been convicted.

22 (3) Any person who willfully inflicted great bodily injury or  
23 torture in the perpetration of the crime of which the person has  
24 been convicted.

25 (4) Any person who has been previously convicted twice in this  
26 state of a felony or in any other place of a public offense which,  
27 if committed in this state, would have been punishable as a felony.

28 (5) Unless the person has never been previously convicted once  
29 in this state of a felony or in any other place of a public offense  
30 which, if committed in this state, would have been punishable as  
31 a felony, any person who has been convicted of burglary with  
32 explosives, rape with force or violence, torture, aggravated  
33 mayhem, murder, attempt to commit murder, trainwrecking,  
34 extortion, kidnapping, escape from the state prison, a violation of  
35 Section 286, 287, 288, or 288.5, or of former Section 288a, or a  
36 conspiracy to commit one or more of those crimes.

37 (6) Any person who has been previously convicted once in this  
38 state of a felony or in any other place of a public offense which,  
39 if committed in this state, would have been punishable as a felony,  
40 if the person committed any of the following acts:

1 (A) Unless the person had a lawful right to carry a deadly  
2 weapon at the time of the perpetration of the previous crime or  
3 arrest for the previous crime, the person was armed with a weapon  
4 at either of those times.

5 (B) The person used, or attempted to use, a deadly weapon upon  
6 a human being in connection with the perpetration of the previous  
7 crime.

8 (C) The person willfully inflicted great bodily injury or torture  
9 in the perpetration of the previous crime.

10 (7) Any public official or peace officer of this state or any city,  
11 county, or other political subdivision who, in the discharge of the  
12 duties of their public office or employment, accepted or gave or  
13 offered to accept or give any bribe, embezzled public money, or  
14 was guilty of extortion.

15 (8) Any person who knowingly furnishes or gives away  
16 phencyclidine.

17 (9) Any person who intentionally inflicted great bodily injury  
18 in the commission of arson under subdivision (a) of Section 451  
19 or who intentionally set fire to, burned, or caused the burning of,  
20 an inhabited structure or inhabited property in violation of  
21 subdivision (b) of Section 451.

22 (10) Any person who, in the commission of a felony, inflicts  
23 great bodily injury or causes the death of a human being by the  
24 discharge of a firearm from or at an occupied motor vehicle  
25 proceeding on a public street or highway.

26 (11) Any person who possesses a short-barreled rifle or a  
27 short-barreled shotgun under Section 33215, a machinegun under  
28 Section 32625, or a silencer under Section 33410.

29 (12) Any person who is convicted of violating Section 8101 of  
30 the Welfare and Institutions Code.

31 (13) Any person who is described in subdivision (b) or (c) of  
32 Section 27590.

33 (f) When probation is granted in a case which comes within  
34 subdivision (e), the court shall specify on the record and shall enter  
35 on the minutes the circumstances indicating that the interests of  
36 justice would best be served by that disposition.

37 (g) If a person is not eligible for probation, the judge shall refer  
38 the matter to the probation officer for an investigation of the facts  
39 relevant to determination of the amount of a restitution fine  
40 pursuant to subdivision (b) of Section 1202.4 in all cases where

1 the determination is applicable. The judge, in the judge's discretion,  
2 may direct the probation officer to investigate all facts relevant to  
3 the sentencing of the person. Upon that referral, the probation  
4 officer shall immediately investigate the circumstances surrounding  
5 the crime and the prior record and history of the person and make  
6 a written report to the court of the officer's findings. The findings  
7 shall include a recommendation of the amount of the restitution  
8 fine as provided in subdivision (b) of Section 1202.4.

9 (h) If a defendant is convicted of a felony and a probation report  
10 is prepared pursuant to subdivision (b) or (g), the probation officer  
11 may obtain and include in the report a statement of the comments  
12 of the victim concerning the offense. The court may direct the  
13 probation officer not to obtain a statement if the victim has in fact  
14 testified at any of the court proceedings concerning the offense.

15 (i) A probationer shall not be released to enter another state  
16 unless the probationer's case has been referred to the Administrator  
17 of the Interstate Probation and Parole Compacts, pursuant to the  
18 Uniform Act for Out-of-State Probationer or Parolee Supervision  
19 (Article 3 (commencing with Section 11175) of Chapter 2 of Title  
20 1 of Part 4).

21 (j) In any court where a county financial evaluation officer is  
22 available, in addition to referring the matter to the probation officer,  
23 the court may order the defendant to appear before the county  
24 financial evaluation officer for a financial evaluation of the  
25 defendant's ability to pay restitution, in which case the county  
26 financial evaluation officer shall report the county financial  
27 evaluation officer's findings regarding restitution to the probation  
28 officer on the question of the defendant's ability to pay restitution.

29 Any order made pursuant to this subdivision may be enforced  
30 as a violation of the terms and conditions of probation upon willful  
31 failure to pay and at the discretion of the court, may be enforced  
32 in the same manner as a judgment in a civil action, if any balance  
33 remains unpaid at the end of the defendant's probationary period.

34 (k) Probation shall not be granted to, nor shall the execution of,  
35 or imposition of sentence be suspended for, any person who is  
36 convicted of a violent felony, as defined in subdivision (c) of  
37 Section 667.5, or a serious felony, as defined in subdivision (c) of  
38 Section 1192.7, and who was on probation for a felony offense at  
39 the time of the commission of the new felony offense.

1 (l) For any person granted probation prior to January 1, 2021,  
2 at the time the court imposes probation, the court may take a waiver  
3 from the defendant permitting flash incarceration by the probation  
4 officer, pursuant to Section 1203.35.

5 ~~SEC. 64.~~

6 SEC. 50. Section 1203.016 of the Penal Code is amended to  
7 read:

8 1203.016. (a) Notwithstanding any other law, the board of  
9 supervisors of any county may authorize the correctional  
10 administrator, as defined in subdivision (g), to offer a program  
11 under which inmates committed to a county jail or other county  
12 correctional facility or granted probation, or inmates participating  
13 in a work furlough program, may voluntarily participate or  
14 involuntarily be placed in a home detention program during their  
15 sentence in lieu of confinement in a county jail or other county  
16 correctional facility or program under the auspices of the probation  
17 officer.

18 (b) The board of supervisors, in consultation with the  
19 correctional administrator, may prescribe reasonable rules and  
20 regulations under which a home detention program may operate.  
21 As a condition of participation in the home detention program, the  
22 inmate shall give consent in writing to participate in the home  
23 detention program and shall in writing agree to comply or, for  
24 involuntary participation, the inmate shall be informed in writing  
25 that the inmate shall comply, with the rules and regulations of the  
26 program, including, but not limited to, the following rules:

27 (1) The participant shall remain within the interior premises of  
28 the participant's residence during the hours designated by the  
29 correctional administrator.

30 (2) The participant shall admit any person or agent designated  
31 by the correctional administrator into the participant's residence  
32 at any time for purposes of verifying the participant's compliance  
33 with the conditions of the detention.

34 (3) The participant shall agree to the use of electronic  
35 monitoring, which may include Global Positioning System devices  
36 or other supervising devices for the purpose of helping to verify  
37 compliance with the rules and regulations of the home detention  
38 program. The devices shall not be used to eavesdrop or record any  
39 conversation, except a conversation between the participant and

1 the person supervising the participant which is to be used solely  
2 for the purposes of voice identification.

3 (4) The participant shall agree that the correctional administrator  
4 in charge of the county correctional facility from which the  
5 participant was released may, without further order of the court,  
6 immediately retake the person into custody to serve the balance  
7 of the person's sentence if the electronic monitoring or supervising  
8 devices are unable for any reason to properly perform their function  
9 at the designated place of home detention, if the person fails to  
10 remain within the place of home detention as stipulated in the  
11 agreement, or if the person for any other reason no longer meets  
12 the established criteria under this section. A copy of the agreement  
13 shall be delivered to the participant and a copy retained by the  
14 correctional administrator.

15 (c) If the peace officer supervising a participant has reasonable  
16 cause to believe that the participant is not complying with the rules  
17 or conditions of the program, or that the electronic monitoring  
18 devices are unable to function properly in the designated place of  
19 confinement, the peace officer may, under general or specific  
20 authorization of the correctional administrator, and without a  
21 warrant of arrest, retake the person into custody to complete the  
22 remainder of the original sentence.

23 (d) Nothing in this section shall be construed to require the  
24 correctional administrator to allow a person to participate in this  
25 program if it appears from the record that the person has not  
26 satisfactorily complied with reasonable rules and regulations while  
27 in custody. A person shall be eligible for participation in a home  
28 detention program only if the correctional administrator concludes  
29 that the person meets the criteria for release established under this  
30 section and that the person's participation is consistent with any  
31 reasonable rules and regulations prescribed by the board of  
32 supervisors or the administrative policy of the correctional  
33 administrator.

34 (1) The rules and regulations and administrative policy of the  
35 program shall be written and reviewed on an annual basis by the  
36 county board of supervisors and the correctional administrator.  
37 The rules and regulations shall be given to or made available to  
38 any participant upon request.

39 (2) The correctional administrator, or the administrator's  
40 designee, shall have the sole discretionary authority to permit

1 program participation as an alternative to physical custody. All  
2 persons referred or recommended by the court to participate in the  
3 home detention program pursuant to subdivision (e) who are denied  
4 participation or all persons removed from program participation  
5 shall be notified in writing of the specific reasons for the denial  
6 or removal. The notice of denial or removal shall include the  
7 participant's appeal rights, as established by program administrative  
8 policy.

9 (e) The court may recommend or refer a person to the  
10 correctional administrator for consideration for placement in the  
11 home detention program. The recommendation or referral of the  
12 court shall be given great weight in the determination of acceptance  
13 or denial. At the time of sentencing or at any time that the court  
14 deems it necessary, the court may restrict or deny the defendant's  
15 participation in a home detention program.

16 (f) The correctional administrator may permit home detention  
17 program participants to seek and retain employment in the  
18 community, attend psychological counseling sessions or  
19 educational or vocational training classes, or seek medical and  
20 dental assistance. Willful failure of the program participant to  
21 return to the place of home detention not later than the expiration  
22 of any period of time during which the participant is authorized  
23 to be away from the place of home detention pursuant to this  
24 section and unauthorized departures from the place of home  
25 detention are punishable as provided in Section 4532.

26 (g) As used in this section, "correctional administrator" means  
27 the sheriff, probation officer, or director of the county department  
28 of corrections.

29 (h) Notwithstanding any other law, the police department of a  
30 city where an office is located to which persons on an electronic  
31 monitoring program report may request the county correctional  
32 administrator to provide information concerning those persons.  
33 This information shall be limited to the name, address, date of  
34 birth, offense committed by the home detainee, and if available,  
35 at the discretion of the supervising agency and solely for  
36 investigatory purposes, current and historical GPS coordinates of  
37 the home detainee. A law enforcement department that does not  
38 have the primary responsibility to supervise participants in the  
39 electronic monitoring program that receives information pursuant  
40 to this subdivision shall not use the information to conduct

1 enforcement actions based on administrative violations of the home  
2 detention program. A law enforcement department that has  
3 knowledge that the subject in a criminal investigation is a  
4 participant in an electronic monitoring program shall make  
5 reasonable efforts to notify the supervising agency prior to serving  
6 a warrant or taking any law enforcement action against a participant  
7 in an electronic monitoring program.

8 (i) It is the intent of the Legislature that home detention  
9 programs established under this section maintain the highest public  
10 confidence, credibility, and public safety. In the furtherance of  
11 these standards, the following shall apply:

12 (1) The correctional administrator, with the approval of the  
13 board of supervisors, may administer a home detention program  
14 pursuant to written contracts with appropriate public or private  
15 agencies or entities to provide specified program services. No  
16 public or private agency or entity may operate a home detention  
17 program in any county without a written contract with that county's  
18 correctional administrator. However, this does not apply to the use  
19 of electronic monitoring by the Department of Corrections and  
20 Rehabilitation. No public or private agency or entity entering into  
21 a contract may itself employ any person who is in the home  
22 detention program.

23 (2) Program acceptance shall not circumvent the normal booking  
24 process for sentenced offenders. All home detention program  
25 participants shall be supervised.

26 (3) (A) All privately operated home detention programs shall  
27 be under the jurisdiction of, and subject to the terms and conditions  
28 of the contract entered into with, the correctional administrator.

29 (B) Each contract shall include, but not be limited to, all of the  
30 following:

31 (i) A provision whereby the private agency or entity agrees to  
32 operate in compliance with any available standards promulgated  
33 by state correctional agencies and bodies, including the Corrections  
34 Standards Authority, and all statutory provisions and mandates,  
35 state and county, as appropriate and applicable to the operation of  
36 home detention programs and the supervision of sentenced  
37 offenders in a home detention program.

38 (ii) A provision that clearly defines areas of respective  
39 responsibility and liability of the county and the private agency or  
40 entity.

(iii) A provision that requires the private agency or entity to demonstrate evidence of financial responsibility, submitted and approved by the board of supervisors, in amounts and under conditions sufficient to fully indemnify the county for reasonably foreseeable public liability, including legal defense costs, that may arise from, or be proximately caused by, acts or omissions of the contractor. The contract shall provide for annual review by the correctional administrator to ensure compliance with requirements set by the board of supervisors and for adjustment of the financial responsibility requirements if warranted by caseload changes or other factors.

(iv) A provision that requires the private agency or entity to provide evidence of financial responsibility, such as certificates of insurance or copies of insurance policies, prior to commencing any operations pursuant to the contract or at any time requested by the board of supervisors or correctional administrator.

(v) A provision that permits the correctional administrator to immediately terminate the contract with a private agency or entity at any time that the contractor fails to demonstrate evidence of financial responsibility.

(C) All privately operated home detention programs shall comply with all appropriate, applicable ordinances and regulations specified in subdivision (a) of Section 1208.

(D) The board of supervisors, the correctional administrator, and the designee of the correctional administrator shall comply with Section 1090 of the Government Code in the consideration, making, and execution of contracts pursuant to this section.

(E) The failure of the private agency or entity to comply with statutory provisions and requirements or with the standards established by the contract and with the correctional administrator may be sufficient cause to terminate the contract.

(F) Upon the discovery that a private agency or entity with whom there is a contract is not in compliance pursuant to this paragraph, the correctional administrator shall give 60 days' notice to the director of the private agency or entity that the contract may be canceled if the specified deficiencies are not corrected.

(G) Shorter notice may be given or the contract may be canceled without notice whenever a serious threat to public safety is present because the private agency or entity has failed to comply with this section.

1 (j) For purposes of this section, “evidence of financial  
2 responsibility” may include, but is not limited to, certified copies  
3 of any of the following:

- 4 (1) A current liability insurance policy.
- 5 (2) A current errors and omissions insurance policy.
- 6 (3) A surety bond.

7 ~~SEC. 65.~~

8 *SEC. 51.* Section 1203.018 of the Penal Code is amended to  
9 read:

10 1203.018. (a) Notwithstanding any other law, this section shall  
11 only apply to inmates being held in lieu of bail and on no other  
12 basis.

13 (b) Notwithstanding any other law, the board of supervisors of  
14 any county may authorize the correctional administrator, as defined  
15 in paragraph (1) of subdivision (j), to offer a program under which  
16 inmates being held in lieu of bail in a county jail or other county  
17 correctional facility may participate in an electronic monitoring  
18 program if the conditions specified in subdivision (c) are met.

19 (c) (1) In order to qualify for participation in an electronic  
20 monitoring program pursuant to this section, the inmate shall be  
21 an inmate with no holds or outstanding warrants to whom one of  
22 the following circumstances applies:

23 (A) The inmate has been held in custody for at least 30 calendar  
24 days from the date of arraignment pending disposition of only  
25 misdemeanor charges.

26 (B) The inmate has been held in custody pending disposition  
27 of charges for at least 60 calendar days from the date of  
28 arraignment.

29 (C) The inmate is appropriate for the program based on a  
30 determination by the correctional administrator that the inmate’s  
31 participation would be consistent with the public safety interests  
32 of the community.

33 (2) All participants shall be subject to discretionary review for  
34 eligibility and compliance by the correctional administrator  
35 consistent with this section.

36 (d) The board of supervisors, after consulting with the sheriff  
37 and district attorney, may prescribe reasonable rules and regulations  
38 under which an electronic monitoring program pursuant to this  
39 section may operate. As a condition of participation in the  
40 electronic monitoring program, the participant shall give consent

1 in writing to participate and shall agree in writing to comply with  
2 the rules and regulations of the program, including, but not limited  
3 to, all of the following:

4 (1) The participant shall remain within the interior premises of  
5 the participant's residence during the hours designated by the  
6 correctional administrator.

7 (2) The participant shall admit any person or agent designated  
8 by the correctional administrator into the participant's residence  
9 at any time for purposes of verifying the participant's compliance  
10 with the conditions of the detention.

11 (3) The electronic monitoring may include global positioning  
12 system devices or other supervising devices for the purpose of  
13 helping to verify the participant's compliance with the rules and  
14 regulations of the electronic monitoring program. The electronic  
15 devices shall not be used to eavesdrop or record any conversation,  
16 except a conversation between the participant and the person  
17 supervising the participant to be used solely for the purposes of  
18 voice identification.

19 (4) The correctional administrator in charge of the county  
20 correctional facility from which the participant was released may,  
21 without further order of the court, immediately retake the person  
22 into custody if the electronic monitoring or supervising devices  
23 are unable for any reason to properly perform their function at the  
24 designated place of home detention, if the person fails to remain  
25 within the place of home detention as stipulated in the agreement,  
26 or if the person for any other reason no longer meets the established  
27 criteria under this section.

28 (5) A copy of the signed consent to participate and a copy of  
29 the agreement to comply with the rules and regulations shall be  
30 provided to the participant and a copy shall be retained by the  
31 correctional administrator.

32 (e) The rules and regulations and administrative policy of the  
33 program shall be reviewed on an annual basis by the county board  
34 of supervisors and the correctional administrator. The rules and  
35 regulations shall be given to every participant.

36 (f) Whenever the peace officer supervising a participant has  
37 reasonable cause to believe that the participant is not complying  
38 with the rules or conditions of the program, or that the electronic  
39 monitoring devices are unable to function properly in the  
40 designated place of confinement, the peace officer may, under

1 general or specific authorization of the correctional administrator,  
2 and without a warrant of arrest, retake the person into custody.

3 (g) (1) Nothing in this section shall be construed to require the  
4 correctional administrator to allow a person to participate in this  
5 program if it appears from the record that the person has not  
6 satisfactorily complied with reasonable rules and regulations while  
7 in custody. A person shall be eligible for participation in an  
8 electronic monitoring program only if the correctional administrator  
9 concludes that the person meets the criteria for release established  
10 under this section and that the person's participation is consistent  
11 with any reasonable rules and regulations prescribed by the board  
12 of supervisors or the administrative policy of the correctional  
13 administrator.

14 (2) The correctional administrator, or the administrator's  
15 designee, shall have discretionary authority consistent with this  
16 section to permit program participation as an alternative to physical  
17 custody. All persons approved by the correctional administrator  
18 to participate in the electronic monitoring program pursuant to  
19 subdivision (c) who are denied participation and all persons  
20 removed from program participation shall be notified in writing  
21 of the specific reasons for the denial or removal. The notice of  
22 denial or removal shall include the participant's appeal rights, as  
23 established by program administrative policy.

24 (h) The correctional administrator may permit electronic  
25 monitoring program participants to seek and retain employment  
26 in the community, attend psychological counseling sessions or  
27 educational or vocational training classes, or seek medical and  
28 dental assistance.

29 (i) Willful failure of the program participant to return to the  
30 place of home detention prior to the expiration of any period of  
31 time during which the participant is authorized to be away from  
32 the place of home detention pursuant to this section and  
33 unauthorized departures from the place of home detention is  
34 punishable pursuant to Section 4532.

35 (j) For purposes of this section, the following terms have the  
36 following meanings:

37 (1) "Correctional administrator" means the sheriff, probation  
38 officer, or director of the county department of corrections.

1 (2) “Electronic monitoring program” includes, but is not limited  
2 to, home detention programs, work furlough programs, and work  
3 release programs.

4 (k) Notwithstanding any other law, upon request of a local law  
5 enforcement agency with jurisdiction over the location where a  
6 participant in an electronic monitoring program is placed, the  
7 correctional administrator shall provide the following information  
8 regarding participants in the electronic monitoring program:

9 (1) The participant’s name, address, and date of birth.

10 (2) The offense or offenses alleged to have been committed by  
11 the participant.

12 (3) The period of time the participant will be placed on home  
13 detention.

14 (4) Whether the participant successfully completed the  
15 prescribed period of home detention or was returned to a county  
16 correctional facility, and if the person was returned to a county  
17 correctional facility, the reason for the return.

18 (5) The gender and ethnicity of the participant.

19 (l) Notwithstanding any other law, upon request of a local law  
20 enforcement agency with jurisdiction over the location where a  
21 participant in an electronic monitoring program is placed, the  
22 correctional administrator may, in the administrator’s discretion  
23 and solely for investigatory purposes, provide current and historical  
24 GPS coordinates, if available.

25 (m) A law enforcement agency that does not have the primary  
26 responsibility to supervise participants in the electronic monitoring  
27 program that receives information pursuant to subdivision (k) shall  
28 not use the information to conduct enforcement actions based on  
29 administrative violations of the home detention program. An  
30 agency that has knowledge that the subject in a criminal  
31 investigation is a participant in an electronic monitoring program  
32 shall make reasonable efforts to notify the supervising agency prior  
33 to serving a warrant or taking any law enforcement action against  
34 a participant in an electronic monitoring program.

35 (n) It is the intent of the Legislature that electronic monitoring  
36 programs established under this section maintain the highest public  
37 confidence, credibility, and public safety. In the furtherance of  
38 these standards, the following shall apply:

39 (1) The correctional administrator, with the approval of the  
40 board of supervisors, may administer an electronic monitoring

1 program as provided in this section pursuant to written contracts  
2 with appropriate public or private agencies or entities to provide  
3 specified program services. A public or private agency or entity  
4 shall not operate a home detention program pursuant to this section  
5 in any county without a written contract with that county's  
6 correctional administrator. A public or private agency or entity  
7 entering into a contract pursuant to this subdivision shall not itself  
8 employ any person who is in the electronic monitoring program.

9 (2) Program participants shall undergo the normal booking  
10 process for arrestees entering the jail. All electronic monitoring  
11 program participants shall be supervised.

12 (3) (A) All privately operated electronic monitoring programs  
13 shall be under the jurisdiction of, and subject to the terms and  
14 conditions of the contract entered into with, the correctional  
15 administrator.

16 (B) Each contract specified in subparagraph (A) shall include,  
17 but not be limited to, all of the following:

18 (i) A provision whereby the private agency or entity agrees to  
19 operate in compliance with any available standards and all state  
20 and county laws applicable to the operation of electronic  
21 monitoring programs and the supervision of offenders in an  
22 electronic monitoring program.

23 (ii) A provision that clearly defines areas of respective  
24 responsibility and liability of the county and the private agency or  
25 entity.

26 (iii) A provision that requires the private agency or entity to  
27 demonstrate evidence of financial responsibility, submitted to and  
28 approved by the board of supervisors, in amounts and under  
29 conditions sufficient to fully indemnify the county for reasonably  
30 foreseeable public liability, including legal defense costs that may  
31 arise from, or be proximately caused by, acts or omissions of the  
32 contractor.

33 (iv) A provision that requires the private agency or entity to  
34 provide evidence of financial responsibility, such as certificates  
35 of insurance or copies of insurance policies, prior to commencing  
36 any operations pursuant to the contract or at any time requested  
37 by the board of supervisors or correctional administrator.

38 (v) A provision that requires an annual review by the  
39 correctional administrator to ensure compliance with requirements  
40 set by the board of supervisors and for adjustment of the financial

1 responsibility requirements if warranted by caseload changes or  
2 other factors.

3 (vi) A provision that permits the correctional administrator to  
4 immediately terminate the contract with a private agency or entity  
5 at any time that the contractor fails to demonstrate evidence of  
6 financial responsibility.

7 (C) All privately operated electronic monitoring programs shall  
8 comply with all applicable ordinances and regulations specified  
9 in subdivision (a) of Section 1208.

10 (D) The board of supervisors, the correctional administrator,  
11 and the designee of the correctional administrator shall comply  
12 with Section 1090 of the Government Code in the consideration,  
13 making, and execution of contracts pursuant to this section.

14 (E) The failure of the private agency or entity to comply with  
15 state or county laws or with the standards established by the  
16 contract with the correctional administrator shall constitute cause  
17 to terminate the contract.

18 (F) Upon the discovery that a private agency or entity with  
19 which there is a contract is not in compliance with this paragraph,  
20 the correctional administrator shall give 60 days' notice to the  
21 director of the private agency or entity that the contract may be  
22 canceled if the specified deficiencies are not corrected.

23 (G) Shorter notice may be given or the contract may be canceled  
24 without notice whenever a serious threat to public safety is present  
25 because the private agency or entity has failed to comply with this  
26 section.

27 (H) For purposes of this section, "evidence of financial  
28 responsibility" may include, but is not limited to, certified copies  
29 of any of the following:

30 (i) A current liability insurance policy.

31 (ii) A current errors and omissions insurance policy.

32 (iii) A surety bond.

33 ~~SEC. 66. Section 1203.066 of the Penal Code is amended to~~  
34 ~~read:~~

35 ~~1203.066. (a) Notwithstanding Section 1203 or any other law,~~  
36 ~~probation shall not be granted to, nor shall the execution or~~  
37 ~~imposition of sentence be suspended for, nor shall a finding~~  
38 ~~bringing the defendant within the provisions of this section be~~  
39 ~~stricken pursuant to Section 1385 for, any of the following persons:~~

1     ~~(1) A person who is convicted of violating Section 288 or 288.5~~  
2     ~~when the act is committed by the use of force, violence, duress,~~  
3     ~~menace, or fear of immediate and unlawful bodily injury on the~~  
4     ~~victim or another person.~~

5     ~~(2) A person who caused bodily injury on the child victim in~~  
6     ~~committing a violation of Section 288 or 288.5.~~

7     ~~(3) A person who is convicted of a violation of Section 288 or~~  
8     ~~288.5 and who was a stranger to the child victim or befriended the~~  
9     ~~child victim for the purpose of committing an act in violation of~~  
10    ~~Section 288 or 288.5, unless the defendant honestly and reasonably~~  
11    ~~believed the victim was 14 years of age or older.~~

12    ~~(4) A person who used a weapon during the commission of a~~  
13    ~~violation of Section 288 or 288.5.~~

14    ~~(5) A person who is convicted of committing a violation of~~  
15    ~~Section 288 or 288.5 and who has been previously convicted of a~~  
16    ~~violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286,~~  
17    ~~287, 288, 288.5, or 289, or former Section 288a, or of assaulting~~  
18    ~~another person with intent to commit a crime specified in this~~  
19    ~~paragraph in violation of Section 220, or who has been previously~~  
20    ~~convicted in another state of an offense which, if committed or~~  
21    ~~attempted in this state, would constitute an offense enumerated in~~  
22    ~~this paragraph.~~

23    ~~(6) A person who violated Section 288 or 288.5 while~~  
24    ~~kidnapping the child victim in violation of Section 207, 209, or~~  
25    ~~209.5.~~

26    ~~(7) A person who is convicted of committing a violation of~~  
27    ~~Section 288 or 288.5 against more than one victim.~~

28    ~~(8) A person who, in violating Section 288 or 288.5, has~~  
29    ~~substantial sexual conduct with a victim who is under 14 years of~~  
30    ~~age.~~

31    ~~(9) A person who, in violating Section 288 or 288.5, used~~  
32    ~~obscene matter, as defined in Section 311, or matter, as defined in~~  
33    ~~Section 311, depicting sexual conduct, as defined in Section 311.3.~~

34    ~~(b) “Substantial sexual conduct” means penetration of the vagina~~  
35    ~~or rectum of either the victim or the offender by the penis of the~~  
36    ~~other or by any foreign object, oral copulation, or masturbation of~~  
37    ~~either the victim or the offender.~~

38    ~~(c) (1) Except for a violation of subdivision (b) of Section 288,~~  
39    ~~this section shall only apply if the existence of any fact required~~  
40    ~~in subdivision (a) is alleged in the accusatory pleading and is either~~

1 admitted by the defendant in open court, or found to be true by the  
2 trier of fact.

3 ~~(2) For the existence of any fact under paragraph (7) of~~  
4 ~~subdivision (a), the allegation must be made pursuant to this~~  
5 ~~section.~~

6 ~~(d) (1) If a person is convicted of a violation of Section 288 or~~  
7 ~~288.5, and the factors listed in subdivision (a) are not pled or~~  
8 ~~proven, probation may be granted only if the following terms and~~  
9 ~~conditions are met:~~

10 ~~(A) If the defendant is a member of the victim's household, the~~  
11 ~~court finds that probation is in the best interest of the child victim.~~

12 ~~(B) The court finds that rehabilitation of the defendant is feasible~~  
13 ~~and that the defendant is amenable to undergoing treatment, and~~  
14 ~~the defendant is placed in a recognized treatment program designed~~  
15 ~~to deal with child molestation immediately after the grant of~~  
16 ~~probation or the suspension of execution or imposition of sentence.~~

17 ~~(C) If the defendant is a member of the victim's household,~~  
18 ~~probation shall not be granted unless the defendant is removed~~  
19 ~~from the household of the victim until the court determines that~~  
20 ~~the best interests of the victim would be served by the defendant's~~  
21 ~~return. While removed from the household, the court shall prohibit~~  
22 ~~contact by the defendant with the victim, with the exception that~~  
23 ~~the court may permit supervised contact, upon the request of the~~  
24 ~~director of the court-ordered supervised treatment program, and~~  
25 ~~with the agreement of the victim and the victim's parent or legal~~  
26 ~~guardian, other than the defendant.~~

27 ~~(D) If the defendant is not a member of the victim's household,~~  
28 ~~the court shall prohibit the defendant from being placed or residing~~  
29 ~~within one-half mile of the child victim's residence for the duration~~  
30 ~~of the probation term unless the court, on the record, states its~~  
31 ~~reasons for finding that this residency restriction would not serve~~  
32 ~~the best interests of the victim.~~

33 ~~(E) The court finds that there is no threat of physical harm to~~  
34 ~~the victim if probation is granted.~~

35 ~~(2) The court shall state its reasons on the record for whatever~~  
36 ~~sentence it imposes on the defendant.~~

37 ~~(3) The court shall order the psychiatrist or psychologist who~~  
38 ~~is appointed pursuant to Section 288.1 to include a consideration~~  
39 ~~of the factors specified in subparagraphs (A), (B), and (C) of~~  
40 ~~paragraph (1) in making their report to the court.~~

1 ~~(4) The court shall order the defendant to comply with all~~  
2 ~~probation requirements, including the requirements to attend~~  
3 ~~counseling and keep all program appointments.~~

4 ~~(5) No victim shall be compelled to participate in a program or~~  
5 ~~counseling, and no program may condition a defendant's~~  
6 ~~enrollment on participation by the victim.~~

7 ~~(e) As used in subdivision (d), the following definitions apply:~~

8 ~~(1) "Contact with the victim" includes all physical contact, being~~  
9 ~~in the presence of the victim, communicating by any means,~~  
10 ~~including by a third party acting on behalf of the defendant, or~~  
11 ~~sending any gifts.~~

12 ~~(2) "Recognized treatment program" means a program that~~  
13 ~~consists of the following components:~~

14 ~~(A) Substantial expertise in the treatment of child sexual abuse.~~

15 ~~(B) A treatment regimen designed to specifically address the~~  
16 ~~offense.~~

17 ~~(C) The ability to serve indigent clients.~~

18 ~~(D) Adequate reporting requirements to ensure that all persons~~  
19 ~~who, after being ordered to attend and complete a program, may~~  
20 ~~be identified for either failure to enroll in, or failure to successfully~~  
21 ~~complete, the program, or for the successful completion of the~~  
22 ~~program as ordered. The program shall notify the court and the~~  
23 ~~probation department, in writing, within the period of time and in~~  
24 ~~the manner specified by the court of any person who fails to~~  
25 ~~complete the program. Notification shall be given if the program~~  
26 ~~determines that the defendant is performing unsatisfactorily or if~~  
27 ~~the defendant is not benefiting from the education, treatment, or~~  
28 ~~counseling.~~

29 ~~SEC. 67. Section 1203.067 of the Penal Code is amended to~~  
30 ~~read:~~

31 ~~1203.067. (a) Notwithstanding any other law, before probation~~  
32 ~~may be granted to any person convicted of a felony specified in~~  
33 ~~Section 261, 262, 264.1, 286, 287, 288, 288.5, or 289, or former~~  
34 ~~Section 288a, who is eligible for probation, the court shall do all~~  
35 ~~of the following:~~

36 ~~(1) Order the defendant evaluated pursuant to Section 1203.03,~~  
37 ~~or similar evaluation by the county probation department.~~

38 ~~(2) Conduct a hearing at the time of sentencing to determine if~~  
39 ~~probation of the defendant would pose a threat to the victim. The~~

1 victim shall be notified of the hearing by the prosecuting attorney  
2 and given an opportunity to address the court.

3 ~~(3) Order any psychiatrist or psychologist appointed pursuant~~  
4 ~~to Section 288.1 to include a consideration of the threat to the~~  
5 ~~victim and the defendant's potential for positive response to~~  
6 ~~treatment in making their report to the court. Nothing in this section~~  
7 ~~shall be construed to require the court to order an examination of~~  
8 ~~the victim.~~

9 ~~(b) On or after July 1, 2012, the terms of probation for persons~~  
10 ~~placed on formal probation for an offense that requires registration~~  
11 ~~pursuant to Sections 290 to 290.023, inclusive, shall include all of~~  
12 ~~the following:~~

13 ~~(1) Persons placed on formal probation prior to July 1, 2012,~~  
14 ~~shall participate in an approved sex offender management program,~~  
15 ~~following the standards developed pursuant to Section 9003, for~~  
16 ~~a period of not less than one year or the remaining term of~~  
17 ~~probation if it is less than one year. The length of the period in the~~  
18 ~~program is to be determined by the certified sex offender~~  
19 ~~management professional in consultation with the probation officer~~  
20 ~~and as approved by the court. Participation in this program applies~~  
21 ~~to every person described without regard to when the crime or~~  
22 ~~crimes were committed.~~

23 ~~(2) Persons placed on formal probation on or after July 1, 2012,~~  
24 ~~shall successfully complete a sex offender management program,~~  
25 ~~following the standards developed pursuant to Section 9003, as a~~  
26 ~~condition of release from probation. The length of the period in~~  
27 ~~the program shall be not less than one year, up to the entire period~~  
28 ~~of probation, as determined by the certified sex offender~~  
29 ~~management professional in consultation with the probation officer~~  
30 ~~and as approved by the court. Participation in this program applies~~  
31 ~~to each person without regard to when the crime or crimes were~~  
32 ~~committed.~~

33 ~~(3) Waiver of any privilege against self-incrimination and~~  
34 ~~participation in polygraph examinations, which shall be part of the~~  
35 ~~sex offender management program.~~

36 ~~(4) Waiver of any psychotherapist-patient privilege to enable~~  
37 ~~communication between the sex offender management professional~~  
38 ~~and supervising probation officer, pursuant to Section 290.09.~~

~~SEC. 68.~~

SEC. 52. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours' class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(6) (A) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling and keep all program appointments.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(7) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service

1 shall be performed under the jurisdiction of the local agency  
2 overseeing a community service program.

3 (8) If the program finds that the defendant is unsuitable, the  
4 program shall immediately contact the probation department or  
5 the court. The probation department or court shall either recalendar  
6 the case for hearing or refer the defendant to an appropriate  
7 alternative batterer's program.

8 (9) (A) Upon recommendation of the program, a court shall  
9 require a defendant to participate in additional sessions throughout  
10 the probationary period, unless it finds that it is not in the interests  
11 of justice to do so, states its reasons on the record, and enters them  
12 into the minutes. In deciding whether the defendant would benefit  
13 from more sessions, the court shall consider whether any of the  
14 following conditions exists:

15 (i) The defendant has been violence free for a minimum of six  
16 months.

17 (ii) The defendant has cooperated and participated in the  
18 batterer's program.

19 (iii) The defendant demonstrates an understanding of and  
20 practices positive conflict resolution skills.

21 (iv) The defendant blames, degrades, or has committed acts that  
22 dehumanize the victim or puts at risk the victim's safety, including,  
23 but not limited to, molesting, stalking, striking, attacking,  
24 threatening, sexually assaulting, or battering the victim.

25 (v) The defendant demonstrates an understanding that the use  
26 of coercion or violent behavior to maintain dominance is  
27 unacceptable in an intimate relationship.

28 (vi) The defendant has made threats to harm anyone in any  
29 manner.

30 (vii) The defendant has complied with applicable requirements  
31 under paragraph (6) of subdivision (c) or subparagraph (C) to  
32 receive alcohol counseling, drug counseling, or both.

33 (viii) The defendant demonstrates acceptance of responsibility  
34 for the abusive behavior perpetrated against the victim.

35 (B) The program shall immediately report any violation of the  
36 terms of the protective order, including any new acts of violence  
37 or failure to comply with the program requirements, to the court,  
38 the prosecutor, and, if formal probation has been ordered, to the  
39 probation department. The probationer shall file proof of

1 enrollment in a batterer's program with the court within 30 days  
2 of conviction.

3 (C) Concurrent with other requirements under this section, in  
4 addition to, and not in lieu of, the batterer's program, and unless  
5 prohibited by the referring court, the probation department or the  
6 court may make provisions for a defendant to use the defendant's  
7 resources to enroll in a chemical dependency program or to enter  
8 voluntarily a licensed chemical dependency recovery hospital or  
9 residential treatment program that has a valid license issued by the  
10 state to provide alcohol or drug services to receive program  
11 participation credit, as determined by the court. The probation  
12 department shall document evidence of this hospital or residential  
13 treatment participation in the defendant's program file.

14 (10) (A) The conditions of *probation* may include, in lieu of a  
15 fine, ~~the requirement that the defendant reimburse the victim for~~  
16 ~~reasonable expenses that the court finds are the direct result of the~~  
17 ~~defendant's offense; one or both of the following requirements:~~

18 (i) *That the defendant make payments to a battered women's*  
19 *shelter, up to a maximum of five thousand dollars (\$5,000).*

20 (ii) *That the defendant reimburse the victim for reasonable*  
21 *expenses that the court finds are the direct result of the defendant's*  
22 *offense.*

23 (B) For any order to pay a ~~fine~~ *fine*, *to make payments to a*  
24 *battered women's shelter*, or to pay restitution as a condition of  
25 probation under this subdivision, the court shall make a  
26 determination of the defendant's ability to pay. Determination of  
27 a defendant's ability to pay may include the defendant's future  
28 earning capacity. A defendant shall bear the burden of  
29 demonstrating lack of ability to pay. Express findings by the court  
30 as to the factors bearing on the amount of the fine shall not be  
31 required. *An order to make payments to a battered women's shelter*  
32 *shall not be made if it would impair the ability of the defendant to*  
33 *pay direct restitution to the victim or court-ordered child support.*

34 When the injury to a married person is caused, in whole or in part,  
35 by the criminal acts of the person's spouse in violation of this  
36 section, the community property shall not be used to discharge the  
37 liability of the offending spouse for restitution to the injured  
38 spouse, as required by Section 1203.04, as operative on or before  
39 August 2, 1995, or Section 1202.4, or to a shelter for costs with

1 regard to the injured spouse, until all separate property of the  
2 offending spouse is exhausted.

3 (11) If it appears to the prosecuting attorney, the court, or the  
4 probation department that the defendant is performing  
5 unsatisfactorily in the assigned program, is not benefiting from  
6 counseling, or has engaged in criminal conduct, upon request of  
7 the probation officer, the prosecuting attorney, or on its own  
8 motion, the court, as a priority calendar item, shall hold a hearing  
9 to determine whether further sentencing should proceed. The court  
10 may consider factors, including, but not limited to, any violence  
11 by the defendant against the former or a new victim while on  
12 probation and noncompliance with any other specific condition of  
13 probation. If the court finds that the defendant is not performing  
14 satisfactorily in the assigned program, is not benefiting from the  
15 program, has not complied with a condition of probation, or has  
16 engaged in criminal conduct, the court shall terminate the  
17 defendant's participation in the program and shall proceed with  
18 further sentencing.

19 (b) If a person is granted formal probation for a crime in which  
20 the victim is a person defined in Section 6211 of the Family Code,  
21 in addition to the terms specified in subdivision (a), all of the  
22 following shall apply:

23 (1) The probation department shall make an investigation and  
24 take into consideration the defendant's age, medical history,  
25 employment and service records, educational background,  
26 community and family ties, prior incidents of violence, police  
27 report, treatment history, if any, demonstrable motivation, and  
28 other mitigating factors in determining which batterer's program  
29 would be appropriate for the defendant. This information shall be  
30 provided to the batterer's program if it is requested. The probation  
31 department shall also determine which community programs the  
32 defendant would benefit from and which of those programs would  
33 accept the defendant. The probation department shall report its  
34 findings and recommendations to the court.

35 (2) The court shall advise the defendant that the failure to report  
36 to the probation department for the initial investigation, as directed  
37 by the court, or the failure to enroll in a specified program, as  
38 directed by the court or the probation department, shall result in  
39 possible further incarceration. The court, in the interests of justice,  
40 may relieve the defendant from the prohibition set forth in this

1 subdivision based upon the defendant's mistake or excusable  
2 neglect. Application for this relief shall be filed within 20 court  
3 days of the missed deadline. This time limitation may not be  
4 extended. A copy of any application for relief shall be served on  
5 the office of the prosecuting attorney.

6 (3) After the court orders the defendant to a batterer's program,  
7 the probation department shall conduct an initial assessment of  
8 the defendant, including, but not limited to, all of the following:

9 (A) Social, economic, and family background.

10 (B) Education.

11 (C) Vocational achievements.

12 (D) Criminal history.

13 (E) Medical history.

14 (F) Substance abuse history.

15 (G) Consultation with the probation officer.

16 (H) Verbal consultation with the victim, only if the victim  
17 desires to participate.

18 (I) Assessment of the future probability of the defendant  
19 committing murder.

20 (4) The probation department shall attempt to notify the victim  
21 regarding the requirements for the defendant's participation in the  
22 batterer's program, as well as regarding available victim resources.  
23 The victim also shall be informed that attendance in any program  
24 does not guarantee that an abuser will not be violent.

25 (c) The court or the probation department shall refer defendants  
26 only to batterer's programs that follow standards outlined in  
27 paragraph (1), which may include, but are not limited to, lectures,  
28 classes, group discussions, and counseling. The probation  
29 department shall design and implement an approval and renewal  
30 process for batterer's programs and shall solicit input from criminal  
31 justice agencies and domestic violence victim advocacy programs.

32 (1) The goal of a batterer's program under this section shall be  
33 to stop domestic violence. A batterer's program shall consist of  
34 the following components:

35 (A) Strategies to hold the defendant accountable for the violence  
36 in a relationship, including, but not limited to, providing the  
37 defendant with a written statement that the defendant shall be held  
38 accountable for acts or threats of domestic violence.

39 (B) A requirement that the defendant participate in ongoing  
40 same-gender group sessions.

1 (C) An initial intake that provides written definitions to the  
2 defendant of physical, emotional, sexual, economic, and verbal  
3 abuse, and the techniques for stopping these types of abuse.

4 (D) Procedures to inform the victim regarding the requirements  
5 for the defendant's participation in the intervention program as  
6 well as regarding available victim resources. The victim also shall  
7 be informed that attendance in any program does not guarantee  
8 that an abuser will not be violent.

9 (E) A requirement that the defendant attend group sessions free  
10 of chemical influence.

11 (F) Educational programming that examines, at a minimum,  
12 gender roles, socialization, the nature of violence, the dynamics  
13 of power and control, and the effects of abuse on children and  
14 others.

15 (G) A requirement that excludes any couple counseling or family  
16 counseling, or both.

17 (H) Procedures that give the program the right to assess whether  
18 or not the defendant would benefit from the program and to refuse  
19 to enroll the defendant if it is determined that the defendant would  
20 not benefit from the program. If possible, the program shall suggest  
21 an appropriate alternative program.

22 (I) Program staff who, to the extent possible, have specific  
23 knowledge regarding, but not limited to, spousal abuse, child abuse,  
24 sexual abuse, substance abuse, the dynamics of violence and abuse,  
25 the law, and procedures of the legal system.

26 (J) Program staff who are encouraged to utilize the expertise,  
27 training, and assistance of local domestic violence centers.

28 (K) A requirement that the defendant enter into a written  
29 agreement with the program, which shall include an outline of the  
30 contents of the program, the attendance requirements, the  
31 requirement to attend group sessions free of chemical influence,  
32 and a statement that the defendant may be removed from the  
33 program if it is determined that the defendant is not benefiting  
34 from the program or is disruptive to the program.

35 (L) A requirement that the defendant sign a confidentiality  
36 statement prohibiting disclosure of any information obtained  
37 through participating in the program or during group sessions  
38 regarding other participants in the program.

39 (M) Program content that provides cultural and ethnic  
40 sensitivity.

1 (N) A requirement of a written referral from the court or  
2 probation department prior to permitting the defendant to enroll  
3 in the program. The written referral shall state the number of  
4 minimum sessions required by the court.

5 (O) Procedures for submitting to the probation department all  
6 of the following uniform written responses:

7 (i) Proof of enrollment for each session.

8 (ii) Periodic progress reports that include attendance, fee  
9 payment history, and program compliance.

10 (iii) Final evaluation that includes the program's evaluation of  
11 the defendant's progress, using the criteria set forth in subparagraph  
12 (A) of paragraph (9) of subdivision (a), and recommendation for  
13 either successful or unsuccessful termination or continuation in  
14 the program.

15 (2) The court shall refer persons only to batterer's programs  
16 that have been approved by the probation department pursuant to  
17 paragraph (5). The probation department shall do both of the  
18 following:

19 (A) Provide for the issuance of a provisional approval, provided  
20 that the applicant is in substantial compliance with applicable laws  
21 and regulations and an urgent need for approval exists. A  
22 provisional approval shall be considered an authorization to provide  
23 services and shall not be considered a vested right.

24 (B) If the probation department determines that a program is  
25 not in compliance with standards set by the department, the  
26 department shall provide written notice of the noncompliant areas  
27 to the program. The program shall submit a written plan of  
28 corrections within 14 days from the date of the written notice on  
29 noncompliance. A plan of correction shall include, but not be  
30 limited to, a description of each corrective action and timeframe  
31 for implementation. The department shall review and approve all  
32 or any part of the plan of correction and notify the program of  
33 approval or disapproval in writing. If the program fails to submit  
34 a plan of correction or fails to implement the approved plan of  
35 correction, the department shall consider whether to revoke or  
36 suspend approval and, upon revoking or suspending approval, shall  
37 have the option to cease referrals of defendants under this section.

38 (3) No program, regardless of its source of funding, shall be  
39 approved unless it meets all of the following standards:

1 (A) The establishment of guidelines and criteria for education  
2 services, including standards of services that may include lectures,  
3 classes, and group discussions.

4 (B) Supervision of the defendant for the purpose of evaluating  
5 the person's progress in the program.

6 (C) Adequate reporting requirements to ensure that all persons  
7 who, after being ordered to attend and complete a program, may  
8 be identified for either failure to enroll in, or failure to successfully  
9 complete, the program or for the successful completion of the  
10 program as ordered. The program shall notify the court and the  
11 probation department, in writing, within the period of time and in  
12 the manner specified by the court of any person who fails to  
13 complete the program. Notification shall be given if the program  
14 determines that the defendant is performing unsatisfactorily or if  
15 the defendant is not benefiting from the education, treatment, or  
16 counseling.

17 (D) No victim shall be compelled to participate in a program  
18 or counseling, and no program may condition a defendant's  
19 enrollment on participation by the victim.

20 (4) In making referrals of indigent defendants to approved  
21 batterer's programs, the probation department shall apportion these  
22 referrals evenly among the approved programs.

23 (5) The probation department shall have the sole authority to  
24 approve a batterer's program for probation. The program shall be  
25 required to obtain only one approval but shall renew that approval  
26 annually.

27 (A) The procedure for the approval of a new or existing program  
28 shall include all of the following:

29 (i) The completion of a written application containing necessary  
30 and pertinent information describing the applicant program.

31 (ii) The demonstration by the program that it possesses adequate  
32 administrative and operational capability to operate a batterer's  
33 treatment program. The program shall provide documentation to  
34 prove that the program has conducted batterer's programs for at  
35 least one year prior to application. This requirement may be waived  
36 under subparagraph (A) of paragraph (2) if there is no existing  
37 batterer's program in the city, county, or city and county.

38 (iii) The onsite review of the program, including monitoring of  
39 a session to determine that the program adheres to applicable  
40 statutes and regulations.

1 (iv) The payment of the approval fee.

2 (B) The probation department shall fix a fee for approval not  
3 to exceed two hundred fifty dollars (\$250) and for approval renewal  
4 not to exceed two hundred fifty dollars (\$250) every year in an  
5 amount sufficient to cover its costs in administering the approval  
6 process under this section. No fee shall be charged for the approval  
7 of local governmental entities.

8 (C) The probation department has the sole authority to approve  
9 the issuance, denial, suspension, or revocation of approval and to  
10 cease new enrollments or referrals to a batterer's program under  
11 this section. The probation department shall review information  
12 relative to a program's performance or failure to adhere to  
13 standards, or both. The probation department may suspend or  
14 revoke an approval issued under this subdivision or deny an  
15 application to renew an approval or to modify the terms and  
16 conditions of approval, based on grounds established by probation,  
17 including, but not limited to, either of the following:

18 (i) Violation of this section by any person holding approval or  
19 by a program employee in a program under this section.

20 (ii) Misrepresentation of any material fact in obtaining the  
21 approval.

22 (6) For defendants who are chronic users or serious abusers of  
23 drugs or alcohol, standard components in the program shall include  
24 concurrent counseling for substance abuse and violent behavior,  
25 and in appropriate cases, detoxification and abstinence from the  
26 abused substance.

27 (7) The program shall conduct an exit conference that assesses  
28 the defendant's progress during participation in the batterer's  
29 program.

30 (d) An act or omission relating to the approval of a batterer's  
31 treatment programs under paragraph (5) of subdivision (c) is a  
32 discretionary act pursuant to Section 820.2 of the Government  
33 Code.

34 ~~SEC. 69.~~

35 *SEC. 53.* Section 1203.1 of the Penal Code is amended to read:

36 1203.1. (a) The court, or judge thereof, in the order granting  
37 probation, may suspend the imposing or the execution of the  
38 sentence and may direct that the suspension may continue for a  
39 period of time not exceeding the maximum possible term of the  
40 sentence, except as hereinafter set forth, and upon those terms and

1 conditions as it shall determine. The court, or judge thereof, in the  
2 order granting probation and as a condition thereof, may imprison  
3 the defendant in a county jail for a period not exceeding the  
4 maximum time fixed by law in the case.

5 However, if the maximum possible term of the sentence is five  
6 years or less, the period of suspension of imposition or execution  
7 of sentence may, in the discretion of the court, continue for not  
8 over five years. The following shall apply to this subdivision:

9 (1) The court may fine the defendant in a sum not to exceed the  
10 maximum fine provided by law in the case.

11 (2) The court may, in connection with granting probation,  
12 impose either imprisonment in a county jail or a fine, both, or  
13 neither.

14 (3) The court shall provide for restitution in proper cases. The  
15 restitution order shall be fully enforceable as a civil judgment  
16 forthwith and in accordance with Section 1202.4 of the Penal Code.

17 (4) The court may require bonds for the faithful observance and  
18 performance of any or all of the conditions of probation.

19 (b) The court shall consider whether the defendant as a condition  
20 of probation shall make restitution to the victim or the Restitution  
21 Fund. Any restitution payment received by a court or probation  
22 department in the form of cash or money order shall be forwarded  
23 to the victim within 30 days from the date the payment is received  
24 by the department. Any restitution payment received by a court or  
25 probation department in the form of a check or draft shall be  
26 forwarded to the victim within 45 days from the date the payment  
27 is received, provided, that payment need not be forwarded to a  
28 victim until 180 days from the date the first payment is received,  
29 if the restitution payments for that victim received by the court or  
30 probation department total less than fifty dollars (\$50). In cases  
31 where the court has ordered the defendant to pay restitution to  
32 multiple victims and where the administrative cost of disbursing  
33 restitution payments to multiple victims involves a significant cost,  
34 any restitution payment received by a probation department shall  
35 be forwarded to multiple victims when it is cost effective to do so,  
36 but in no event shall restitution disbursements be delayed beyond  
37 180 days from the date the payment is received by the probation  
38 department.

39 (c) In counties or cities and counties where road camps, farms,  
40 or other public work is available the court may place the

1 probationer in the road camp, farm, or other public work instead  
2 of in jail. In this case, Section 25359 of the Government Code shall  
3 apply to probation and the court shall have the same power to  
4 require adult probationers to work, as prisoners confined in the  
5 county jail are required to work, at public work. Each county board  
6 of supervisors may fix the scale of compensation of the adult  
7 probationers in that county.

8 (d) In all cases of probation, the court may require as a condition  
9 of probation that the probationer go to work and earn money for  
10 the support of the probationer's dependents or to pay any fine  
11 imposed or reparation condition, to keep an account of the  
12 probationer's earnings, to report them to the probation officer and  
13 apply those earnings as directed by the court.

14 (e) The court shall also consider whether the defendant as a  
15 condition of probation shall make restitution to a public agency  
16 for the costs of an emergency response pursuant to Article 8  
17 (commencing with Section 53150) of Chapter 1 of Part 1 of  
18 Division 2 of the Government Code.

19 (f) In all felony cases in which, as a condition of probation, a  
20 judge of the superior court sitting by authority of law elsewhere  
21 than at the county seat requires a convicted person to serve their  
22 sentence at intermittent periods the sentence may be served on the  
23 order of the judge at the city jail nearest to the place at which the  
24 court is sitting, and the cost of the convicted person's maintenance  
25 shall be a county charge.

26 (g) (1) The court and prosecuting attorney shall consider  
27 whether any defendant who has been convicted of a nonviolent or  
28 nonserious offense and ordered to participate in community service  
29 as a condition of probation shall be required to engage in the  
30 removal of graffiti in the performance of the community service.  
31 For the purpose of this subdivision, a nonserious offense shall not  
32 include the following:

33 (A) Offenses in violation of the Dangerous Weapons Control  
34 Law, as defined in Section 23500.

35 (B) Offenses involving the use of a dangerous or deadly weapon,  
36 including all violations of Section 417.

37 (C) Offenses involving the use or attempted use of violence  
38 against the person of another or involving injury to a victim.

39 (D) Offenses involving annoying or molesting children.

(2) Notwithstanding subparagraph (A) of paragraph (1), any person who violates Chapter 1 (commencing with Section 29610) of Division 9 of Title 4 of Part 6 shall be ordered to perform not less than 100 hours and not more than 500 hours of community service as a condition of probation.

(3) The court and the prosecuting attorney need not consider a defendant pursuant to paragraph (1) if the following circumstances exist:

(A) The defendant was convicted of any offense set forth in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) The judge believes that the public safety may be endangered if the person is ordered to do community service or the judge believes that the facts or circumstances or facts and circumstances call for imposition of a more substantial penalty.

(h) The probation officer or the officer's designated representative shall consider whether any defendant who has been convicted of a nonviolent and nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers through contact with local senior service organizations in the performance of the community service.

(i) (1) Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the terms of imprisonment, fine, and other reasonable conditions specified in this section, that the defendant participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

(2) Upon conviction of any sex offense subjecting the defendant to the registration requirements of Section 290, the court may order as a condition of probation, at the request of the victim or in the court's discretion, that the defendant stay away from the victim and the victim's residence or place of employment, and that the defendant have no contact with the victim in person, by telephone or electronic means, or by mail.

(j) The court may impose and require any or all of the terms of imprisonment, fine, and conditions specified in this section, and other reasonable conditions, as it may determine are fitting and

proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all the terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

(k) Notwithstanding any other provisions of law to the contrary, except as provided in Section 13967, as operative on or before September 28, 1994, of the Government Code and Section 13967.5 of the Government Code and Sections 1202.4, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, and Section 1203.04, as operative on or before August 2, 1995, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund for the use and benefit of the county.

~~SEC. 70. Section 1203.1a of the Penal Code is amended to read:~~

~~1203.1a. The probation officer of the county may authorize the temporary removal under custody or temporary release without custody of any inmate of the county jail, honor farm, or other detention facility, who is confined or committed as a condition of probation, after suspension of imposition of sentence or suspension of execution of sentence, for purposes preparatory to the inmate's return to the community, within 30 days prior to the inmate's~~

1 release date, if the probation officer concludes that the inmate is  
2 a fit subject therefor.

3 ~~SEC. 71.~~

4 *SEC. 54.* Section 1203.1ab of the Penal Code is amended to  
5 read:

6 1203.1ab. Upon conviction of any offense involving the  
7 unlawful possession, use, sale, or other furnishing of any controlled  
8 substance, as defined in Chapter 2 (commencing with Section  
9 11053) of Division 10 of the Health and Safety Code, in addition  
10 to any or all of the terms of imprisonment, fine, and other  
11 reasonable conditions specified in or permitted by Section 1203.1,  
12 unless it makes a finding that this condition would not serve the  
13 interests of justice, the court, when recommended by the probation  
14 officer, shall require as a condition of probation that the defendant  
15 shall not use or be under the influence of any controlled substance  
16 and shall submit to drug and substance abuse testing as directed  
17 by the probation officer.

18 ~~SEC. 72.~~

19 *SEC. 55.* Section 1203.1b of the Penal Code is repealed.

20 ~~SEC. 73.~~

21 *SEC. 56.* Section 1203.1bb of the Penal Code is repealed.

22 ~~SEC. 74.~~

23 *SEC. 57.* Section 1203.1c of the Penal Code is repealed.

24 ~~SEC. 75.~~

25 *SEC. 58.* Section 1203.1d of the Penal Code is amended to  
26 read:

27 1203.1d. (a) In determining the amount and manner of  
28 disbursement under an order made pursuant to this code requiring  
29 a defendant to make reparation or restitution to a victim of a crime  
30 or to pay any other reimbursable costs, the court, after determining  
31 the amount of any fine and penalty assessments, and a county  
32 financial evaluation officer when making a financial evaluation,  
33 shall first determine the amount of restitution to be ordered paid  
34 to any victim, and shall determine the amount of the other  
35 reimbursable costs.

36 If payment is made in full, the payment shall be apportioned and  
37 disbursed in the amounts ordered by the court.

38 If reasonable and compatible with the defendant's financial  
39 ability, the court may order payments to be made in installments.

(b) With respect to installment payments and amounts collected by the Franchise Tax Board pursuant to Section 19280 of the Revenue and Taxation Code and subsequently transferred by the Controller pursuant to Section 19282 of the Revenue and Taxation Code, the board of supervisors shall provide that disbursements be made in the following order of priority:

(1) Restitution ordered to, or on behalf of, the victim pursuant to subdivision (f) of Section 1202.4.

(2) The state surcharge ordered pursuant to Section 1465.7.

(3) Any fines, penalty assessments, and restitution fines ordered pursuant to subdivision (b) of Section 1202.4. Payment of each of these items shall be made on a proportional basis to the total amount levied for all of these items.

(4) Any other reimbursable costs.

(c) The board of supervisors shall apply these priorities of disbursement to orders or parts of orders in cases where defendants have been ordered to pay more than one court order.

(d) Documentary evidence, such as bills, receipts, repair estimates, insurance payment statements, payroll stubs, business records, and similar documents relevant to the value of the stolen or damaged property, medical expenses, and wages and profits lost shall not be excluded as hearsay evidence.

~~SEC. 76.~~

~~SEC. 59.~~ Section 1203.1e of the Penal Code is repealed.

~~SEC. 77.~~ ~~Section 1203.1h of the Penal Code is repealed.~~

~~SEC. 78.~~ ~~Section 1203.1i of the Penal Code is amended to read:~~

~~1203.1i. (a) In any case in which a defendant is convicted of a violation of any building standards adopted by a local entity by ordinance or resolution, including, but not limited to, local health, fire, building, or safety ordinances or resolutions, or any other ordinance or resolution relating to the health and safety of occupants of buildings, by maintaining a substandard building, as specified in Section 17920.3 of the Health and Safety Code, the court, or judge thereof, in making an order granting probation, in addition to any other orders, may order the defendant placed under house confinement, or may order the defendant to serve both a term of imprisonment in the county jail and to be placed under house confinement.~~

1 This section only applies to violations involving a dwelling unit  
2 occupied by persons specified in subdivision (a) of Section 1940  
3 of the Civil Code who are not excluded by subdivision (b) of that  
4 section.

5 (b) As used in this section, “house confinement” means  
6 confinement to a residence or location designated by the court and  
7 specified in the probation order.

8 ~~SEC. 79.~~

9 ~~SEC. 60.~~ Section 1203.1m of the Penal Code is repealed.

10 ~~SEC. 80.~~ Section 1203.4 of the Penal Code is amended to read:

11 1203.4. (a) (1) If a defendant has fulfilled the conditions of  
12 probation for the entire period of probation, or has been discharged  
13 prior to the termination of the period of probation, or in any other  
14 case in which a court, in its discretion and the interests of justice,  
15 determines that a defendant should be granted the relief available  
16 under this section, the defendant shall, at any time after the  
17 termination of the period of probation, if the defendant is not then  
18 serving a sentence for any offense, on probation for any offense,  
19 or charged with the commission of any offense, be permitted by  
20 the court to withdraw the plea of guilty or plea of nolo contendere  
21 and enter a plea of not guilty, or if the defendant has been convicted  
22 after a plea of not guilty, the court shall set aside the verdict of  
23 guilty and dismiss the accusations or information against the  
24 defendant and except as noted below, the defendant shall thereafter  
25 be released from all penalties and disabilities resulting from the  
26 offense of which the defendant has been convicted, except as  
27 provided in Section 13555 of the Vehicle Code. The probationer  
28 shall be informed, in the probation papers, of this right and  
29 privilege and the right, if any, to petition for a certificate of  
30 rehabilitation and pardon. The probationer may make the  
31 application and change of plea in person or by attorney, or by the  
32 probation officer authorized in writing. However, in any subsequent  
33 prosecution of the defendant for any other offense, the prior  
34 conviction may be pleaded and proved and shall have the same  
35 effect as if probation had not been granted or the accusation or  
36 information dismissed. The order shall state, and the probationer  
37 shall be informed, that the order does not relieve the probationer  
38 of the obligation to disclose the conviction in response to any direct  
39 question contained in any questionnaire or application for public

1 office, for licensure by any state or local agency, or for contracting  
2 with the California State Lottery Commission.

3 ~~(2) Dismissal of an accusation or information pursuant to this~~  
4 ~~section does not permit a person to own, possess, or have in the~~  
5 ~~person's custody or control any firearm or prevent the person's~~  
6 ~~conviction under Chapter 2 (commencing with Section 29800) of~~  
7 ~~Division 9 of Title 4 of Part 6.~~

8 ~~(3) Dismissal of an accusation or information underlying a~~  
9 ~~conviction pursuant to this section does not permit a person~~  
10 ~~prohibited from holding public office as a result of that conviction~~  
11 ~~to hold public office.~~

12 ~~(4) This subdivision shall apply to all applications for relief~~  
13 ~~under this section which are filed on or after November 23, 1970.~~

14 ~~(b) Subdivision (a) of this section does not apply to any~~  
15 ~~misdemeanor that is within the provisions of Section 42002.1 of~~  
16 ~~the Vehicle Code, to any violation of subdivision (c) of Section~~  
17 ~~286, Section 288, subdivision (c) of Section 287 or of former~~  
18 ~~Section 288a, Section 288.5, subdivision (j) of Section 289, Section~~  
19 ~~311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant~~  
20 ~~to subdivision (d) of Section 261.5, or to any infraction.~~

21 ~~(c) (1) Except as provided in paragraph (2), subdivision (a)~~  
22 ~~does not apply to a person who receives a notice to appear or is~~  
23 ~~otherwise charged with a violation of an offense described in~~  
24 ~~subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle~~  
25 ~~Code.~~

26 ~~(2) If a defendant who was convicted of a violation listed in~~  
27 ~~paragraph (1) petitions the court, the court in its discretion and in~~  
28 ~~the interests of justice, may order the relief provided pursuant to~~  
29 ~~subdivision (a) to that defendant.~~

30 ~~(d) (1) Relief shall not be granted under this section unless the~~  
31 ~~prosecuting attorney has been given 15 days' notice of the petition~~  
32 ~~for relief. The probation officer shall notify the prosecuting attorney~~  
33 ~~when a petition is filed, pursuant to this section.~~

34 ~~(2) It shall be presumed that the prosecuting attorney has~~  
35 ~~received notice if proof of service is filed with the court.~~

36 ~~(e) If, after receiving notice pursuant to subdivision (d), the~~  
37 ~~prosecuting attorney fails to appear and object to a petition for~~  
38 ~~dismissal, the prosecuting attorney may not move to set aside or~~  
39 ~~otherwise appeal the grant of that petition.~~

1 (f) Notwithstanding the above provisions or any other provision  
2 of law, the Governor shall have the right to pardon a person  
3 convicted of a violation of subdivision (c) of Section 286, Section  
4 288, subdivision (c) of Section 287 or of former Section 288a,  
5 Section 288.5, or subdivision (j) of Section 289, if there are  
6 extraordinary circumstances.

7 SEC. 81. ~~Section 1203.4a of the Penal Code is amended to~~  
8 ~~read:~~

9 1203.4a. (a) Every defendant convicted of a misdemeanor and  
10 not granted probation, and every defendant convicted of an  
11 infraction shall, at any time after the lapse of one year from the  
12 date of pronouncement of judgment, if the defendant has fully  
13 complied with and performed the sentence of the court, is not then  
14 serving a sentence for any offense and is not under charge of  
15 commission of any crime, and has, since the pronouncement of  
16 judgment, lived an honest and upright life and has conformed to  
17 and obeyed the laws of the land, be permitted by the court to  
18 withdraw the plea of guilty or nolo contendere and enter a plea of  
19 not guilty; or if the defendant has been convicted after a plea of  
20 not guilty, the court shall set aside the verdict of guilty; and in  
21 either case the court shall thereupon dismiss the accusatory  
22 pleading against the defendant, who shall thereafter be released  
23 from all penalties and disabilities resulting from the offense of  
24 which the defendant has been convicted, except as provided in  
25 Chapter 3 (commencing with Section 29900) of Division 9 of Title  
26 4 of Part 6 of this code or Section 13555 of the Vehicle Code.

27 (b) If a defendant does not satisfy all the requirements of  
28 subdivision (a), after a lapse of one year from the date of  
29 pronouncement of judgment, a court, in its discretion and in the  
30 interests of justice, may grant the relief available pursuant to  
31 subdivision (a) to a defendant convicted of an infraction, or of a  
32 misdemeanor and not granted probation, or both, if the defendant  
33 has fully complied with and performed the sentence of the court,  
34 is not then serving a sentence for any offense, and is not under  
35 charge of commission of any crime.

36 (c) (1) The defendant shall be informed of the provisions of  
37 this section, either orally or in writing, at the time the defendant  
38 is sentenced. The defendant may make an application and change  
39 of plea in person or by attorney, or by the probation officer  
40 authorized in writing, provided that, in any subsequent prosecution

1 of the defendant for any other offense, the prior conviction may  
2 be pleaded and proved and shall have the same effect as if relief  
3 had not been granted pursuant to this section.

4 (2) Dismissal of an accusatory pleading pursuant to this section  
5 does not permit a person to own, possess, or have in the person's  
6 custody or control any firearm or prevent the person's conviction  
7 under Chapter 2 (commencing with Section 29800) of Division 9  
8 of Title 4 of Part 6.

9 (3) Dismissal of an accusatory pleading underlying a conviction  
10 pursuant to this section does not permit a person prohibited from  
11 holding public office as a result of that conviction to hold public  
12 office.

13 (d) This section applies to any conviction specified in  
14 subdivision (a) or (b) that occurred before, as well as those  
15 occurring after, the effective date of this section, except that this  
16 section does not apply to the following:

17 (1) A misdemeanor violation of subdivision (c) of Section 288.

18 (2) Any misdemeanor falling within the provisions of Section  
19 42002.1 of the Vehicle Code.

20 (3) Any infraction falling within the provisions of Section 42001  
21 of the Vehicle Code.

22 (e) A petition for dismissal of an infraction pursuant to this  
23 section shall be by written declaration, except upon a showing of  
24 compelling need. Dismissal of an infraction shall not be granted  
25 under this section unless the prosecuting attorney has been given  
26 at least 15 days' notice of the petition for dismissal. It shall be  
27 presumed that the prosecuting attorney has received notice if proof  
28 of service is filed with the court.

29 (f) Any determination of amount made by a court under this  
30 section shall be valid only if either (1) made under procedures  
31 adopted by the Judicial Council or (2) approved by the Judicial  
32 Council.

33 SEC. 82. Section 1203.41 of the Penal Code is amended to  
34 read:

35 1203.41. (a) If a defendant is sentenced pursuant to paragraph  
36 (5) of subdivision (h) of Section 1170, the court, in its discretion  
37 and in the interests of justice, may order the following relief,  
38 subject to the conditions of subdivision (b):

39 (1) The court may permit the defendant to withdraw the plea of  
40 guilty or plea of nolo contendere and enter a plea of not guilty, or,

1 if the defendant has been convicted after a plea of not guilty, the  
2 court shall set aside the verdict of guilty, and, in either case, the  
3 court shall thereupon dismiss the accusations or information against  
4 the defendant and the defendant shall thereafter be released from  
5 all penalties and disabilities resulting from the offense of which  
6 the defendant has been convicted, except as provided in Section  
7 13555 of the Vehicle Code.

8 (2) The relief available under this section may be granted only  
9 after the lapse of one year following the defendant's completion  
10 of the sentence, if the sentence was imposed pursuant to  
11 subparagraph (B) of paragraph (5) of subdivision (h) of Section  
12 1170, or after the lapse of two years following the defendant's  
13 completion of the sentence, if the sentence was imposed pursuant  
14 to subparagraph (A) of paragraph (5) of subdivision (h) of Section  
15 1170.

16 (3) The relief available under this section may be granted only  
17 if the defendant is not under supervision pursuant to subparagraph  
18 (B) of paragraph (5) of subdivision (h) of Section 1170, and is not  
19 serving a sentence for, on probation for, or charged with the  
20 commission of any offense.

21 (4) The defendant shall be informed, either orally or in writing,  
22 of the provisions of this section and of the right, if any, to petition  
23 for a certificate of rehabilitation and pardon at the time the  
24 defendant is sentenced.

25 (5) The defendant may make the application and change of plea  
26 in person or by attorney, or by a probation officer authorized in  
27 writing.

28 (b) Relief granted pursuant to subdivision (a) is subject to the  
29 following conditions:

30 (1) In any subsequent prosecution of the defendant for any other  
31 offense, the prior conviction may be pleaded and proved and shall  
32 have the same effect as if the accusation or information had not  
33 been dismissed.

34 (2) The order shall state, and the defendant shall be informed,  
35 that the order does not relieve the defendant of the obligation to  
36 disclose the conviction in response to any direct question contained  
37 in any questionnaire or application for public office, for licensure  
38 by any state or local agency, or for contracting with the California  
39 State Lottery Commission.

1 ~~(3) Dismissal of an accusation or information pursuant to this~~  
2 ~~section does not permit a person to own, possess, or have in the~~  
3 ~~person's custody or control any firearm or prevent the person's~~  
4 ~~conviction under Chapter 2 (commencing with Section 29800) of~~  
5 ~~Division 9 of Title 4 of Part 6.~~

6 ~~(4) Dismissal of an accusation or information underlying a~~  
7 ~~conviction pursuant to this section does not permit a person~~  
8 ~~prohibited from holding public office as a result of that conviction~~  
9 ~~to hold public office.~~

10 ~~(e) This section applies to any conviction specified in~~  
11 ~~subdivision (a) that occurred before, on, or after January 1, 2014.~~

12 ~~(d) (1) Relief shall not be granted under this section unless the~~  
13 ~~prosecuting attorney has been given 15 days' notice of the petition~~  
14 ~~for relief. The probation officer shall notify the prosecuting attorney~~  
15 ~~when a petition is filed, pursuant to this section.~~

16 ~~(2) It shall be presumed that the prosecuting attorney has~~  
17 ~~received notice if proof of service is filed with the court.~~

18 ~~(e) If, after receiving notice pursuant to subdivision (d), the~~  
19 ~~prosecuting attorney fails to appear and object to a petition for~~  
20 ~~dismissal, the prosecuting attorney may not move to set aside or~~  
21 ~~otherwise appeal the grant of that petition.~~

22 ~~SEC. 83. Section 1203.42 of the Penal Code is amended to~~  
23 ~~read:~~

24 ~~1203.42. (a) If a defendant was sentenced prior to the~~  
25 ~~implementation of the 2011 Realignment Legislation for a crime~~  
26 ~~for which the defendant would otherwise have been eligible for~~  
27 ~~sentencing pursuant to subdivision (h) of Section 1170, the court,~~  
28 ~~in its discretion and in the interests of justice, may order the~~  
29 ~~following relief, subject to the conditions of subdivision (b):~~

30 ~~(1) The court may permit the defendant to withdraw the plea of~~  
31 ~~guilty or plea of nolo contendere and enter a plea of not guilty, or,~~  
32 ~~if the defendant has been convicted after a plea of not guilty, the~~  
33 ~~court shall set aside the verdict of guilty, and, in either case, the~~  
34 ~~court shall thereupon dismiss the accusations or information against~~  
35 ~~the defendant and the defendant shall thereafter be released from~~  
36 ~~all penalties and disabilities resulting from the offense of which~~  
37 ~~the defendant has been convicted, except as provided in Section~~  
38 ~~13555 of the Vehicle Code.~~

~~(2) The relief available under this section may be granted only after the lapse of two years following the defendant's completion of the sentence.~~

~~(3) The relief available under this section may be granted only if the defendant is not under supervised release, and is not serving a sentence for, on probation for, or charged with the commission of any offense.~~

~~(4) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.~~

~~(b) Relief granted pursuant to subdivision (a) is subject to the following conditions:~~

~~(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.~~

~~(2) The order shall state, and the defendant shall be informed, that the order does not relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.~~

~~(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in the person's custody or control any firearm or prevent the person's conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.~~

~~(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.~~

~~(c) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.~~

~~(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.~~

~~(d) If, after receiving notice pursuant to subdivision (c), the prosecuting attorney fails to appear and object to a petition for~~

1 dismissal, the prosecuting attorney may not move to set aside or  
2 otherwise appeal the grant of that petition.

3 SEC. 84. ~~Section 1203.45 of the Penal Code is amended to~~  
4 ~~read:~~

5 1203.45. (a) In a case in which a person was under 18 years  
6 of age at the time of commission of a misdemeanor and is eligible  
7 for, or has previously received, the relief provided by Section  
8 1203.4 or 1203.4a, that person, in a proceeding under Section  
9 1203.4 or 1203.4a, or a separate proceeding, may petition the court  
10 for an order sealing the record of conviction and other official  
11 records in the case, including records of arrests resulting in the  
12 criminal proceeding and records relating to other offenses charged  
13 in the accusatory pleading, whether the defendant was acquitted  
14 or charges were dismissed. If the court finds that the person was  
15 under 18 years of age at the time of the commission of the  
16 misdemeanor, and is eligible for relief under Section 1203.4 or  
17 1203.4a or has previously received that relief, it may issue its order  
18 granting the relief prayed for. Thereafter the conviction, arrest, or  
19 other proceeding shall be deemed not to have occurred, and the  
20 petitioner may answer accordingly any question relating to their  
21 occurrence.

22 (b) ~~This section applies to convictions that occurred before, as~~  
23 ~~well as those that occur after, the effective date of this section.~~

24 (c) ~~This section shall not apply to offenses for which registration~~  
25 ~~is required under Section 290, to violations of Division 10~~  
26 ~~(commencing with Section 11000) of the Health and Safety Code,~~  
27 ~~or to misdemeanor violations of the Vehicle Code relating to~~  
28 ~~operation of a vehicle or of a local ordinance relating to operation,~~  
29 ~~standing, stopping, or parking of a motor vehicle.~~

30 (d) ~~This section does not apply to a person convicted of more~~  
31 ~~than one offense, whether the second or additional convictions~~  
32 ~~occurred in the same action in which the conviction as to which~~  
33 ~~relief is sought occurred or in another action, except in the~~  
34 ~~following cases:~~

35 (1) ~~One of the offenses includes the other or others.~~

36 (2) ~~The other conviction or convictions were for the following:~~

37 (A) ~~Misdemeanor violations of Chapters 1 (commencing with~~  
38 ~~Section 21000) to 9 (commencing with Section 22500), inclusive,~~  
39 ~~Chapter 12 (commencing with Section 23100), or Chapter 13~~  
40 ~~(commencing with Section 23250) of Division 11 of the Vehicle~~

1 ~~Code, other than Section 23103, 23104, 23105, 23152, 23153, or~~  
2 ~~23220.~~

3 ~~(B) Violation of a local ordinance relating to the operation,~~  
4 ~~stopping, standing, or parking of a motor vehicle.~~

5 ~~(3) The other conviction or convictions consisted of any~~  
6 ~~combination of paragraphs (1) and (2).~~

7 ~~(e) This section shall apply in a case in which a person was~~  
8 ~~under 21 years of age at the time of the commission of an offense~~  
9 ~~as to which this section is made applicable if that offense was~~  
10 ~~committed prior to March 7, 1973.~~

11 ~~(f) In an action or proceeding based upon defamation, a court,~~  
12 ~~upon a showing of good cause, may order the records sealed under~~  
13 ~~this section to be opened and admitted into evidence. The records~~  
14 ~~shall be confidential and shall be available for inspection only by~~  
15 ~~the court, jury, parties, counsel for the parties, and any other person~~  
16 ~~who is authorized by the court to inspect them. Upon the judgment~~  
17 ~~in the action or proceeding becoming final, the court shall order~~  
18 ~~the records sealed.~~

19 ~~SEC. 85.~~

20 *SEC. 61.* Section 1203.9 of the Penal Code is amended to read:

21 1203.9. (a) (1) Except as provided in paragraph (3), whenever  
22 a person is released on probation or mandatory supervision, the  
23 court, upon noticed motion, shall transfer the case to the superior  
24 court in any other county in which the person resides permanently  
25 with the stated intention to remain for the duration of probation or  
26 mandatory supervision, unless the transferring court determines  
27 that the transfer would be inappropriate and states its reasons on  
28 the record.

29 (2) Upon notice of the motion for transfer, the court of the  
30 proposed receiving county may provide comments for the record  
31 regarding the proposed transfer, following procedures set forth in  
32 rules of court developed by the Judicial Council for this purpose,  
33 pursuant to subdivision (f). The court and the probation department  
34 shall give the matter of investigating those transfers precedence  
35 over all actions or proceedings therein, except actions or  
36 proceedings to which special precedence is given by law, to the  
37 end that all those transfers shall be completed expeditiously.

38 (3) If victim restitution was ordered as a condition of probation  
39 or mandatory supervision, the transferring court shall determine  
40 the amount of restitution before the transfer unless the court finds

1 that the determination cannot be made within a reasonable time  
2 from when the motion for transfer is made. If a case is transferred  
3 without a determination of the amount of restitution, the  
4 transferring court shall complete the determination as soon as  
5 practicable. In all other aspects, except as provided in subdivisions  
6 (d) and (e), the court of the receiving county shall have full  
7 jurisdiction over the matter upon transfer as provided in subdivision  
8 (b).

9 (b) The court of the receiving county shall accept the entire  
10 jurisdiction over the case effective the date that the transferring  
11 court orders the transfer.

12 (c) The order of transfer shall contain an order committing the  
13 probationer or supervised person to the care and custody of the  
14 probation officer of the receiving county. A copy of the orders and  
15 any probation reports shall be transmitted to the court and probation  
16 officer of the receiving county within two weeks of the finding  
17 that the person does permanently reside in or has permanently  
18 moved to that county, and the receiving court shall have entire  
19 jurisdiction over the case, except as provided in subdivisions (d)  
20 and (e), with the like power to again request transfer of the case  
21 whenever it seems proper.

22 (d) (1) Notwithstanding subdivision (b) and except as provided  
23 in subdivision (e), if the transferring court has ordered the  
24 defendant to pay fines, *fees*, forfeitures, penalties, assessments, or  
25 restitution, the transfer order shall require that those and any other  
26 amounts ordered by the transferring court that are still unpaid at  
27 the time of transfer be paid by the defendant to the collection  
28 program for the transferring court for proper distribution and  
29 accounting once collected.

30 (2) The receiving court and receiving county probation  
31 department ~~shall not~~ *may* impose additional local fees and ~~costs~~.  
32 *costs as authorized, and shall notify the responsible collection*  
33 *program for the transferring court of those changes.*

34 (3) *Any local fees imposed pursuant to paragraph (2) shall be*  
35 *paid by the defendant to the collection program for the transferring*  
36 *court which shall remit the additional fees and costs to the*  
37 *receiving court for proper accounting and distribution.*

38 (e) (1) Upon approval of a transferring court, a receiving court  
39 may elect to collect all of the court-ordered payments from a  
40 defendant attributable to the case under which the defendant is

1 being supervised, provided, however, that the collection program  
2 for the receiving court transmits the revenue collected to the  
3 collection program for the transferring court for deposit,  
4 accounting, and distribution. A collection program for the receiving  
5 court shall not charge administrative fees for collections performed  
6 for the collection program for the transferring court. ~~court without~~  
7 ~~a written agreement with the other program.~~

8 (2) A collection program for a receiving court collecting funds  
9 for a collection program for a transferring court pursuant to  
10 paragraph (1) shall not report revenue owed or collected on behalf  
11 of the collection program for the transferring court as part of those  
12 collections required to be reported annually by the court to the  
13 Judicial Council.

14 (f) The Judicial Council shall promulgate rules of court for  
15 procedures by which the proposed receiving county shall receive  
16 notice of the motion for transfer and by which responsive  
17 comments may be transmitted to the court of the transferring  
18 county. The Judicial Council shall adopt rules providing factors  
19 for the court's consideration when determining the appropriateness  
20 of a transfer, including, but not limited to, the following:

21 (1) Permanency of residence of the offender.

22 (2) Local programs available for the offender.

23 (3) Restitution orders and victim issues.

24 (g) The Judicial Council shall consider adoption of rules of court  
25 as it deems appropriate to implement the collection, accounting,  
26 and disbursement requirements of subdivisions (d) and (e).

27 ~~SEC. 86.~~

28 *SEC. 62.* Section 1205 of the Penal Code is amended to read:

29 1205. (a) A judgment that the defendant pay a fine, with or  
30 without other punishment, may also direct that the defendant be  
31 imprisoned until the fine is satisfied and may further direct that  
32 the imprisonment begin at and continue after the expiration of any  
33 imprisonment imposed as a part of the punishment or of any other  
34 imprisonment to which the defendant may have been sentenced.  
35 The judgment shall specify the term of imprisonment for  
36 nonpayment of the fine, which shall not be more than one day for  
37 each one hundred twenty-five dollars (\$125) of the base fine, nor  
38 exceed the term for which the defendant may be sentenced to  
39 imprisonment for the offense of which the defendant has been  
40 convicted. A defendant held in custody for nonpayment of a fine

1 shall be entitled to credit on the fine for each day the defendant is  
2 held in custody, at the rate specified in the judgment. When the  
3 defendant has been convicted of a misdemeanor, a judgment that  
4 the defendant pay a fine may also direct that the defendant pay the  
5 fine within a limited time or in installments on specified dates, and  
6 that in default of payment as stipulated be imprisoned in the  
7 discretion of the court either until the defaulted installment is  
8 satisfied or until the fine is satisfied in full; but unless the direction  
9 is given in the judgment, the fine shall be payable. If an amount  
10 of the base fine is not satisfied by jail credits, or by community  
11 service, the penalties and assessments imposed on the base fine  
12 shall be reduced by the percentage of the base fine that was  
13 satisfied.

14 (b) Except as otherwise provided in case of fines imposed, as  
15 a condition of probation, the defendant shall pay the fine to the  
16 clerk of the court, or to the judge if there is no clerk, unless the  
17 defendant is taken into custody for nonpayment of the fine, in  
18 which event payments made while the defendant is in custody shall  
19 be made to the officer who holds the defendant in custody, and all  
20 amounts paid shall be paid over by the officer to the court that  
21 rendered the judgment. The clerk shall report to the court every  
22 default in payment of a fine or any part of that fine, or if there is  
23 no clerk, the court shall take notice of the default. If time has been  
24 given for payment of a fine or it has been made payable in  
25 installments, the court shall, upon any default in payment,  
26 immediately order the arrest of the defendant and order the  
27 defendant to show cause why they should not be imprisoned until  
28 the fine or installment is satisfied in full. If the fine or installment  
29 is payable forthwith and it is not paid, the court shall, without  
30 further proceedings, immediately commit the defendant to the  
31 custody of the proper officer to be held in custody until the fine  
32 or installment is satisfied in full.

33 (c) This section applies to any violation of any of the codes or  
34 statutes of this state punishable by a fine or by a fine and  
35 imprisonment.

36 (d) Nothing in this section shall be construed to prohibit the  
37 clerk of the court, or the judge if there is no clerk, from turning  
38 these accounts over to another county department or a collecting  
39 agency for processing and collection.

(e) This section shall not apply to restitution fines and restitution orders.

~~SEC. 87.~~

*SEC. 63.* Section 1208 of the Penal Code is amended to read:

1208. (a) (1) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to job training, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of job training conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to job training, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any ordinance the board shall prescribe whether the sheriff, the probation officer, the director of the county department of corrections, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in that ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of those persons, acting separately or jointly as to any of the functions; and may, by a subsequent ordinance, revise the provisions within the authorization of this section. The board of supervisors may also terminate the operation of this section, either with respect to employment, job training, or education in the county, if the board finds by ordinance that because of changed circumstances, the operation of this section, either with respect to employment, job training, or education in that county, is no longer feasible.

(2) Notwithstanding any other law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The work

1 furlough administrator may operate the work furlough facility or,  
2 with the approval of the board of supervisors, administer the work  
3 furlough facility pursuant to written contracts with appropriate  
4 public or private agencies or private entities. No agency or private  
5 entity may operate a work furlough program or facility without a  
6 written contract with the work furlough administrator, and no  
7 agency or private entity entering into a written contract may itself  
8 employ any person who is in the work furlough program. The  
9 sheriff or director of the county department of corrections, as the  
10 case may be, is authorized to transfer custody of prisoners to the  
11 work furlough administrator to be confined in a facility for the  
12 period during which they are in the work furlough program.

13 (3) All privately operated local work furlough facilities and  
14 programs shall be under the jurisdiction of, and subject to the terms  
15 of a written contract entered into with, the work furlough  
16 administrator. Each contract shall include, but not be limited to, a  
17 provision whereby the private agency or entity agrees to operate  
18 in compliance with all appropriate state and local building, zoning,  
19 health, safety, and fire statutes, ordinances, and regulations and  
20 the minimum jail standards for Type IV facilities as established  
21 by regulations adopted by the Board of State and Community  
22 Corrections. The private agency or entity shall select and train its  
23 personnel in accordance with selection and training requirements  
24 adopted by the Board of State and Community Corrections as set  
25 forth in Subchapter 1 (commencing with Section 100) of Chapter  
26 1 of Division 1 of Title 15 of the California Code of Regulations.  
27 Failure to comply with the appropriate health, safety, and fire laws  
28 or minimum jail standards adopted by the board may be cause for  
29 termination of the contract. Upon discovery of a failure to comply  
30 with these requirements, the work furlough administrator shall  
31 notify the privately operated program director that the contract  
32 may be canceled if the specified deficiencies are not corrected  
33 within 60 days.

34 (4) All private work furlough facilities and programs shall be  
35 inspected biennially by the Board of State and Community  
36 Corrections unless the work furlough administrator requests an  
37 earlier inspection pursuant to Section 6031.1. Each private agency  
38 or entity shall pay a fee to the Board of State and Community  
39 Corrections commensurate with the cost of those inspections and

1 a fee commensurate with the cost of the initial review of the  
2 facility.

3 (b) When a person is convicted and sentenced to the county jail,  
4 or is imprisoned in the county jail for nonpayment of a fine, for  
5 contempt, or as a condition of probation for any criminal offense,  
6 the work furlough administrator may, if the administrator concludes  
7 that the person is a fit subject to continue in the person's regular  
8 employment, direct that the person be permitted to continue in that  
9 employment, if that is compatible with the requirements of  
10 subdivision (c), or may authorize the person to secure employment  
11 for themselves, unless the court at the time of sentencing or  
12 committing has ordered that the person not be granted work  
13 furloughs. The work furlough administrator may, if the  
14 administrator concludes that the person is a fit subject to continue  
15 in the person's job training program, direct that the person be  
16 permitted to continue in that job training program, if that is  
17 compatible with the requirements of subdivision (c), or may  
18 authorize the person to secure local job training for themselves,  
19 unless the court at the time of sentencing has ordered that person  
20 not be granted work furloughs. The work furlough administrator  
21 may, if the administrator concludes that the person is a fit subject  
22 to continue in the person's regular educational program, direct that  
23 the person be permitted to continue in that educational program,  
24 if that is compatible with the requirements of subdivision (c), or  
25 may authorize the person to secure education for themselves, unless  
26 the court at the time of sentencing has ordered that person not be  
27 granted work furloughs.

28 (c) If the work furlough administrator so directs that the prisoner  
29 be permitted to continue in the prisoner's regular employment, job  
30 training, or educational program, the administrator shall arrange  
31 for a continuation of that employment or for that job training or  
32 education, so far as possible without interruption. If the prisoner  
33 does not have regular employment or a regular job training or  
34 educational program, and the administrator has authorized the  
35 prisoner to secure employment, job training, or education for  
36 themselves, the prisoner may do so, and the administrator may  
37 assist the prisoner in doing so. Any employment, job training, or  
38 education so secured shall be suitable for the prisoner. The  
39 employment, and the job training or educational program if it  
40 includes earnings by the prisoner, shall be at a wage at least as

1 high as the prevailing wage for similar work in the area where the  
2 work is performed and in accordance with the prevailing working  
3 conditions in that area. In no event may any employment, job  
4 training, or educational program involving earnings by the prisoner  
5 be permitted where there is a labor dispute in the establishment in  
6 which the prisoner is, or is to be, employed, trained, or educated.

7 (d) (1) Whenever the prisoner is not employed or being trained  
8 or educated and between the hours or periods of employment,  
9 training, or education, the prisoner shall be confined in the facility  
10 designated by the board of supervisors for work furlough  
11 confinement unless the work furlough administrator directs  
12 otherwise. If the prisoner is injured during a period of employment,  
13 job training, or education, the work furlough administrator shall  
14 have the authority to release the prisoner from the facility for  
15 continued medical treatment by private physicians or at medical  
16 facilities at the expense of the employer, workers' compensation  
17 insurer, or the prisoner. The release shall not be construed as  
18 assumption of liability by the county or work furlough  
19 administrator for medical treatment obtained.

20 (2) The work furlough administrator may release any prisoner  
21 classified for the work furlough program for a period not to exceed  
22 72 hours for medical, dental, or psychiatric care, or for family  
23 emergencies or pressing business which would result in severe  
24 hardship if the release were not granted, or to attend those activities  
25 as the administrator deems may effectively promote the prisoner's  
26 successful return to the community, including, but not limited to,  
27 an attempt to secure housing, employment, entry into educational  
28 programs, or participation in community programs.

29 (e) The earnings of the prisoner may be collected by the work  
30 furlough administrator, and it shall be the duty of the prisoner's  
31 employer to transmit the wages to the administrator at the latter's  
32 request. Earnings levied upon pursuant to writ of execution or in  
33 other lawful manner shall not be transmitted to the administrator.  
34 If the administrator has requested transmittal of earnings prior to  
35 levy, that request shall have priority. In a case in which the  
36 functions of the administrator are performed by a sheriff, and the  
37 sheriff receives a writ of execution for the earnings of a prisoner  
38 subject to this section but has not yet requested transmittal of the  
39 prisoner's earnings pursuant to this section, the sheriff shall first  
40 levy on the earnings pursuant to the writ. When an employer or

educator transmits earnings to the administrator pursuant to this subdivision, the sheriff shall have no liability to the prisoner for those earnings. From the earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to the prisoner or if the prisoner is unable to pay that sum, a lesser sum as is reasonable, and, in an amount determined by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge. Upon discharge the balance shall be paid to the prisoner.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018 and 4019.

(g) If the prisoner violates the conditions laid down for the prisoner's conduct, custody, job training, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which the prisoner is authorized to be away from the place of confinement pursuant to this section is punishable as provided in Section 4532.

(i) The court may recommend or refer a person to the work furlough administrator for consideration for placement in the work furlough program or a particular work furlough facility. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial for placement in the work furlough program or a particular work furlough facility.

(j) As used in this section, the following definitions apply:

(1) "Education" includes vocational and educational training and counseling, and psychological, drug abuse, alcoholic, and other rehabilitative counseling.

(2) "Educator" includes a person or institution providing that training or counseling.

(3) "Employment" includes care of children, including the daytime care of children of the prisoner.

1 (4) “Job training” may include, but shall not be limited to, job  
2 training assistance.

3 (k) This section shall be known and may be cited as the “Cobey  
4 Work Furlough Law.”

5 ~~SEC. 88.~~

6 *SEC. 64.* Section 1208.2 of the Penal Code is amended to read:

7 1208.2. (a) (1) This section shall apply to individuals  
8 authorized to participate in a work furlough program pursuant to  
9 Section 1208, or to individuals authorized to participate in an  
10 electronic home detention program pursuant to Section 1203.016  
11 or 1203.018, or to individuals authorized to participate in a county  
12 parole program pursuant to Article 3.5 (commencing with Section  
13 3074) of Chapter 8 of Title 1 of Part 3.

14 (2) As used in this section, as appropriate, “administrator” means  
15 the sheriff, probation officer, director of the county department of  
16 corrections, or county parole administrator.

17 (b) (1) A board of supervisors that implements programs  
18 identified in paragraph (1) of subdivision (a) shall not impose a  
19 program administrative fee.

20 (2) With regard to a privately operated electronic home detention  
21 program pursuant to Section 1203.016 or 1203.018, the limitation,  
22 described in paragraph (1), in prescribing a program administrative  
23 fee and application fee shall not apply.

24 (c) In all circumstances where a county board of supervisors  
25 has approved a program administrator, as described in Section  
26 1203.016, 1203.018, or 1208, to enter into a contract with a private  
27 agency or entity to provide specified program services, the program  
28 administrator shall ensure that the provisions of this section are  
29 contained within any contractual agreement for this purpose. All  
30 privately operated home detention programs shall comply with all  
31 appropriate, applicable ordinances and regulations specified in  
32 subdivision (a) of Section 1208.

33 ~~SEC. 89.~~

34 *SEC. 65.* Section 1208.3 of the Penal Code is amended to read:

35 1208.3. The administrator is not prohibited from verifying any  
36 of the following:

37 (a) That the prisoner is receiving wages at a rate of pay not less  
38 than the prevailing minimum wage requirement as provided for  
39 in subdivision (c) of Section 1208.

1 (b) That the prisoner is working a specified minimum number  
2 of required hours.

3 (c) That the prisoner is covered under an appropriate or suitable  
4 workers' compensation insurance plan as may otherwise be  
5 required by law.

6 The purpose of the verification shall be solely to ~~insure~~ *ensure*  
7 that the prisoner's employment rights are being protected, that the  
8 prisoner is not being taken advantage of, that the job is suitable  
9 for the prisoner, and that the prisoner is making every reasonable  
10 effort to make a productive contribution to the community.

11 SEC. 90. Section 1209 of the Penal Code is repealed.

12 SEC. 91. Section 1210.1 of the Penal Code is amended to read:

13 1210.1. (a) Notwithstanding any other provision of law, and  
14 except as provided in subdivision (b), any person convicted of a  
15 nonviolent drug possession offense shall receive probation. As a  
16 condition of probation the court shall require participation in and  
17 completion of an appropriate drug treatment program. The court  
18 shall impose appropriate drug testing as a condition of probation.  
19 The court may also impose, as a condition of probation,  
20 participation in vocational training, family counseling, literacy  
21 training, and community service. A court may not impose  
22 incarceration as an additional condition of probation. Aside from  
23 the limitations imposed in this subdivision, the trial court is not  
24 otherwise limited in the type of probation conditions it may impose.  
25 Probation shall be imposed by suspending the imposition of  
26 sentence. No person shall be denied the opportunity to benefit from  
27 the provisions of the Substance Abuse and Crime Prevention Act  
28 of 2000 based solely upon evidence of a co-occurring psychiatric  
29 or developmental disorder. To the greatest extent possible, any  
30 person who is convicted of, and placed on probation pursuant to  
31 this section for a nonviolent drug possession offense shall be  
32 monitored by the court through the use of a dedicated court  
33 calendar and the incorporation of a collaborative court model of  
34 oversight that includes close collaboration with treatment providers  
35 and probation, drug testing commensurate with treatment needs,  
36 and supervision of progress through review hearings.

37 (b) Subdivision (a) shall not apply to any of the following:

38 (1) Any defendant who previously has been convicted of one  
39 or more violent or serious felonies as defined in subdivision (c) of  
40 Section 667.5 or subdivision (c) of Section 1192.7, respectively,

1 ~~unless the nonviolent drug possession offense occurred after a~~  
2 ~~period of five years in which the defendant remained free of both~~  
3 ~~prison custody and the commission of an offense that results in a~~  
4 ~~felony conviction other than a nonviolent drug possession offense,~~  
5 ~~or a misdemeanor conviction involving physical injury or the threat~~  
6 ~~of physical injury to another person.~~

7 ~~(2) Any defendant who, in addition to one or more nonviolent~~  
8 ~~drug possession offenses, has been convicted in the same~~  
9 ~~proceeding of a misdemeanor not related to the use of drugs or~~  
10 ~~any felony.~~

11 ~~(3) Any defendant who, while armed with a deadly weapon,~~  
12 ~~with the intent to use the same as a deadly weapon, unlawfully~~  
13 ~~possesses or is under the influence of any controlled substance~~  
14 ~~identified in Section 11054, 11055, 11056, 11057, or 11058 of the~~  
15 ~~Health and Safety Code.~~

16 ~~(4) Any defendant who refuses drug treatment as a condition~~  
17 ~~of probation.~~

18 ~~(5) Any defendant who has two separate convictions for~~  
19 ~~nonviolent drug possession offenses, has participated in two~~  
20 ~~separate courses of drug treatment pursuant to subdivision (a), and~~  
21 ~~is found by the court, by clear and convincing evidence, to be~~  
22 ~~unamenable to any and all forms of available drug treatment, as~~  
23 ~~defined in subdivision (b) of Section 1210. Notwithstanding any~~  
24 ~~other provision of law, the trial court shall sentence that defendant~~  
25 ~~to 30 days in jail.~~

26 ~~(c) (1) Any defendant who has previously been convicted of~~  
27 ~~at least three non-drug-related felonies for which the defendant~~  
28 ~~has served three separate prison terms within the meaning of~~  
29 ~~subdivision (b) of Section 667.5 shall be presumed eligible for~~  
30 ~~treatment under subdivision (a). The court may exclude the~~  
31 ~~defendant from treatment under subdivision (a) where the court,~~  
32 ~~pursuant to the motion of the prosecutor or its own motion, finds~~  
33 ~~that the defendant poses a present danger to the safety of others~~  
34 ~~and would not benefit from a drug treatment program. The court~~  
35 ~~shall, on the record, state its findings, the reasons for those findings.~~

36 ~~(2) Any defendant who has previously been convicted of a~~  
37 ~~misdemeanor or felony at least five times within the prior 30~~  
38 ~~months shall be presumed to be eligible for treatment under~~  
39 ~~subdivision (a). The court may exclude the defendant from~~  
40 ~~treatment under subdivision (a) if the court, pursuant to the motion~~

1 of the prosecutor, or on its own motion, finds that the defendant  
2 poses a present danger to the safety of others or would not benefit  
3 from a drug treatment program. The court shall, on the record,  
4 state its findings and the reasons for those findings.

5 (d) ~~Within seven days of an order imposing probation under~~  
6 ~~subdivision (a), the probation department shall notify the drug~~  
7 ~~treatment provider designated to provide drug treatment under~~  
8 ~~subdivision (a). Within 30 days of receiving that notice, the~~  
9 ~~treatment provider shall prepare a treatment plan and forward it~~  
10 ~~to the probation department for distribution to the court and~~  
11 ~~counsel. The treatment provider shall provide to the probation~~  
12 ~~department standardized treatment progress reports, with minimum~~  
13 ~~data elements as determined by the department, including all drug~~  
14 ~~testing results. At a minimum, the reports shall be provided to the~~  
15 ~~court every 90 days, or more frequently, as the court directs.~~

16 (1) ~~If at any point during the course of drug treatment the~~  
17 ~~treatment provider notifies the probation department and the court~~  
18 ~~that the defendant is unamenable to the drug treatment being~~  
19 ~~provided, but may be amenable to other drug treatments or related~~  
20 ~~programs, the probation department may move the court to modify~~  
21 ~~the terms of probation, or on its own motion, the court may modify~~  
22 ~~the terms of probation after a hearing to ensure that the defendant~~  
23 ~~receives the alternative drug treatment or program.~~

24 (2) ~~If at any point during the course of drug treatment the~~  
25 ~~treatment provider notifies the probation department and the court~~  
26 ~~that the defendant is unamenable to the drug treatment provided~~  
27 ~~and all other forms of drug treatment programs pursuant to~~  
28 ~~subdivision (b) of Section 1210, the probation department may~~  
29 ~~move to revoke probation. At the revocation hearing, if it is proved~~  
30 ~~that the defendant is unamenable to all drug treatment programs~~  
31 ~~pursuant to subdivision (b) of Section 1210, the court may revoke~~  
32 ~~probation.~~

33 (3) ~~Drug treatment services provided by subdivision (a) as a~~  
34 ~~required condition of probation may not exceed 12 months, unless~~  
35 ~~the court makes a finding supported by the record, that the~~  
36 ~~continuation of treatment services beyond 12 months is necessary~~  
37 ~~for drug treatment to be successful. If that finding is made, the~~  
38 ~~court may order up to two six-month extensions of treatment~~  
39 ~~services. The provision of treatment services under the Substance~~

~~Abuse and Crime Prevention Act of 2000 shall not exceed 24 months.~~

~~(e) (1) At any time after completion of drug treatment and the terms of probation, the court shall conduct a hearing, and if the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, including refraining from the use of drugs after the completion of treatment, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. The defendant may additionally petition the court for a dismissal of charges at any time after completion of the prescribed course of drug treatment. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which the defendant has been convicted.~~

~~(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in the person's custody or control any firearm capable of being concealed upon the person or prevent the person's conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.~~

~~(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning the defendant's prior criminal record that they were not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.~~

~~Regardless of the defendant's successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the~~

1 obligation to disclose the arrest and conviction in response to any  
2 direct question contained in any questionnaire or application for  
3 public office, for a position as a peace officer as defined in Section  
4 830, for licensure by any state or local agency, for contracting with  
5 the California State Lottery, or for purposes of serving on a jury.

6 (f) (1) If probation is revoked pursuant to the provisions of this  
7 subdivision, the defendant may be incarcerated pursuant to  
8 otherwise applicable law without regard to the provisions of this  
9 section. The court may modify or revoke probation if the alleged  
10 violation is proved.

11 (2) If a defendant receives probation under subdivision (a), and  
12 violates that probation either by committing an offense that is not  
13 a nonviolent drug possession offense, or by violating a  
14 non-drug-related condition of probation, and the state moves to  
15 revoke probation, the court may remand the defendant for a period  
16 not exceeding 30 days during which time the court may receive  
17 input from treatment, probation, the state, and the defendant, and  
18 the court may conduct further hearings as it deems appropriate to  
19 determine whether or not probation should be reinstated under this  
20 section. If the court reinstates the defendant on probation, the court  
21 may modify the treatment plan and any other terms of probation,  
22 and continue the defendant in a treatment program under the  
23 Substance Abuse and Crime Prevention Act of 2000. If the court  
24 reinstates the defendant on probation, the court may, after receiving  
25 input from the treatment provider and probation, if available,  
26 intensify or alter the treatment plan under subdivision (a), and  
27 impose sanctions, including jail sanctions not exceeding 30 days,  
28 a tool to enhance treatment compliance.

29 (3) (A) If a defendant receives probation under subdivision (a),  
30 and violates that probation either by committing a nonviolent drug  
31 possession offense, or a misdemeanor for simple possession or use  
32 of drugs or drug paraphernalia, being present where drugs are used,  
33 or failure to register as a drug offender, or any activity similar to  
34 those listed in subdivision (d) of Section 1210, or by violating a  
35 drug-related condition of probation, and the state moves to revoke  
36 probation, the court shall conduct a hearing to determine whether  
37 probation shall be revoked. The trial court shall revoke probation  
38 if the alleged probation violation is proved and the state proves by  
39 a preponderance of the evidence that the defendant poses a danger  
40 to the safety of others. If the court does not revoke probation, it

1 may intensify or alter the drug treatment plan and in addition, if  
2 the violation does not involve the recent use of drugs as a  
3 circumstance of the violation, including, but not limited to,  
4 violations relating to failure to appear at treatment or court,  
5 noncompliance with treatment, and failure to report for drug  
6 testing, the court may impose sanctions including jail sanctions  
7 that may not exceed 48 hours of continuous custody as a tool to  
8 enhance treatment compliance and impose other changes in the  
9 terms and conditions of probation. The court shall consider, among  
10 other factors, the seriousness of the violation, previous treatment  
11 compliance, employment, education, vocational training, medical  
12 conditions, medical treatment, including narcotic replacement  
13 treatment, and including the opinion of the defendant's licensed  
14 and treating physician if immediately available and presented at  
15 the hearing, child support obligations, and family responsibilities.  
16 The court shall consider additional conditions of probation, which  
17 may include, but are not limited to, community service and  
18 supervised work programs. If one of the circumstances of the  
19 violation involves recent drug use, as well as other circumstances  
20 of violation, and the circumstance of recent drug use is  
21 demonstrated to the court by satisfactory evidence and a finding  
22 made on the record, the court may, after receiving input from  
23 treatment and probation, if available, direct the defendant to enter  
24 a licensed detoxification or residential treatment facility, and if  
25 there is no bed immediately available in that type of facility, the  
26 court may order that the defendant be confined in a county jail for  
27 detoxification purposes only, if the jail offers detoxification  
28 services, for a period not to exceed 10 days. The detoxification  
29 services must provide narcotic replacement therapy for those  
30 defendants presently actually receiving narcotic replacement  
31 therapy.

32 (B) If a defendant receives probation under subdivision (a), and  
33 for the second time violates that probation either by committing a  
34 nonviolent drug possession offense, or a misdemeanor for simple  
35 possession or use of drugs or drug paraphernalia, being present  
36 where drugs are used, or failure to register as a drug offender, or  
37 any activity similar to those listed in subdivision (d) of Section  
38 1210, or by violating a drug-related condition of probation, and  
39 the state moves to revoke probation, the court shall conduct a  
40 hearing to determine whether probation shall be revoked. The trial

1 court shall revoke probation if the alleged probation violation is  
2 proved and the state proves by a preponderance of the evidence  
3 either that the defendant poses a danger to the safety of others or  
4 is unamenable to drug treatment. In determining whether a  
5 defendant is unamenable to drug treatment, the court may consider,  
6 to the extent relevant, whether the defendant (i) has committed a  
7 serious violation of rules at the drug treatment program, (ii) has  
8 repeatedly committed violations of program rules that inhibit the  
9 defendant's ability to function in the program, or (iii) has  
10 continually refused to participate in the program or asked to be  
11 removed from the program. If the court does not revoke probation,  
12 it may intensify or alter the drug treatment plan, and may, in  
13 addition, if the violation does not involve the recent use of drugs  
14 as a circumstance of the violation, including, but not limited to,  
15 violations relating to failure to appear at treatment or court,  
16 noncompliance with treatment, and failure to report for drug  
17 testing, impose sanctions including jail sanctions that may not  
18 exceed 120 hours of continuous custody as a tool to enhance  
19 treatment compliance and impose other changes in the terms and  
20 conditions of probation. The court shall consider, among other  
21 factors, the seriousness of the violation, previous treatment  
22 compliance, employment, education, vocational training, medical  
23 conditions, medical treatment, including narcotics replacement  
24 treatment, and including the opinion of the defendant's licensed  
25 and treating physician if immediately available and presented at  
26 the hearing, child support obligations, and family responsibilities.  
27 The court shall consider additional conditions of probation, which  
28 may include, but are not limited to, community service and  
29 supervised work programs. If one of the circumstances of the  
30 violation involves recent drug use, as well as other circumstances  
31 of violation, and the circumstance of recent drug use is  
32 demonstrated to the court by satisfactory evidence and a finding  
33 made on the record, the court may, after receiving input from  
34 treatment and probation, if available, direct the defendant to enter  
35 a licensed detoxification or residential treatment facility, and if  
36 there is no bed immediately available in the facility, the court may  
37 order that the defendant be confined in a county jail for  
38 detoxification purposes only, if the jail offers detoxification  
39 services, for a period not to exceed 10 days. Detoxification services

1 must provide narcotic replacement therapy for those defendants  
2 presently actually receiving narcotic replacement therapy.

3 (C) If a defendant receives probation under subdivision (a), and  
4 for the third or subsequent time violates that probation either by  
5 committing a nonviolent drug possession offense, or by violating  
6 a drug-related condition of probation, and the state moves for a  
7 third or subsequent time to revoke probation, the court shall  
8 conduct a hearing to determine whether probation shall be revoked.  
9 If the alleged probation violation is proved, the defendant is not  
10 eligible for continued probation under subdivision (a) unless the  
11 court determines that the defendant is not a danger to the  
12 community and would benefit from further treatment under  
13 subdivision (a). The court may then either intensify or alter the  
14 treatment plan under subdivision (a) or transfer the defendant to  
15 a highly structured drug court. If the court continues the defendant  
16 in treatment under subdivision (a), or drug court, the court may  
17 impose appropriate sanctions including jail sanctions as the court  
18 deems appropriate.

19 (D) If a defendant on probation at the effective date of this act  
20 for a nonviolent drug possession offense violates that probation  
21 either by committing a nonviolent drug possession offense, or a  
22 misdemeanor for simple possession or use of drugs or drug  
23 paraphernalia, being present where drugs are used, or failure to  
24 register as a drug offender, or any activity similar to those listed  
25 in subdivision (d) of Section 1210, or by violating a drug-related  
26 condition of probation, and the state moves to revoke probation,  
27 the court shall conduct a hearing to determine whether probation  
28 shall be revoked. The trial court shall revoke probation if the  
29 alleged probation violation is proved and the state proves by a  
30 preponderance of the evidence that the defendant poses a danger  
31 to the safety of others. If the court does not revoke probation, it  
32 may modify or alter the treatment plan, and in addition, if the  
33 violation does not involve the recent use of drugs as a circumstance  
34 of the violation, including, but not limited to, violations relating  
35 to failure to appear at treatment or court, noncompliance with  
36 treatment, and failure to report for drug testing, the court may  
37 impose sanctions including jail sanctions that may not exceed 48  
38 hours of continuous custody as a tool to enhance treatment  
39 compliance and impose other changes in the terms and conditions  
40 of probation. The court shall consider, among other factors, the

1 ~~seriousness of the violation, previous treatment compliance,~~  
2 ~~employment, education, vocational training, medical conditions,~~  
3 ~~medical treatment, including narcotics replacement treatment, and~~  
4 ~~including the opinion of the defendant's licensed and treating~~  
5 ~~physician if immediately available and presented at the hearing,~~  
6 ~~child support obligations, and family responsibilities. The court~~  
7 ~~shall consider additional conditions of probation, which may~~  
8 ~~include, but are not limited to, community service and supervised~~  
9 ~~work programs. If one of the circumstances of the violation~~  
10 ~~involves recent drug use, as well as other circumstances of~~  
11 ~~violation, and the circumstance of recent drug use is demonstrated~~  
12 ~~to the court by satisfactory evidence and a finding made on the~~  
13 ~~record, the court may, after receiving input from treatment and~~  
14 ~~probation, if available, direct the defendant to enter a licensed~~  
15 ~~detoxification or residential treatment facility, and if there is no~~  
16 ~~bed immediately available in that type of facility, the court may~~  
17 ~~order that the defendant be confined in a county jail for~~  
18 ~~detoxification purposes only, if the jail offers detoxification~~  
19 ~~services, for a period not to exceed 10 days. The detoxification~~  
20 ~~services must provide narcotic replacement therapy for those~~  
21 ~~defendants presently actually receiving narcotic replacement~~  
22 ~~therapy.~~

23 ~~(E) If a defendant on probation at the effective date of this act~~  
24 ~~for a nonviolent drug possession offense violates that probation a~~  
25 ~~second time either by committing a nonviolent drug possession~~  
26 ~~offense, or a misdemeanor for simple possession or use of drugs~~  
27 ~~or drug paraphernalia, being present where drugs are used, or~~  
28 ~~failure to register as a drug offender, or any activity similar to~~  
29 ~~those listed in subdivision (d) of Section 1210, or by violating a~~  
30 ~~drug-related condition of probation, and the state moves for a~~  
31 ~~second time to revoke probation, the court shall conduct a hearing~~  
32 ~~to determine whether probation shall be revoked. The trial court~~  
33 ~~shall revoke probation if the alleged probation violation is proved~~  
34 ~~and the state proves by a preponderance of the evidence either that~~  
35 ~~the defendant poses a danger to the safety of others or that the~~  
36 ~~defendant is unamenable to drug treatment. If the court does not~~  
37 ~~revoke probation, it may modify or alter the treatment plan, and~~  
38 ~~in addition, if the violation does not involve the recent use of drugs~~  
39 ~~as a circumstance of the violation, including, but not limited to,~~  
40 ~~violations relating to failure to appear at treatment or court,~~

1 nonecompliance with treatment, and failure to report for drug  
2 testing, the court may impose sanctions including jail sanctions  
3 that may not exceed 120 hours of continuous custody as a tool to  
4 enhance treatment compliance and impose other changes in the  
5 terms and conditions of probation. The court shall consider, among  
6 other factors, the seriousness of the violation, previous treatment  
7 compliance, employment, education, vocational training, medical  
8 conditions, medical treatment including narcotics replacement  
9 treatment, and including the opinion of the defendant's licensed  
10 and treating physician if immediately available and presented at  
11 the hearing, child support obligations, and family responsibilities.  
12 The court shall consider additional conditions of probation, which  
13 may include, but are not limited to, community service and  
14 supervised work programs. If one of the circumstances of the  
15 violation involves recent drug use, as well as other circumstances  
16 of violation, and the circumstance of recent drug use is  
17 demonstrated to the court by satisfactory evidence and a finding  
18 made on the record, the court may, after receiving input from  
19 treatment and probation, if available, direct the defendant to enter  
20 a licensed detoxification or residential treatment facility, and if  
21 there is no bed immediately available in that type of facility, the  
22 court may order that the defendant be confined in a county jail for  
23 detoxification purposes only, if the jail offers detoxification  
24 services, for a period not to exceed 10 days. The detoxification  
25 services must provide narcotic replacement therapy for those  
26 defendants presently actually receiving narcotic replacement  
27 therapy.

28 (F) If a defendant on probation at the effective date of this act  
29 for a nonviolent drug offense violates that probation a third or  
30 subsequent time either by committing a nonviolent drug possession  
31 offense, or by violating a drug-related condition of probation, and  
32 the state moves for a third or subsequent time to revoke probation,  
33 the court shall conduct a hearing to determine whether probation  
34 shall be revoked. If the alleged probation violation is proved, the  
35 defendant is not eligible for continued probation under subdivision  
36 (a), unless the court determines that the defendant is not a danger  
37 to the community and would benefit from further treatment under  
38 subdivision (a). The court may then either intensify or alter the  
39 treatment plan under subdivision (a) or transfer the defendant to  
40 a highly structured drug court. If the court continues the defendant

1 in treatment under subdivision (a), or drug court, the court may  
2 impose appropriate sanctions including jail sanctions.

3 ~~(g) The term “drug-related condition of probation” shall include~~  
4 ~~a probationer’s specific drug treatment regimen, employment,~~  
5 ~~vocational training, educational programs, psychological~~  
6 ~~counseling, and family counseling.~~

7 ~~SEC. 92.~~

8 *SEC. 66.* Section 1210.15 of the Penal Code is repealed.

9 ~~SEC. 93.~~

10 *SEC. 67.* Section 1211 of the Penal Code is amended to read:

11 1211. (a) In order to ensure the quality of drug diversion  
12 programs provided pursuant to this chapter and Chapter 2.5  
13 (commencing with Section 1000) of Title 6, and to expand the  
14 availability of these programs, the county drug program  
15 administrator in each county, in consultation with representatives  
16 of the court and the county probation department, shall establish  
17 minimum requirements and criteria for the successful completion  
18 of drug diversion programs, which shall be approved by the county  
19 board of supervisors. These minimum requirements shall include,  
20 but not be limited to, all of the following:

21 (1) An initial assessment of each divertee, which may include  
22 all of the following:

23 (A) Social, economic, and family background.

24 (B) Education.

25 (C) Vocational achievements.

26 (D) Criminal history.

27 (E) Medical history.

28 (F) Drug history and previous treatment.

29 (2) A minimum of 20 hours of either effective education or  
30 counseling or any combination of both for each divertee.

31 (3) An exit conference which shall reflect the divertee’s progress  
32 during the divertee’s participation in the program.

33 (b) The county drug program administrator shall implement a  
34 certification procedure for drug diversion programs.

35 (c) The county drug program administrator shall recommend  
36 for approval by the county board of supervisors programs pursuant  
37 to this chapter. No program, regardless of how it is funded, may  
38 be approved unless it meets the standards established by the  
39 administrator, which shall include, but not be limited to, both of  
40 the following:

1 (1) Guidelines and criteria for education and treatment services,  
2 including standards of services which may include lectures, classes,  
3 group discussions, and individual counseling. However, any class  
4 or group discussion other than lectures shall not exceed 15 persons  
5 at any one meeting.

6 (2) Established and approved supervision, either on a regular  
7 or irregular basis, of the person for the purpose of evaluating the  
8 person's progress.

9 ~~SEC. 94.~~

10 ~~SEC. 68.~~ Section 1214.1 of the Penal Code is repealed.

11 ~~SEC. 95.~~

12 ~~SEC. 69.~~ Section 1214.5 of the Penal Code is repealed.

13 ~~SEC. 96.~~ Section 1462.5 of the Penal Code is amended to read:

14 ~~1462.5. Each installment or partial payment of a fine, penalty,~~  
15 ~~or forfeiture shall be prorated among the state and local shares~~  
16 ~~according to the trial court revenue distribution guidelines~~  
17 ~~established by the Controller pursuant to Section 71380 of the~~  
18 ~~Government Code. In cases subject to Section 1463.18 of the Penal~~  
19 ~~Code, proration shall not occur until the minimum amounts have~~  
20 ~~been transferred to the Restitution Fund as provided in that section.~~

21 ~~SEC. 97.~~

22 ~~SEC. 70.~~ Section 1463 of the Penal Code is amended to read:

23 1463. All fines and forfeitures imposed and collected for crimes  
24 shall be distributed in accordance with Section 1463.001.

25 The following definitions shall apply to terms used in this  
26 chapter:

27 (a) "Arrest" means any law enforcement action, including  
28 issuance of a notice to appear or notice of violation, which results  
29 in a criminal charge.

30 (b) "City" includes any city, city and county, district, including  
31 any enterprise special district, community service district, or  
32 community service area engaged in police protection activities as  
33 reported to the Controller for inclusion in the 1989–90 edition of  
34 the Financial Transactions Report Concerning Special Districts  
35 under the heading of Police Protection and Public Safety, authority,  
36 or other local agency (other than a county) which employs persons  
37 authorized to make arrests or to issue notices to appear or notices  
38 of violation which may be filed in court.

39 (c) "City arrest" means an arrest by an employee of a city, or  
40 by a California Highway Patrol officer within the limits of a city.

1 (d) “County” means the county in which the arrest took place.

2 (e) “County arrest” means an arrest by a California Highway  
3 Patrol officer outside the limits of a city, or any arrest by a county  
4 officer or by any other state officer.

5 (f) “Court” means the superior court or a juvenile forum  
6 established under Section 257 of the Welfare and Institutions Code,  
7 in which the case arising from the arrest is filed.

8 (g) “Division of moneys” means an allocation of base fine  
9 proceeds between agencies as required by statute, including, but  
10 not limited to, Sections 1463.003, 1463.9, 1463.23, and 1463.26  
11 of this code, Sections 13001, 13002, and 13003 of the Fish and  
12 Game Code, and Section 11502 of the Health and Safety Code.

13 (h) “Offense” means any infraction, misdemeanor, or felony,  
14 and any act by a juvenile leading to an order to pay a financial  
15 sanction by reason of the act being defined as an infraction,  
16 misdemeanor, or felony, whether defined in this or any other code,  
17 except any parking offense as defined in subdivision (i).

18 (i) “Parking offense” means any offense charged pursuant to  
19 Article 3 (commencing with Section 40200) of Chapter 1 of  
20 Division 17 of the Vehicle Code, including registration and  
21 equipment offenses included on a notice of parking violation.

22 (j) “Penalty allocation” means the deposit of a specified part of  
23 moneys to offset designated processing costs, as provided by  
24 Section 1463.16 of this code and by Section 68090.8 of the  
25 Government Code.

26 (k) “Total parking penalty” means the total sum to be collected  
27 for a parking offense, whether as fine, forfeiture of bail, or payment  
28 of penalty to the Department of Motor Vehicles (DMV). It may  
29 include the following components:

30 (1) The base parking penalty as established pursuant to Section  
31 40203.5 of the Vehicle Code.

32 (2) The DMV fees added upon the placement of a hold pursuant  
33 to Section 40220 of the Vehicle Code.

34 (3) The surcharges required by Section 76000 of the Government  
35 Code.

36 (4) The notice penalty added to the base parking penalty when  
37 a notice of delinquent parking violations is given.

38 (l) “Total fine or forfeiture” means the total sum to be collected  
39 upon a conviction, or the total amount of bail forfeited or deposited

1 as cash bail subject to forfeiture. It may include, but is not limited  
2 to, the following components as specified for the particular offense:

3 (1) The “base fine” upon which the state penalty and additional  
4 county penalty is calculated.

5 (2) The “county penalty” required by Section 76000 of the  
6 Government Code.

7 (3) The “DNA penalty” required by Sections 76104.6 and  
8 76104.7 of the Government Code.

9 (4) The “emergency medical services penalty” authorized by  
10 Section 76000.5 of the Government Code.

11 (5) The “service charge” permitted by Section 853.7 of the Penal  
12 Code.

13 (6) The “special penalty” dedicated for blood alcohol analysis,  
14 alcohol program services, traumatic brain injury research, and  
15 similar purposes.

16 (7) The “state penalty” required by Section 1464.

17 ~~SEC. 98. Section 1463.007 of the Penal Code is amended to~~  
18 ~~read:~~

19 ~~1463.007. (a) Notwithstanding any other law, a county or court~~  
20 ~~that operates a comprehensive collection program may deduct the~~  
21 ~~costs of operating that program, excluding capital expenditures,~~  
22 ~~from any revenues collected under that program. The costs shall~~  
23 ~~be deducted before any distribution of revenues to other~~  
24 ~~governmental entities required by any other law. A county or court~~  
25 ~~operating a comprehensive collection program may establish a~~  
26 ~~minimum base fine, forfeiture, penalty, or assessment amount for~~  
27 ~~inclusion in the program.~~

28 ~~(b) Once debt becomes delinquent, it continues to be delinquent~~  
29 ~~and may be subject to collection by a comprehensive collection~~  
30 ~~program. Debt is delinquent and subject to collection by a~~  
31 ~~comprehensive collection program if any of the following~~  
32 ~~conditions is met:~~

33 ~~(1) A defendant does not post bail or appear on or before the~~  
34 ~~date on which they promised to appear, or any lawful continuance~~  
35 ~~of that date, if that defendant was eligible to post and forfeit bail.~~

36 ~~(2) A defendant does not pay the amount imposed by the court~~  
37 ~~on or before the date ordered by the court, or any lawful~~  
38 ~~continuance of that date.~~

39 ~~(3) A defendant has failed to make an installment payment on~~  
40 ~~the date specified by the court.~~

1     ~~(e) For the purposes of this section, a “comprehensive collection~~  
2 ~~program” is a separate and distinct revenue collection activity that~~  
3 ~~meets each of the following criteria:~~

4     ~~(1) The program identifies and collects amounts arising from~~  
5 ~~delinquent court-ordered debt, whether or not a warrant has been~~  
6 ~~issued against the alleged violator.~~

7     ~~(2) The program complies with the requirements of subdivision~~  
8 ~~(b) of Section 1463.010.~~

9     ~~(3) The program engages in each of the following activities:~~

10    ~~(A) Attempts telephone contact with delinquent debtors for~~  
11 ~~whom the program has a telephone number to inform them of their~~  
12 ~~delinquent status and payment options.~~

13    ~~(B) Notifies delinquent debtors for whom the program has an~~  
14 ~~address in writing of their outstanding obligation within 95 days~~  
15 ~~of delinquency.~~

16    ~~(C) Generates internal monthly reports to track collections data,~~  
17 ~~such as age of debt and delinquent amounts outstanding.~~

18    ~~(D) Uses Department of Motor Vehicles information to locate~~  
19 ~~delinquent debtors.~~

20    ~~(E) Accepts payment of delinquent debt by credit card.~~

21    ~~(4) The program engages in at least five of the following~~  
22 ~~activities:~~

23    ~~(A) Sends delinquent debt to the Franchise Tax Board’s~~  
24 ~~Court-Ordered Debt Collections Program.~~

25    ~~(B) Sends delinquent debt to the Franchise Tax Board’s~~  
26 ~~Interagency Intercept Collections Program.~~

27    ~~(C) Initiates driver’s license suspension or hold actions when~~  
28 ~~appropriate for a failure to appear in court.~~

29    ~~(D) Contracts with one or more private debt collectors to collect~~  
30 ~~delinquent debt.~~

31    ~~(E) Sends monthly bills or account statements to all delinquent~~  
32 ~~debtors.~~

33    ~~(F) Contracts with local, regional, state, or national skip tracing~~  
34 ~~or locator resources or services to locate delinquent debtors.~~

35    ~~(G) Coordinates with the probation department to locate debtors~~  
36 ~~who may be on formal or informal probation.~~

37    ~~(H) Uses Employment Development Department employment~~  
38 ~~and wage information to collect delinquent debt.~~

39    ~~(I) Establishes wage and bank account garnishments where~~  
40 ~~appropriate.~~

1 ~~(J) Places liens on real property owned by delinquent debtors~~  
2 ~~when appropriate.~~

3 ~~(K) Uses an automated dialer or automatic call distribution~~  
4 ~~system to manage telephone calls.~~

5 ~~SEC. 99.~~

6 *SEC. 71.* Section 1463.010 of the Penal Code is amended to  
7 read:

8 1463.010. The uniform imposition and enforcement of  
9 court-ordered debts are recognized as an important element of  
10 California's judicial system. Prompt, efficient, and effective  
11 imposition and collection of court-ordered *fees*, fines, forfeitures,  
12 penalties, restitution, and assessments ensure the appropriate  
13 respect for court orders. The California State Association of  
14 Counties and the Administrative Office of the Courts are jointly  
15 committed to identifying, improving, and seeking to expand access  
16 to mechanisms and tools that will enhance efforts to collect  
17 court-ordered debt. To provide for this prompt, efficient, and  
18 effective collection:

19 (a) The Judicial Council shall adopt guidelines for a  
20 comprehensive program concerning the collection of moneys owed  
21 for *fees*, fines, forfeitures, penalties, and assessments imposed by  
22 court order. As part of its guidelines, the Judicial Council may  
23 establish standard agreements for entities to provide collection  
24 services. As part of its guidelines, the Judicial Council shall include  
25 provisions that promote competition by and between entities in  
26 providing collection services to courts and counties. The Judicial  
27 Council may delegate to the Administrative Director of the Courts  
28 the implementation of the aspects of this program to be carried out  
29 at the state level.

30 (b) The courts and counties shall maintain the collection program  
31 that was in place on January 1, 1996, unless otherwise agreed to  
32 in writing by the court and county. The program may wholly or  
33 partially be staffed and operated within the court itself, may be  
34 wholly or partially staffed and operated by the county, or may be  
35 wholly or partially contracted with a third party. In carrying out  
36 this collection program, each superior court and county shall  
37 develop a cooperative plan to implement the Judicial Council  
38 guidelines. In the event that a court and a county are unwilling or  
39 unable to enter into a cooperative plan pursuant to this section, the  
40 court or the county may request the continuation of negotiations

1 with mediation assistance as mutually agreed upon and provided  
2 by the Administrative Director of the Courts and the California  
3 State Association of Counties.

4 (c) The Judicial Council shall develop performance measures  
5 and benchmarks to review the effectiveness of the cooperative  
6 superior court and county collection programs operating pursuant  
7 to this section. Each superior court and county shall jointly report  
8 to the Judicial Council, as provided by the Judicial Council,  
9 information requested in a reporting template on or before  
10 September 1, 2009, and annually thereafter. The Judicial Council  
11 shall report to the Legislature on December 31, 2009, and annually  
12 thereafter, on all of the following:

13 (1) The extent to which each court or county is following best  
14 practices for its collection program.

15 (2) The performance of each collection program.

16 (3) Any changes necessary to improve performance of collection  
17 programs statewide.

18 (d) The Judicial Council may, when the efficiency and  
19 effectiveness of the collection process may be improved, facilitate  
20 a joint collection program between superior courts, between  
21 counties, or between superior courts and counties.

22 (e) The Judicial Council may establish, by court rule, a program  
23 providing for the suspension and nonrenewal of a business and  
24 professional license if the holder of the license has unpaid *fees*,  
25 fines, forfeitures, penalties, and assessments imposed upon them  
26 under a court order. The Judicial Council may provide that some  
27 or all of the superior courts or counties participate in the program.  
28 Any program established by the Judicial Council shall ensure that  
29 the licensee receives adequate and appropriate notice of the  
30 proposed suspension or nonrenewal of the licensee's license and  
31 has an opportunity to contest the suspension or nonrenewal. The  
32 opportunity to contest may not require a court hearing.

33 (f) Notwithstanding any other provision of law, the Judicial  
34 Council, after consultation with the Franchise Tax Board with  
35 respect to collections under Section 19280 of the Revenue and  
36 Taxation Code, may provide for an amnesty program involving  
37 the collection of outstanding *fees*, fines, forfeitures, penalties, and  
38 assessments, applicable either statewide or within one or more  
39 counties. The amnesty program shall provide that some or all of  
40 the interest or collections costs imposed on outstanding *fees*, fines,

forfeitures, penalties, and assessments may be waived if the remaining amounts due are paid within the amnesty period.

~~SEC. 100. Section 1463.011 of the Penal Code is amended to read:~~

~~1463.011. (a) Notwithstanding any other provision of law, if a court, during the course of its routine process to collect fines, forfeitures, or other penalties imposed by a court due to a citation issued for the violation of a state or local law, obtains information indicating that a person under 25 years of age, who has been issued a citation for truancy, loitering, curfew violations, or illegal lodging that is outstanding or unpaid, is homeless or has no permanent address, the court shall not garnish the wages or levy against bank accounts of that person until that person is 25 years of age or older, as that age is recorded by that person's credit report or other document already in the possession of, or previously provided to, the court.~~

~~(b) For purposes of this section a person is considered to be "homeless" or as having "no permanent address" if that person does not have a fixed, regular, adequate nighttime residence, or has a primary nighttime residence that is one of the following:~~

~~(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters, and transitional housing for the mentally ill.~~

~~(2) An institution that provides a temporary residence for individuals intended to be institutionalized.~~

~~(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

~~(c) Nothing in this section shall be construed to prevent a court from engaging in any other lawful debt collection activities.~~

~~(d) Nothing in this section shall be construed to require a court to perform any further investigation or financial screening into any matter beyond the scope of its regular duties.~~

~~(e) Nothing in this section shall be construed to prevent the Judicial Council from altering any best practices or recommendations for collection programs pursuant to Section 1463.010.~~

~~(f) Nothing in this section shall be construed to prevent a court from garnishing a person's wages or levying against a person's bank accounts if the court, subsequent to its initial determination~~

1 ~~that the person was a homeless youth exempt from wage~~  
2 ~~garnishment or levy under this section, obtains evidence that the~~  
3 ~~individual is no longer homeless.~~

4 SEC. 101. ~~Section 1463.012 of the Penal Code is amended to~~  
5 ~~read:~~

6 ~~1463.012. (a) Notwithstanding any other law, if a court, during~~  
7 ~~the course of its routine process to collect fines, forfeitures, or~~  
8 ~~other penalties imposed by a court due to a citation issued for the~~  
9 ~~violation of a state or local law, obtains information indicating that~~  
10 ~~a person who has been issued a citation for loitering, curfew~~  
11 ~~violations, or illegal lodging that is outstanding or unpaid served~~  
12 ~~in the military within the last eight years and is homeless or has~~  
13 ~~no permanent address, the court shall not garnish the wages or~~  
14 ~~levy against bank accounts of that person for five years from the~~  
15 ~~date that the court obtained that information.~~

16 ~~(b) For purposes of this section, a person is considered to be~~  
17 ~~“homeless” or as having “no permanent address” if that person~~  
18 ~~does not have a fixed, regular, adequate nighttime residence, or~~  
19 ~~has a primary nighttime residence that is one of the following:~~

20 ~~(1) A supervised publicly or privately operated shelter designed~~  
21 ~~to provide temporary living accommodations, including, but not~~  
22 ~~limited to, welfare hotels, congregate shelters, and transitional~~  
23 ~~housing for the mentally ill.~~

24 ~~(2) An institution that provides a temporary residence for~~  
25 ~~individuals intended to be institutionalized.~~

26 ~~(3) A public or private place not designed for, or ordinarily used~~  
27 ~~as, a regular sleeping accommodation for human beings.~~

28 ~~(c) Nothing in this section shall be construed to prevent a court~~  
29 ~~from engaging in any other lawful debt collection activities.~~

30 ~~(d) Nothing in this section shall be construed to require a court~~  
31 ~~to perform any further investigation or financial screening into~~  
32 ~~any matter beyond the scope of its regular duties.~~

33 ~~(e) Nothing in this section shall be construed to prevent the~~  
34 ~~Judicial Council from altering any best practices or~~  
35 ~~recommendations for collection programs pursuant to Section~~  
36 ~~1463.010.~~

37 ~~(f) Nothing in this section shall be construed to prevent a court~~  
38 ~~from garnishing a person’s wages or levying against a person’s~~  
39 ~~bank accounts if the court, subsequent to its initial determination~~  
40 ~~that the person was a homeless veteran exempt from wage~~

1 garnishment or levy under this section, obtains evidence that the  
2 individual is no longer homeless, or that the court had, on a  
3 previous occasion, suspended garnishment of that person's wages  
4 or levying against that person's bank accounts pursuant to  
5 subdivision (a):

6 SEC. 102. ~~Section 1463.07 of the Penal Code is repealed.~~

7 SEC. 103. ~~Section 1463.14 of the Penal Code is amended to~~  
8 ~~read:~~

9 1463.14. (a) Notwithstanding the provisions of Section 1463,  
10 of the moneys deposited with the county treasurer pursuant to  
11 Section 1463, fifty dollars (\$50) of each fine collected for each  
12 conviction of a violation of Section 23103, 23104, 23105, 23152,  
13 or 23153 of the Vehicle Code shall be deposited in a special  
14 account that shall be used exclusively to pay for the cost of  
15 performing for the county, or a city or special district within the  
16 county, analysis of blood, breath or urine for alcohol content or  
17 for the presence of drugs, or for services related to that testing.  
18 The sum shall not exceed the reasonable cost of providing the  
19 services for which the sum is intended.

20 On November 1 of each year, the treasurer of each county shall  
21 determine those moneys in the special account that were not  
22 expended during the preceding fiscal year, and shall transfer those  
23 moneys into the general fund of the county. The board of  
24 supervisors may, by resolution, assign the treasurer's duty to  
25 determine the amount of money that was not expended to the  
26 auditor or another county officer. The county may retain an amount  
27 of that money equal to its administrative cost incurred pursuant to  
28 this section, and shall distribute the remainder pursuant to Section  
29 1463. If the account becomes exhausted, the public entity ordering  
30 a test performed pursuant to this subdivision shall bear the costs  
31 of the test.

32 (b) ~~The Department of Justice shall promulgate rules and~~  
33 ~~regulations to implement the provisions of this section.~~

34 SEC. 104. ~~Section 1464.8 of the Penal Code is amended to~~  
35 ~~read:~~

36 1464.8. Notwithstanding any other provision of law, when an  
37 allocation and distribution of any fine, forfeiture, penalty, or  
38 assessment collected in any criminal case is made, including, but  
39 not limited to, moneys collected pursuant to this chapter, Section  
40 13003 of the Fish and Game Code, Chapter 12 (commencing with

1 Section 76000) of Title 8 of the Government Code, and Sections  
2 11372.5 and 11502 of the Health and Safety Code, the allocation  
3 and distribution of any payment may be based upon the law in  
4 effect during the accounting period when the payment is made.

5 ~~SEC. 105.~~

6 *SEC. 72.* Section 1465.9 is added to the Penal Code, to read:

7 1465.9. On and after January 1, 2020, the balance of any  
8 court-imposed costs pursuant to subdivision (e) of Section 273.1,  
9 ~~subdivision (h) of Section 273.6, paragraph (2) of subdivision (b)~~  
10 ~~of Section 290.06, subdivision (e) of Section 597.3, Section 987.4,~~  
11 ~~subdivision (a) of Section 987.5, Sections 987.8, 1001.15, 1001.16,~~  
12 ~~and 1001.90, subdivision (l) of Section 1202.4, subparagraph (E)~~  
13 ~~of paragraph (4) of subdivision (f) of Section 1202.42, Sections~~  
14 ~~1203, 1203.016, 1203.018, and 1203.067, paragraphs (5) and (11)~~  
15 ~~and 1203.018, paragraph (5) of subdivision (a) of, and paragraphs~~  
16 ~~(1) and (5) of subdivision (c) of, Section 1203.097, subdivision (l)~~  
17 ~~of Section 1203.1, Sections 1203.1a, 1203.1ab, 1203.1b, 1203.1bb,~~  
18 ~~1203.1c, 1203.1e, 1203.1h, 1203.1i, 1203.1m, 1203.4, 1203.4a,~~  
19 ~~1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208.2, 1209, 1210.1,~~  
20 ~~1208.2, 1210.15, 1211, 1214.1, 1214.5, 1463.07, and 1463.14, and~~  
21 ~~1214.5, subdivision (d) of Section 2085.6, subdivision (d) of~~  
22 ~~Section 2085.7, subdivision (b) of Section 3000.07, Section 3010.8,~~  
23 ~~subdivision (b) of Section 4011.1, and Sections 4011.2, Sections~~  
24 ~~3010.8, 4024.2, 5007.5, and 6266, as those sections read on~~  
25 ~~December 31, 2019, shall be unenforceable and uncollectible and~~  
26 ~~any portion of a judgment imposing those costs shall be vacated.~~

27 ~~SEC. 106.~~

28 *SEC. 73.* Section 2085.5 of the Penal Code is amended to read:

29 2085.5. (a) If a prisoner owes a restitution fine imposed  
30 pursuant to subdivision (a) of Section 13967 of the Government  
31 Code, as operative prior to September 29, 1994, subdivision (b)  
32 of Section 730.6 of the Welfare and Institutions Code, or  
33 subdivision (b) of Section 1202.4 of this code, the secretary shall  
34 deduct a minimum of 20 percent or the balance owing on the fine  
35 amount, whichever is less, up to a maximum of 50 percent from  
36 the wages and trust account deposits of a prisoner, unless prohibited  
37 by federal law, and shall transfer that amount to the California  
38 Victim Compensation Board for deposit in the Restitution Fund.  
39 The amount deducted shall be credited against the amount owing

1 on the fine. The sentencing court shall be provided a record of the  
2 payments.

3 (b) (1) If a prisoner is punished by imprisonment in a county  
4 jail pursuant to subdivision (h) of Section 1170 and owes a  
5 restitution fine imposed pursuant to subdivision (a) of Section  
6 13967 of the Government Code, as operative prior to September  
7 29, 1994, subdivision (b) of Section 730.6 of the Welfare and  
8 Institutions Code, or subdivision (b) of Section 1202.4 of this code,  
9 the agency designated by the board of supervisors in a county  
10 where the prisoner is incarcerated is authorized to deduct a  
11 minimum of 20 percent or the balance owing on the fine amount,  
12 whichever is less, up to a maximum of 50 percent from the county  
13 jail equivalent of wages and trust account deposits of a prisoner,  
14 unless prohibited by federal law, and shall transfer that amount to  
15 the California Victim Compensation Board for deposit in the  
16 Restitution Fund. The amount deducted shall be credited against  
17 the amount owing on the fine. The sentencing court shall be  
18 provided a record of the payments.

19 (2) If the board of supervisors designates the county sheriff as  
20 the collecting agency, the board of supervisors shall first obtain  
21 the concurrence of the county sheriff.

22 (c) If a prisoner owes a restitution order imposed pursuant to  
23 subdivision (c) of Section 13967 of the Government Code, as  
24 operative prior to September 29, 1994, subdivision (h) of Section  
25 730.6 of the Welfare and Institutions Code, or subdivision (f) of  
26 Section 1202.4 of this code, the secretary shall deduct a minimum  
27 of 20 percent or the balance owing on the order amount, whichever  
28 is less, up to a maximum of 50 percent from the wages and trust  
29 account deposits of a prisoner, unless prohibited by federal law.  
30 The secretary shall transfer that amount to the California Victim  
31 Compensation Board for direct payment to the victim, or payment  
32 shall be made to the Restitution Fund to the extent that the victim  
33 has received assistance pursuant to that program. The sentencing  
34 court shall be provided a record of the payments made to victims  
35 and of the payments deposited to the Restitution Fund pursuant to  
36 this subdivision.

37 (d) If a prisoner is punished by imprisonment in a county jail  
38 pursuant to subdivision (h) of Section 1170 and owes a restitution  
39 order imposed pursuant to subdivision (c) of Section 13967 of the  
40 Government Code, as operative prior to September 29, 1994,

subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4 of this code, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law. The agency shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or may pay the victim directly. The sentencing court shall be provided a record of the payments made to the victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(e) In any case in which a parolee owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4 of this code, either the secretary or, if a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated may collect from the parolee any moneys owing on the restitution fine amount, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(f) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, either the secretary or, if a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated or a local collection program may collect from the parolee any moneys owing, unless prohibited by federal

1 law. The secretary or the agency shall transfer that amount to the  
2 California Victim Compensation Board for direct payment to the  
3 victim, or payment shall be made to the Restitution Fund to the  
4 extent that the victim has received assistance pursuant to that  
5 program, or the agency may pay the victim directly. The sentencing  
6 court shall be provided a record of the payments made by the  
7 offender pursuant to this subdivision.

8 (g) If a prisoner has both a restitution fine and a restitution order  
9 from the sentencing court, the department shall collect the  
10 restitution order first pursuant to subdivision (c).

11 (h) If a prisoner is punished by imprisonment in a county jail  
12 pursuant to subdivision (h) of Section 1170 and that prisoner has  
13 both a restitution fine and a restitution order from the sentencing  
14 court, if the agency designated by the board of supervisors in the  
15 county where the prisoner is incarcerated collects the fine and  
16 order, the agency shall collect the restitution order first pursuant  
17 to subdivision (d).

18 (i) If a parolee has both a restitution fine and a restitution order  
19 from the sentencing court, either the department or, if the prisoner  
20 is punished by imprisonment in a county jail pursuant to  
21 subdivision (h) of Section 1170, the agency designated by the  
22 board of supervisors in the county where the prisoner is  
23 incarcerated may collect the restitution order first, pursuant to  
24 subdivision (f).

25 (j) If an inmate is housed at an institution that requires food to  
26 be purchased from the institution canteen for unsupervised  
27 overnight visits, and if the money for the purchase of this food is  
28 received from funds other than the inmate's wages, that money  
29 shall be exempt from restitution deductions. This exemption shall  
30 apply to the actual amount spent on food for the visit up to a  
31 maximum of fifty dollars (\$50) for visits that include the inmate  
32 and one visitor, seventy dollars (\$70) for visits that include the  
33 inmate and two or three visitors, and eighty dollars (\$80) for visits  
34 that include the inmate and four or more visitors.

35 (k) (1) Amounts transferred to the California Victim  
36 Compensation Board for payment of direct orders of restitution  
37 shall be paid to the victim within 60 days from the date the  
38 restitution revenues are received by the California Victim  
39 Compensation Board. If the restitution payment to a victim is less  
40 than twenty-five dollars (\$25), then payment need not be forwarded

1 to that victim until the payment reaches twenty-five dollars (\$25)  
2 or when the victim requests payment of the lesser amount.

3 (2) If a victim cannot be located, the restitution revenues  
4 received by the California Victim Compensation Board on behalf  
5 of the victim shall be held in trust in the Restitution Fund until the  
6 end of the state fiscal year subsequent to the state fiscal year in  
7 which the funds were deposited or until the time that the victim  
8 has provided current address information, whichever occurs sooner.  
9 Amounts remaining in trust at the end of the specified period of  
10 time shall revert to the Restitution Fund.

11 (3) (A) A victim failing to provide a current address within the  
12 period of time specified in paragraph (2) may provide  
13 documentation to the department, which shall verify that moneys  
14 were collected on behalf of the victim. Upon receipt of that verified  
15 information from the department, the California Victim  
16 Compensation Board shall transmit the restitution revenues to the  
17 victim in accordance with the provisions of subdivision (c) or (f).

18 (B) A victim failing to provide a current address within the  
19 period of time specified in paragraph (2) may provide  
20 documentation to the agency designated by the board of supervisors  
21 in the county where the prisoner punished by imprisonment in a  
22 county jail pursuant to subdivision (h) of Section 1170 is  
23 incarcerated, which may verify that moneys were collected on  
24 behalf of the victim. Upon receipt of that verified information from  
25 the agency, the California Victim Compensation Board shall  
26 transmit the restitution revenues to the victim in accordance with  
27 the provisions of subdivision (d) or (f).

28 ~~SEC. 107.~~

29 *SEC. 74.* Section 2085.6 of the Penal Code is amended to read:

30 2085.6. (a) When a prisoner who owes a restitution fine, or  
31 any portion thereof, is subsequently released from the custody of  
32 the Department of Corrections and Rehabilitation or a county jail  
33 facility, and is subject to postrelease community supervision under  
34 Section 3451 or mandatory supervision under subdivision (h) of  
35 Section 1170, the prisoner shall have a continuing obligation to  
36 pay the restitution fine in full. The restitution fine obligation and  
37 any portion left unsatisfied upon placement in postrelease  
38 community supervision or mandatory supervision is enforceable  
39 and may be collected, in a manner to be established by the county  
40 board of supervisors, by the department or county agency

1 designated by the board of supervisors in the county where the  
2 prisoner is released. If a county elects to collect restitution fines,  
3 the department or county agency designated by the county board  
4 of supervisors shall transfer the amount collected to the California  
5 Victim Compensation Board for deposit in the Restitution Fund  
6 in the State Treasury.

7 (b) When a prisoner who owes payment for a restitution order,  
8 or any portion thereof, is released from the custody of the  
9 Department of Corrections and Rehabilitation or a county jail  
10 facility, and is subject to postrelease community supervision under  
11 Section 3451 or mandatory supervision under subdivision (h) of  
12 Section 1170, the prisoner shall have a continuing obligation to  
13 pay the restitution order in full. The restitution order obligation  
14 and any portion left unsatisfied upon placement in postrelease  
15 community supervision or mandatory supervision is enforceable  
16 and may be collected, in a manner to be established by the county  
17 board of supervisors, by the agency designated by the county board  
18 of supervisors in the county where the prisoner is released. If the  
19 county elects to collect the restitution order, the agency designated  
20 by the county board of supervisors for collection shall transfer the  
21 collected amount to the California Victim Compensation *Board*  
22 for deposit in the Restitution Fund in the State Treasury or may  
23 pay the victim directly. The sentencing court shall be provided a  
24 record of payments made to the victim and of the payments  
25 deposited into the Restitution Fund.

26 (c) Any portion of a restitution order or restitution fine that  
27 remains unsatisfied after an individual is released from postrelease  
28 community supervision or mandatory supervision shall continue  
29 to be enforceable by a victim pursuant to Section 1214 until the  
30 obligation is satisfied.

31 (d) If a county elects to collect both a restitution fine and a  
32 restitution order, the amount owed on the restitution order shall  
33 be collected before the restitution fine.

34 (e) If a county elects to collect restitution fines and restitution  
35 orders pursuant to this section, the county shall coordinate efforts  
36 with the Franchise Tax Board pursuant to Section 19280 of the  
37 Revenue and Taxation Code.

38 (f) Pursuant to Section 1214, the county agency selected by a  
39 county board of supervisors to collect restitution fines and  
40 restitution orders may collect restitution fines and restitution orders

1 after an individual is no longer on postrelease community  
2 supervision or mandatory supervision or after a term in custody  
3 pursuant to subparagraph (A) of paragraph (5) of subdivision (h)  
4 of Section 1170.

5 (g) For purposes of this section, the following definitions shall  
6 apply:

7 (1) “Restitution fine” means a fine imposed pursuant to  
8 subdivision (a) of Section 13967 of the Government Code, as  
9 operative prior to September 29, 1994, subdivision (b) of Section  
10 730.6 of the Welfare and Institutions Code, or subdivision (b) of  
11 Section 1202.4.

12 (2) “Restitution order” means an order for restitution to the  
13 victim of a crime imposed pursuant to subdivision (c) of Section  
14 13967 of the Government Code, as operative prior to September  
15 29, 1994, subdivision (h) of Section 730.6 of the Welfare and  
16 Institutions Code, or subdivision (f) of Section 1202.4.

17 ~~SEC. 108.~~

18 *SEC. 75.* Section 2085.7 of the Penal Code is amended to read:

19 2085.7. (a) When a prisoner who owes a restitution fine, or  
20 any portion thereof, is released from the custody of a county jail  
21 facility after completion of a term in custody pursuant to  
22 subparagraph (A) of paragraph (5) of subdivision (h) of Section  
23 1170, the prisoner has a continuing obligation to pay the restitution  
24 fine in full. The balance of the restitution fine remaining unpaid  
25 after completion of a term in custody pursuant to subparagraph  
26 (A) of paragraph (5) of subdivision (h) of Section 1170 is  
27 enforceable and may be collected, in a manner to be established  
28 by the county board of supervisors, by the department or county  
29 agency designated by the board of supervisors in the county in  
30 which the prisoner is released. If a county elects to collect  
31 restitution fines, the department or county agency designated by  
32 the county board of supervisors shall transfer the amount collected  
33 to the California Victim Compensation Board for deposit in the  
34 Restitution Fund.

35 (b) When a prisoner who owes payment for a restitution order,  
36 or any portion thereof, is released from the custody of a county  
37 jail facility after completion of a term in custody pursuant to  
38 subparagraph (A) of paragraph (5) of subdivision (h) of Section  
39 1170, the prisoner has a continuing obligation to pay the restitution  
40 order in full. The balance of the restitution order remaining unpaid

1 after completion of a term in custody pursuant to subparagraph  
2 (A) of paragraph (5) of subdivision (h) of Section 1170 is  
3 enforceable and may be collected, in a manner to be established  
4 by the county board of supervisors, by the agency designated by  
5 the county board of supervisors in the county in which the prisoner  
6 is released. If the county elects to collect the restitution order, the  
7 agency designated by the county board of supervisors for collection  
8 shall transfer the collected amount to the California Victim  
9 Compensation Board for deposit in the Restitution Fund or may  
10 pay the victim directly. The sentencing court shall be provided a  
11 record of payments made to the victim and of the payments  
12 deposited into the Restitution Fund.

13 (c) The amount of a restitution order or restitution fine that  
14 remains unsatisfied after completion of a term in custody pursuant  
15 to subparagraph (A) of paragraph (5) of subdivision (h) of Section  
16 1170 is to be enforceable by a victim pursuant to Section 1214  
17 until the obligation is satisfied.

18 (d) If a county elects to collect both a restitution fine and a  
19 restitution order, the amount owed on the restitution order shall  
20 be collected before the restitution fine.

21 (e) If a county elects to collect restitution fines and restitution  
22 orders pursuant to this section, the county shall coordinate efforts  
23 with the Franchise Tax Board pursuant to Section 19280 of the  
24 Revenue and Taxation Code.

25 (f) Pursuant to Section 1214, the county agency selected by a  
26 county board of supervisors to collect restitution fines and  
27 restitution orders may collect restitution fines and restitution orders  
28 after an individual has completed a term in custody pursuant to  
29 subparagraph (A) of paragraph (5) of subdivision (h) of Section  
30 1170.

31 (g) For purposes of this section, the following definitions shall  
32 apply:

33 (1) "Restitution fine" means a fine imposed pursuant to  
34 subdivision (a) of Section 13967 of the Government Code, as  
35 operative prior to September 29, 1994, subdivision (b) of Section  
36 730.6 of the Welfare and Institutions Code, or subdivision (b) of  
37 Section 1202.4.

38 (2) "Restitution order" means an order for restitution to the  
39 victim of a crime imposed pursuant to subdivision (c) of Section  
40 13967 of the Government Code, as operative prior to September

29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4.

~~SEC. 109. Section 3000.07 of the Penal Code is amended to read:~~

~~3000.07. Every inmate who has been convicted for any felony violation of a “registerable sex offense” described in subdivision (c) of Section 290 or any attempt to commit any of those offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for the term of the inmate’s parole, or for the duration or any remaining part thereof, whichever period of time is less.~~

~~SEC. 110.~~

~~SEC. 76. Section 3010.8 of the Penal Code is repealed.~~

~~SEC. 111. Section 4011.1 of the Penal Code is amended to read:~~

~~4011.1. (a) Notwithstanding Section 29602 of the Government Code and any other provisions of this chapter, a county, city or the Department of Corrections and Rehabilitation, Division of Juvenile Justice is authorized to make claim for and recovery of the costs of necessary hospital, medical, surgical, dental, or optometric care rendered to any prisoner confined in a county or city jail or any juvenile confined in a detention facility, who would otherwise be entitled to that care under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) Part 3, Division 9, of the Welfare and Institutions Code), and who is eligible for that care on the first day of confinement or detention, to the extent that federal financial participation is available, or under the provisions of any private program or policy for that care, and the county, city or the Division of Juvenile Justice shall be liable only for the costs of that care as cannot be recovered pursuant to this section. No person who is eligible for Medi-Cal shall be eligible for benefits under the provisions of this section, and no county or city or the Division of Juvenile Justice is authorized to make a claim for any recovery of costs for services for that person, unless federal financial participation is available for all or part of the costs of providing services to that person under the Medi-Cal Act.~~

~~(b) Notwithstanding any other law, any county or city making a claim pursuant to this section and under the Medi-Cal Act shall reimburse the Health Care Deposit Fund for the state costs of~~

1 ~~paying those medical claims. Funds allocated to the county from~~  
2 ~~the County Health Services Fund pursuant to Part 4.5 (commencing~~  
3 ~~with Section 16700) of Division 9 of the Welfare and Institutions~~  
4 ~~Code may be utilized by the county or city to make that~~  
5 ~~reimbursement.~~

6 ~~SEC. 112. Section 4011.2 of the Penal Code is repealed.~~

7 ~~SEC. 113. Section 4018.6 of the Penal Code is amended to~~  
8 ~~read:~~

9 ~~4018.6. The sheriff of the county may authorize the temporary~~  
10 ~~removal under custody or temporary release without custody of~~  
11 ~~any inmate of the county jail, honor farm, or other detention facility~~  
12 ~~for family emergencies or for purposes preparatory to the inmate's~~  
13 ~~return to the community, if the sheriff concludes that such inmate~~  
14 ~~is a fit subject therefor. Any such temporary removal shall not be~~  
15 ~~for a period of more than three days. When an inmate is released~~  
16 ~~for purposes preparatory to the inmate's return to the community,~~  
17 ~~the sheriff shall not require the inmate to reimburse the county for~~  
18 ~~expenses incurred by the county in connection therewith.~~

19 ~~SEC. 114.~~

20 ~~SEC. 77. Section 4024.2 of the Penal Code is amended to read:~~

21 ~~4024.2. (a) Notwithstanding any other law, the board of~~  
22 ~~supervisors of any county may authorize the sheriff or other official~~  
23 ~~in charge of county correctional facilities to offer a voluntary~~  
24 ~~program under which any person committed to the facility may~~  
25 ~~participate in a work release program pursuant to criteria described~~  
26 ~~in subdivision (b), in which one day of participation will be in lieu~~  
27 ~~of one day of confinement.~~

28 ~~(b) The criteria for a work release program are the following:~~

29 ~~(1) The work release program shall consist of any of the~~  
30 ~~following:~~

31 ~~(A) Manual labor to improve or maintain levees or public~~  
32 ~~facilities, including, but not limited to, streets, parks, and schools.~~

33 ~~(B) Manual labor in support of nonprofit organizations, as~~  
34 ~~approved by the sheriff or other official in charge of the~~  
35 ~~correctional facilities. As a condition of assigning participants of~~  
36 ~~a work release program to perform manual labor in support of~~  
37 ~~nonprofit organizations pursuant to this section, the board of~~  
38 ~~supervisors shall obtain workers' compensation insurance which~~  
39 ~~shall be adequate to cover work-related injuries incurred by those~~  
40 ~~participants, in accordance with Section 3363.5 of the Labor Code.~~

1 (C) Performance of graffiti cleanup for local governmental  
2 entities, including participation in a graffiti abatement program as  
3 defined in subdivision (f) of Section 594, as approved by the sheriff  
4 or other official in charge of the correctional facilities.

5 (D) Performance of weed and rubbish abatement on public and  
6 private property pursuant to Chapter 13 (commencing with Section  
7 39501) of Part 2 of Division 3 of Title 4 of the Government Code,  
8 or Part 5 (commencing with Section 14875) or Part 6 (commencing  
9 with Section 14930) of Division 12 of the Health and Safety Code,  
10 as approved by the sheriff or other official in charge of the  
11 correctional facilities.

12 (E) Performance of house repairs or yard services for senior  
13 citizens and the performance of repairs to senior centers through  
14 contact with local senior service organizations, as approved by the  
15 sheriff or other official in charge of the correctional facilities.  
16 Where a work release participant has been assigned to this task,  
17 the sheriff or other official shall agree upon in advance with the  
18 senior service organization about the type of services to be rendered  
19 by the participant and the extent of contact permitted between the  
20 recipients of these services and the participant.

21 (F) Any person who is not able to perform manual labor as  
22 specified in this paragraph because of a medical condition, physical  
23 disability, or age, may participate in a work release program  
24 involving any other type of public sector work that is designated  
25 and approved by the sheriff or other official in charge of county  
26 correctional facilities.

27 (2) The sheriff or other official may permit a participant in a  
28 work release program to receive work release credit for documented  
29 participation in educational programs, vocational programs,  
30 substance abuse programs, life skills programs, or parenting  
31 programs. Participation in these programs shall be considered in  
32 lieu of performing labor in a work release program, with eight  
33 work-related hours to equal one day of custody credit.

34 (3) The work release program shall be under the direction of a  
35 responsible person appointed by the sheriff or other official in  
36 charge.

37 (4) The hours of labor to be performed pursuant to this section  
38 shall be uniform for all persons committed to a facility in a county  
39 and may be determined by the sheriff or other official in charge  
40 of county correctional facilities, and each day shall be a minimum

1 of 8 and a maximum of 10 hours, in accordance with the normal  
2 working hours of county employees assigned to supervise the  
3 programs. However, reasonable accommodation may be made for  
4 participation in a program under paragraph (2).

5 As used in this section, “nonprofit organizations” means  
6 organizations established or operated for the benefit of the public  
7 or in support of a significant public interest, as set forth in Section  
8 501(c)(3) of the Internal Revenue Code. Organizations established  
9 or operated for the primary purpose of benefiting their own  
10 memberships are excluded.

11 (c) The board of supervisors may prescribe reasonable rules and  
12 regulations under which a work release program is operated and  
13 may provide that participants wear clothing of a distinctive  
14 character while performing the work. As a condition of  
15 participating in a work release program, a person shall give their  
16 promise to appear for work or assigned activity by signing a notice  
17 to appear before the sheriff or at the education, vocational, or  
18 substance abuse program at a time and place specified in the notice  
19 and shall sign an agreement that the sheriff may immediately retake  
20 the person into custody to serve the balance of the person’s  
21 sentence if the person fails to appear for the program at the time  
22 and place agreed to, does not perform the work or activity assigned,  
23 or for any other reason is no longer a fit subject for release under  
24 this section. A copy of the notice shall be delivered to the person  
25 and a copy shall be retained by the sheriff. Any person who  
26 willfully violates their written promise to appear at the time and  
27 place specified in the notice is guilty of a misdemeanor.

28 Whenever a peace officer has reasonable cause to believe the  
29 person has failed to appear at the time and place specified in the  
30 notice or fails to appear or work at the time and place agreed to or  
31 has failed to perform the work assigned, the peace officer may,  
32 without a warrant, retake the person into custody, or the court may  
33 issue an arrest warrant for the retaking of the person into custody,  
34 to complete the remainder of the original sentence. A peace officer  
35 may not retake a person into custody under this subdivision,  
36 without a warrant for arrest, unless the officer has a written order  
37 to do so, signed by the sheriff or other person in charge of the  
38 program, that describes with particularity the person to be retaken.

39 (d) This section does not require the sheriff or other official in  
40 charge to assign a person to a program pursuant to this section if

1 it appears from the record that the person has refused to  
2 satisfactorily perform as assigned or has not satisfactorily complied  
3 with the reasonable rules and regulations governing the assignment  
4 or any other order of the court.

5 A person shall be eligible for work release under this section  
6 only if the sheriff or other official in charge concludes that the  
7 person is a fit subject therefor.

8 ~~SEC. 115. Section 5007.5 of the Penal Code is repealed.~~

9 ~~SEC. 116. Section 5008.2 of the Penal Code is amended to~~  
10 ~~read:~~

11 ~~5008.2. (a) During the intake medical examination or intake~~  
12 ~~health screening, or while providing general information during~~  
13 ~~intake, the department shall provide all inmates with information~~  
14 ~~on hepatitis C, including, but not limited to, methods of hepatitis~~  
15 ~~C transmission and prevention, and information on opportunities~~  
16 ~~for screening and treatment while incarcerated. This subdivision~~  
17 ~~shall be implemented only to the extent that brochures, other~~  
18 ~~printed information, or other media is provided at no charge to the~~  
19 ~~department by public health agencies or any other organization~~  
20 ~~promoting hepatitis C education.~~

21 ~~(b) The department shall also provide hepatitis C screening to~~  
22 ~~all inmates who request it, and offer it to inmates that have a history~~  
23 ~~of intravenous drug use or other risk factors for hepatitis C. This~~  
24 ~~testing shall be confidential. A medical copayment shall not be~~  
25 ~~charged for hepatitis C testing, treatment, or any followup testing.~~

26 ~~SEC. 117.~~

27 ~~SEC. 78. Section 6266 of the Penal Code is repealed.~~

28 ~~SEC. 118. Section 11208 of the Vehicle Code is amended to~~  
29 ~~read:~~

30 ~~11208. (a) The department shall charge a fee, to be determined~~  
31 ~~by the department, for the following traffic violator school program~~  
32 ~~activities:~~

33 ~~(1) Original issuance of a traffic violator school owner, operator,~~  
34 ~~instructor, and branch or classroom location license.~~

35 ~~(2) Renewal of a traffic violator school owner, operator,~~  
36 ~~instructor, and branch or classroom location license.~~

37 ~~(3) Issuance of a duplicate or corrected traffic violator school~~  
38 ~~owner, operator, instructor, and branch or classroom location~~  
39 ~~license.~~

1 ~~(4) Transfer of an operator or instructor license from one traffic~~  
2 ~~violation school to another.~~

3 ~~(5) Approval of curriculum, based on the instructional modality~~  
4 ~~of the curriculum.~~

5 ~~(6) Fees for administering the examinations pursuant to Sections~~  
6 ~~11206 and 11207.~~

7 ~~(b) The fees authorized under subdivision (a) shall be sufficient~~  
8 ~~to defray the reasonable cost to the department to administer the~~  
9 ~~traffic violation school program, except for routine monitoring of~~  
10 ~~instruction.~~

11 ~~SEC. 119.~~

12 *SEC. 79.* Section 13386 of the Vehicle Code, as added by  
13 Section 22 of Chapter 783 of the Statutes of 2016, is amended to  
14 read:

15 13386. (a) (1) The department shall certify or cause to be  
16 certified ignition interlock devices required by Article 5  
17 (commencing with Section 23575) of Chapter 2 of Division 11.5  
18 and publish a list of approved devices.

19 (2) (A) The department shall ensure that ignition interlock  
20 devices that have been certified according to the requirements of  
21 this section continue to meet certification requirements. The  
22 department may periodically require manufacturers to indicate in  
23 writing whether the devices continue to meet certification  
24 requirements.

25 (B) The department may use denial of certification, suspension  
26 or revocation of certification, or decertification of an ignition  
27 interlock device in another state as an indication that the  
28 certification requirements are not met, if either of the following  
29 apply:

30 (i) The denial of certification, suspension or revocation of  
31 certification, or decertification in another state constitutes a  
32 violation by the manufacturer of Article 2.55 (commencing with  
33 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the  
34 California Code of Regulations.

35 (ii) The denial of certification for an ignition interlock device  
36 in another state was due to a failure of an ignition interlock device  
37 to meet the standards adopted by the regulation set forth in clause  
38 (i), specifically Sections 1 and 2 of the ~~model specification for~~  
39 ~~breath alcohol ignition interlock devices, Model Specification for~~  
40 *Breath Alcohol Ignition Interlock Devices*, as published by notice

1 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,  
2 on pages 11774 to 11787, inclusive, or the Model Specifications  
3 for Breath Alcohol Ignition Interlock Devices, as published by  
4 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May  
5 8, 2013, on pages 25489 to 26867, inclusive.

6 (C) Failure to continue to meet certification requirements shall  
7 result in suspension or revocation of certification of ignition  
8 interlock devices.

9 (b) (1) A manufacturer shall not furnish an installer, service  
10 center, technician, or consumer with technology or information  
11 that allows a device to be used in a manner that is contrary to the  
12 purpose for which it is certified.

13 (2) Upon a violation of paragraph (1), the department shall  
14 suspend or revoke the certification of the ignition interlock device  
15 that is the subject of that violation.

16 (c) An installer, service center, or technician shall not tamper  
17 with, change, or alter the functionality of the device from its  
18 certified criteria.

19 (d) The department shall utilize information from an  
20 independent, accredited (ISO/IEC 17025) laboratory to certify  
21 ignition interlock devices of the manufacturer or manufacturer's  
22 agent, in accordance with the guidelines. The cost of certification  
23 shall be borne by the manufacturers of ignition interlock devices.  
24 If the certification of a device is suspended or revoked, the  
25 manufacturer of the device shall be responsible for, and shall bear  
26 the cost of, the removal of the device and the replacement of a  
27 certified device of the manufacturer or another manufacturer.

28 (e) A model of ignition interlock device shall not be certified  
29 unless it meets the accuracy requirements and specifications  
30 provided in the guidelines adopted by the National Highway Traffic  
31 Safety Administration.

32 (f) All manufacturers of ignition interlock devices that meet the  
33 requirements of subdivision (e) and are certified in a manner  
34 approved by the department, who intend to sell the devices in this  
35 state, first shall apply to the department on forms provided by that  
36 department. The application shall be accompanied by a fee in an  
37 amount not to exceed the amount necessary to cover the costs  
38 incurred by the department in carrying out this section.

39 (g) The department shall ensure that standard forms and  
40 procedures are developed for documenting decisions and

1 compliance and communicating results to relevant agencies. These  
2 forms shall include all of the following:

3 (1) An “Option to Install,” to be sent by the department to repeat  
4 offenders along with the mandatory order of suspension or  
5 revocation. This shall include the alternatives available for early  
6 license reinstatement with the installation of an ignition interlock  
7 device and shall be accompanied by a toll-free telephone number  
8 for each manufacturer of a certified ignition interlock device.  
9 Information regarding approved installation locations shall be  
10 provided to drivers by manufacturers with ignition interlock devices  
11 that have been certified in accordance with this section.

12 (2) A “Verification of Installation” to be returned to the  
13 department by the reinstating offender upon application for  
14 reinstatement. Copies shall be provided for the manufacturer or  
15 the manufacturer’s agent.

16 (3) A “Notice of Noncompliance” and procedures to ensure  
17 continued use of the ignition interlock device during the restriction  
18 period and to ensure compliance with maintenance requirements.  
19 The maintenance period shall be standardized at 60 days to  
20 maximize monitoring checks for equipment tampering.

21 (h) A person who manufactures, installs, services, or repairs,  
22 or otherwise deals in ignition interlock devices shall not disclose,  
23 sell, or transfer to a third party any individually identifiable  
24 information pertaining to individuals who are required by law to  
25 install an ignition interlock device on a vehicle that the individual  
26 owns or operates, except to the extent necessary to confirm or deny  
27 that an individual has complied with ignition interlock device  
28 installation and maintenance requirements.

29 (i) This section shall become operative January 1, 2026.

30 ~~SEC. 120. Section 21212 of the Vehicle Code is amended to~~  
31 ~~read:~~

32 ~~21212. (a) A person under 18 years of age shall not operate a~~  
33 ~~bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line~~  
34 ~~or roller skates, nor ride upon a bicycle, a nonmotorized scooter,~~  
35 ~~or a skateboard as a passenger, upon a street, bikeway, as defined~~  
36 ~~in Section 890.4 of the Streets and Highways Code, or any other~~  
37 ~~public bicycle path or trail unless that person is wearing a properly~~  
38 ~~fitted and fastened bicycle helmet that meets the standards of either~~  
39 ~~the American Society for Testing and Materials (ASTM) or the~~  
40 ~~United States Consumer Product Safety Commission (CPSC), or~~

standards subsequently established by those entities. This requirement also applies to a person who rides upon a bicycle while in a restraining seat that is attached to the bicycle or in a trailer towed by the bicycle.

(b) A helmet sold or offered for sale for use by operators and passengers of bicycles, nonmotorized scooters, skateboards, or in-line or roller skates shall be conspicuously labeled in accordance with the standard described in subdivision (a), which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards.

(c) A person shall not sell, or offer for sale, for use by an operator or passenger of a bicycle, nonmotorized scooter, skateboard, or in-line or roller skates any safety helmet that is not of a type meeting requirements established by this section.

(d) A charge under this section shall be dismissed when the person charged alleges in court, under oath, that the charge against the person is the first charge against that person under this section, unless it is otherwise established in court that the charge is not the first charge against the person.

(e) (1) Except as provided in subdivision (d), a violation of this section is an infraction punishable by a fine of not more than twenty-five dollars (\$25).

(2) The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this section shall be jointly and severally liable with the minor for the amount of the fine imposed pursuant to this subdivision.

(f) A record of the action shall not be transmitted to the court upon a citation for not wearing a properly fitted and fastened bicycle helmet pursuant to subdivision (a) if the parent or legal guardian of the person described in subdivision (a) delivers proof to the issuing agency within 120 days after the citation was issued that the person has a helmet meeting the requirements specified in subdivision (a) and the person has completed a local bicycle safety course or a related safety course, if one is available, as prescribed by authorities in the local jurisdiction.

(g) Notwithstanding Section 1463 of the Penal Code or any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Seventy-two and one-half percent of the amount collected shall be deposited in a special account of the county health

1 department, to be used for bicycle, nonmotorized scooter,  
2 skateboard, and in-line and roller skate safety education and for  
3 assisting low-income families in obtaining approved bicycle  
4 helmets for children under the age of 18 years, either on a loan or  
5 purchase basis. The county may contract for the implementation  
6 of this program, which, to the extent practicable, shall be operated  
7 in conjunction with the child passenger restraint program pursuant  
8 to Section 27360.

9 (2) Two and one-half percent of the amount collected shall be  
10 deposited in the county treasury to be used by the county to  
11 administer the program described in paragraph (1).

12 (3) If the violation occurred within a city, 25 percent of the  
13 amount collected shall be transferred to, and deposited in, the  
14 treasury of that city. If the violation occurred in an unincorporated  
15 area, this 25 percent shall be deposited and used pursuant to  
16 paragraph (1).

17 SEC. 121.

18 SEC. 80. Section 23573 of the Vehicle Code, as amended by  
19 Section 23 of Chapter 485 of the Statutes of 2017, is amended to  
20 read:

21 23573. (a) The Department of Motor Vehicles, upon receipt  
22 of the court's abstract of conviction for a violation listed in  
23 subdivision (j), shall inform the convicted person of the  
24 requirements of this section and the term for which the person is  
25 required to have a functioning, certified ignition interlock device  
26 installed. The records of the department shall reflect the mandatory  
27 use of the device for the term required and the time when the device  
28 is required to be installed pursuant to this code.

29 (b) The department shall advise the person that installation of  
30 a functioning, certified ignition interlock device on a vehicle does  
31 not allow the person to drive without a valid driver's license.

32 (c) (1) A person who is notified by the department pursuant to  
33 subdivision (a) shall, within 30 days of notification, complete both  
34 all of the following:

35 (A) Arrange for each vehicle operated by the person to be fitted  
36 with a functioning, certified ignition interlock device by a certified  
37 ignition interlock device provider under Section 13386.

38 (B) Notify the department and provide to the department proof  
39 of installation by submitting the "Verification of Installation" form  
40 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay to the department a fee sufficient to cover the costs of  
2 administration of this section, including startup costs, as  
3 determined by the department.

4 (2) The person shall not be responsible for the costs of the  
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's  
7 license record of the convicted person that states the driver is  
8 restricted to driving only vehicles equipped with a functioning,  
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to  
11 subdivision (a) shall arrange for each vehicle with an ignition  
12 interlock device to be serviced by the installer at least once every  
13 60 days in order for the installer to recalibrate and monitor the  
14 operation of the device.

15 (2) The installer shall notify the department if the device is  
16 removed or indicates that the person has attempted to remove,  
17 bypass, or tamper with the device, or if the person fails three or  
18 more times to comply with any requirement for the maintenance  
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and  
21 maintenance of the functioning, certified ignition interlock device  
22 installed pursuant to subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant  
24 to subdivision (a), is exempt from the requirements of subdivision  
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to  
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's  
30 residence.

31 (iii) The person no longer has access to the vehicle being driven  
32 by the person when the person was arrested for a violation that  
33 subsequently resulted in a conviction for a violation listed in  
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed  
36 to drive a vehicle that is fitted with a functioning, certified ignition  
37 interlock device and that the person is required to have a valid  
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section  
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted  
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon  
4 commencing operation of a vehicle subject to the required  
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to  
7 this subdivision and who subsequently drives a vehicle in violation  
8 of the exemption is subject to the penalties of subdivision (i) in  
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a  
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a  
13 functioning, certified ignition interlock device who willfully fails  
14 to install the ignition interlock device within the time period  
15 required under subdivision (c) is guilty of a misdemeanor and shall  
16 be punished by imprisonment in a county jail for not more than  
17 six months or by a fine of not more than five thousand dollars  
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person  
20 convicted of any of the following violations shall be punished as  
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,  
23 14601.4, or 14601.5 subsequent to one prior conviction of a  
24 violation of Section 23103.5, 23152, or 23153, within a 10-year  
25 period, the person shall immediately install a functioning, certified  
26 ignition interlock device, pursuant to this section, in all vehicles  
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,  
29 14601.4, or 14601.5 subsequent to two prior convictions of a  
30 violation of Section 23103.5, 23152, or 23153, within a 10-year  
31 period, or one prior conviction of Section 14601.2, 14601.4, or  
32 14601.5, within a 10-year period, the person shall immediately  
33 install a functioning, certified ignition interlock device, pursuant  
34 to this section, in all vehicles operated by that person for a term  
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,  
37 14601.4, or 14601.5 subsequent to three or more prior convictions  
38 of a violation of Section 23103.5, 23152, or 23153, within a  
39 10-year period, or two or more prior convictions of Section  
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock  
2 device, pursuant to this section, in all vehicles operated by that  
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to  
5 this section has failed to show proof of installation within 30 days  
6 of the department informing the person they are required to install  
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply  
9 to this section.

10 (m) The requirements of this section are in addition to any other  
11 requirements of law.

12 (n) This section shall become operative on January 1, 2019.

13 (o) This section shall remain in effect only until January 1, 2026,  
14 and as of that date is repealed, unless a later enacted statute, that  
15 is enacted before January 1, 2026, deletes or extends that date.

16 ~~SEC. 122.~~

17 *SEC. 81.* Section 23573 of the Vehicle Code, as amended by  
18 Section 24 of Chapter 485 of the Statutes of 2017, is amended to  
19 read:

20 23573. (a) The Department of Motor Vehicles, upon receipt  
21 of the court's abstract of conviction for a violation listed in  
22 subdivision (j), shall inform the convicted person of the  
23 requirements of this section and the term for which the person is  
24 required to have a functioning, certified ignition interlock device  
25 installed. The records of the department shall reflect the mandatory  
26 use of the device for the term required and the time when the device  
27 is required to be installed pursuant to this code.

28 (b) The department shall advise the person that installation of  
29 a functioning, certified ignition interlock device on a vehicle does  
30 not allow the person to drive without a valid driver's license.

31 (c) (1) A person who is notified by the department pursuant to  
32 subdivision (a) shall, within 30 days of notification, complete ~~both~~  
33 *all* of the following:

34 (A) Arrange for each vehicle operated by the person to be fitted  
35 with a functioning, certified ignition interlock device by a certified  
36 ignition interlock device provider under Section 13386.

37 (B) Notify the department and provide to the department proof  
38 of installation by submitting the "Verification of Installation" form  
39 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay to the department a fee sufficient to cover the costs of  
2 administration of this section, including startup costs, as  
3 determined by the department.

4 (2) The person shall not be responsible for the costs of the  
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's  
7 license record of the convicted person that states the driver is  
8 restricted to driving only vehicles equipped with a functioning,  
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to  
11 subdivision (a) shall arrange for each vehicle with an ignition  
12 interlock device to be serviced by the installer at least once every  
13 60 days in order for the installer to recalibrate and monitor the  
14 operation of the device.

15 (2) The installer shall notify the department if the device is  
16 removed or indicates that the person has attempted to remove,  
17 bypass, or tamper with the device, or if the person fails three or  
18 more times to comply with any requirement for the maintenance  
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and  
21 maintenance of the ignition interlock device installed pursuant to  
22 subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant  
24 to subdivision (a), is exempt from the requirements of subdivision  
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to  
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's  
30 residence.

31 (iii) The person no longer has access to the vehicle being driven  
32 by the person when the person was arrested for a violation that  
33 subsequently resulted in a conviction for a violation listed in  
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed  
36 to drive a vehicle that is fitted with a functioning, certified ignition  
37 interlock device and that the person is required to have a valid  
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section  
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted  
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon  
4 commencing operation of a vehicle subject to the required  
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to  
7 this subdivision and who subsequently drives a vehicle in violation  
8 of the exemption is subject to the penalties of subdivision (i) in  
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a  
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a  
13 functioning, certified ignition interlock device who willfully fails  
14 to install the ignition interlock device within the time period  
15 required under subdivision (c) is guilty of a misdemeanor and shall  
16 be punished by imprisonment in a county jail for not more than  
17 six months or by a fine of not more than five thousand dollars  
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person  
20 convicted of any of the following violations shall be punished as  
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,  
23 14601.4, or 14601.5 subsequent to one prior conviction of a  
24 violation of Section 23103.5, 23152, or 23153, within a 10-year  
25 period, the person shall immediately install a functioning, certified  
26 ignition interlock device, pursuant to this section, in all vehicles  
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,  
29 14601.4, or 14601.5 subsequent to two prior convictions of a  
30 violation of Section 23103.5, 23152, or 23153, within a 10-year  
31 period, or one prior conviction of Section 14601.2, 14601.4, or  
32 14601.5, within a 10-year period, the person shall immediately  
33 install a functioning, certified ignition interlock device, pursuant  
34 to this section, in all vehicles operated by that person for a term  
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,  
37 14601.4, or 14601.5 subsequent to three or more prior convictions  
38 of a violation of Section 23103.5, 23152, or 23153, within a  
39 10-year period, or two or more prior convictions of Section  
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock  
2 device, pursuant to this section, in all vehicles operated by that  
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to  
5 this section has failed to show proof of installation within 30 days  
6 of the department informing the person they are required to install  
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply  
9 to this section.

10 (m) The requirements of this section are in addition to any other  
11 requirements of law.

12 (n) This section shall become operative January 1, 2026.

13 ~~SEC. 123.~~

14 *SEC. 82.* Section 23575.3 of the Vehicle Code is amended to  
15 read:

16 23575.3. (a) In addition to any other requirement imposed by  
17 law, a court shall notify a person convicted of a violation listed in  
18 subdivision (h) that the person is required to install a functioning,  
19 certified ignition interlock device on any vehicle that the person  
20 operates and that the person is prohibited from operating a motor  
21 vehicle unless that vehicle is equipped with a functioning, certified  
22 ignition interlock device in accordance with this section.

23 (b) The Department of Motor Vehicles, upon receipt of the  
24 court's abstract of conviction for a violation listed in subdivision  
25 (h), shall inform the convicted person of the requirements of this  
26 section, including the term for which the person is required to have  
27 a certified ignition interlock device installed. The records of the  
28 department shall reflect the mandatory use of the device for the  
29 term required and the time when the device is required to be  
30 installed by this code.

31 (c) The department shall advise the person that installation of  
32 a functioning, certified ignition interlock device on a vehicle does  
33 not allow the person to drive without a valid driver's license.

34 (d) (1) A person who is notified by the department pursuant to  
35 subdivision (b) shall do ~~both~~ *all* of the following:

36 (A) Arrange for each vehicle operated by the person to be  
37 equipped with a functioning, certified ignition interlock device by  
38 a certified ignition interlock device provider under Section 13386.

1 (B) Provide to the department proof of installation by submitting  
2 the “Verification of Installation” form described in paragraph (2)  
3 of subdivision (g) of Section 13386.

4 (C) *Pay a fee, determined by the department, that is sufficient*  
5 *to cover the costs of administration of this section.*

6 (2) A person who is notified by the department pursuant to  
7 subdivision (b), is exempt from the requirements of this subdivision  
8 until the time the person purchases or has access to a vehicle if,  
9 within 30 days of the notification, the person certifies to the  
10 department all of the following:

11 (A) The person does not own a vehicle.

12 (B) The person does not have access to a vehicle at the person’s  
13 residence.

14 (C) The person no longer has access to the vehicle the person  
15 was driving at the time the person was arrested for a violation that  
16 subsequently resulted in a conviction for a violation listed in  
17 subdivision (h).

18 (D) The person acknowledges that the person is only allowed  
19 to drive a vehicle that is equipped with a functioning, certified  
20 ignition interlock device.

21 (E) The person acknowledges that the person is required to have  
22 a valid driver’s license before the person can drive.

23 (F) The person acknowledges that the person is subject to the  
24 requirements of this section when the person purchases or has  
25 access to a vehicle.

26 (3) The person shall not be responsible for the costs of the  
27 certified ignition interlock device or for servicing by installers.

28 (e) In addition to any other restrictions the department places  
29 on the driver’s license record of the convicted person when the  
30 person is issued a restricted driver’s license pursuant to Section  
31 13352 or 13352.4, the department shall place a restriction on the  
32 driver’s license record of the person that states the driver is  
33 restricted to driving only vehicles equipped with a functioning,  
34 certified ignition interlock device for the applicable term.

35 (f) (1) A person who is notified by the department pursuant to  
36 subdivision (b) shall arrange for each vehicle with a functioning,  
37 certified ignition interlock device to be serviced by the installer at  
38 least once every 60 days in order for the installer to recalibrate and  
39 monitor the operation of the device.

1 (2) The installer shall notify the department if the device is  
2 removed or indicates that the person has attempted to remove,  
3 bypass, or tamper with the device, or if the person fails three or  
4 more times to comply with any requirement for the maintenance  
5 or calibration of the ignition interlock device.

6 (g) The department shall monitor the installation and  
7 maintenance of the ignition interlock device installed pursuant to  
8 subdivision (d).

9 (h) A person is required to install a functioning, certified ignition  
10 interlock device pursuant to this section for the applicable term,  
11 as follows:

12 (1) A person convicted of a violation of subdivision (a), (b),  
13 (d), (e), or (g) of Section 23152 shall be required to do the  
14 following, as applicable:

15 (A) Upon a conviction with no priors, punishable under Section  
16 23536, only one of the following may occur:

17 (i) The court may order installation of a functioning, certified  
18 ignition interlock device on any vehicle that the person operates  
19 and prohibit that person from operating a motor vehicle unless that  
20 vehicle is equipped with a functioning, certified ignition interlock  
21 device. If the court orders the ignition interlock device restriction,  
22 the term shall be determined by the court for a period not to exceed  
23 six months from the date of conviction. The court shall notify the  
24 department of the conviction as specified in subdivision (a) of  
25 Section 1803 or Section 1816, and shall specify the terms of the  
26 ignition interlock device restriction in accordance with subdivision  
27 (a) of Section 1804. The department shall place the restriction on  
28 the driver's license record of the person that states the driver is  
29 restricted to driving only vehicles equipped with a functioning,  
30 certified ignition interlock device for the applicable term.

31 (ii) The person may apply to the department for a restriction of  
32 the driving privilege under Section 13352.4.

33 (iii) The person may apply to the department for a restriction  
34 of the driving privilege under paragraph (1) of subdivision (a) of  
35 Section 13352 or subdivision (c) of Section 13352.1.

36 (B) Upon a conviction with one prior, punishable under Section  
37 23540, the person shall install a functioning, certified ignition  
38 interlock device in the vehicle, as ordered by the court, that is  
39 operated by that person for a mandatory term of 12 months.

1 (C) Upon a conviction with two priors, punishable under Section  
2 23546, the person shall install a functioning, certified ignition  
3 interlock device in the vehicle, as ordered by the court, that is  
4 operated by that person for a mandatory term of 24 months.

5 (D) Upon a conviction with three or more priors punishable  
6 under Section 23550, or a conviction punishable under Section  
7 23550.5, the person shall install a functioning, certified ignition  
8 interlock device in the vehicle, as ordered by the court, that is  
9 operated by that person for a mandatory term of 36 months.

10 (2) A person convicted of a violation of subdivision (a), (b),  
11 (d), (e), or (g) of Section 23153 shall install a functioning, certified  
12 ignition interlock device, as follows:

13 (A) Upon a conviction with no priors, punishable under Section  
14 23554, the person shall install a functioning, certified ignition  
15 interlock device in the vehicle, as ordered by the court, that is  
16 operated by that person for a mandatory term of 12 months.

17 (B) Upon a conviction with one prior, punishable under Section  
18 23560, the person shall install a functioning, certified ignition  
19 interlock device in the vehicle, as ordered by the court, that is  
20 operated by that person for a mandatory term of 24 months.

21 (C) Upon a conviction with two priors, punishable under Section  
22 23550 or 23566, the person shall install a functioning, certified  
23 ignition interlock device in the vehicle, as ordered by the court,  
24 that is operated by that person for a mandatory term of 36 months.

25 (D) Upon a conviction with one prior punishable under Section  
26 23550.5, the person shall install a functioning, certified ignition  
27 interlock device in the vehicle, as ordered by the court, that is  
28 operated by that person for a mandatory term of 48 months.

29 (3) For the purposes of paragraphs (1) and (2), “prior” means  
30 a conviction for a separate violation of Section 23103, as specified  
31 in Section 23103.5, or Section 23152 or 23153, subdivision (a) or  
32 (b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the  
33 Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655  
34 of the Harbors and Navigation Code, that occurred within 10 years  
35 of the current violation.

36 (4) The terms prescribed in this subdivision shall begin once a  
37 person has complied with subparagraph (B) of paragraph (1) of  
38 subdivision (d) and either upon the reinstatement of the privilege  
39 to drive pursuant to Section 13352 or the issuance of a restricted  
40 driver’s license pursuant to Section 13352. A person shall receive

1 credit for any period in which the person had a restricted driver's  
2 license issued pursuant to Section 13353.6 or 13353.75.

3 (i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to  
4 this section.

5 (j) If a person fails to comply with any of the requirements  
6 regarding ignition interlock devices, the period in which the person  
7 was not in compliance shall not be credited towards the mandatory  
8 term for which the ignition interlock device is required to be  
9 installed.

10 (k) This section does not permit a person to drive without a  
11 valid driver's license.

12 (l) The requirements of this section are in addition to any other  
13 requirements of law.

14 (m) For the purposes of this section, the following definitions  
15 apply:

16 (1) "Bypass" means either of the following:

17 (A) Failure to take any random retest.

18 (B) Failure to pass a random retest with a breath alcohol  
19 concentration not exceeding 0.03 percent, by weight of alcohol,  
20 in the person's blood.

21 (2) "Operates" includes operating a vehicle that is not owned  
22 by the person subject to this section.

23 (3) "Owned" means solely owned or owned in conjunction with  
24 another person or legal entity.

25 (4) "Random retest" means a breath test performed by the driver  
26 upon a certified ignition interlock device at random intervals after  
27 the initial engine startup breath test and while the vehicle's motor  
28 is running.

29 (5) "Vehicle" does not include a motorcycle until the state  
30 certifies an ignition interlock device that can be installed on a  
31 motorcycle. A person subject to an ignition interlock device  
32 restriction shall not operate a motorcycle for the duration of the  
33 ignition interlock device restriction period.

34 (n) The requirements of this section shall apply only to a person  
35 who is convicted for a violation of Section 23152 or 23153 that  
36 occurred on or after January 1, 2019.

37 (o) This section shall become operative on January 1, 2019.

38 (p) This section shall remain in effect only until January 1, 2026,  
39 and as of that date is repealed, unless a later enacted statute, that  
40 is enacted before January 1, 2026, deletes or extends that date.

1     ~~SEC. 124.~~

2     ~~SEC. 83.~~ Section 40508.5 of the Vehicle Code is repealed.

3     ~~SEC. 125.~~ Section 40508.6 of the Vehicle Code is repealed.

4     ~~SEC. 126.~~

5     ~~SEC. 84.~~ Section 40509 of the Vehicle Code is amended to  
6 read:

7     40509. (a) Except as required under subdivision (b) of Section  
8 40509.5, if a person has violated a written promise to appear or a  
9 lawfully granted continuance of a promise to appear in court or  
10 before the person authorized to receive a deposit of bail, or violated  
11 an order to appear in court, including, but not limited to, a written  
12 notice to appear issued in accordance with Section 40518, the  
13 magistrate or clerk of the court may give notice of the failure to  
14 appear to the department for any violation of this code, or any  
15 violation that can be heard by a juvenile traffic hearing referee  
16 pursuant to Section 256 of the Welfare and Institutions Code, or  
17 any violation of any other statute relating to the safe operation of  
18 a vehicle, except violations not required to be reported pursuant  
19 to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section  
20 1803. If thereafter the case in which the promise was given is  
21 adjudicated or the person who has violated the court order appears  
22 in court or otherwise satisfies the order of the court, the magistrate  
23 or clerk of the court hearing the case shall sign and file with the  
24 department a certificate to that effect.

25     (b) (1) Notwithstanding subdivision (a), the court may notify  
26 the department of the total amount of bail, fines, and assessments  
27 authorized or required by this code that are unpaid by a person.

28     (2) Once a court has established the amount of bail, fines, and  
29 assessments and notified the department, the court shall not further  
30 enhance or modify that amount.

31     (3) This subdivision applies only to violations of this code that  
32 do not require a mandatory court appearance, are not contested by  
33 the defendant, and do not require proof of correction certified by  
34 the court.

35     (c) Any violation subject to Section 40001 that is the  
36 responsibility of the owner of the vehicle shall not be reported  
37 under this section.

38     ~~SEC. 127.~~

39     ~~SEC. 85.~~ Section 40510.5 of the Vehicle Code is amended to  
40 read:

1 40510.5. (a) The clerk of the court may accept a payment and  
2 forfeiture of at least 10 percent of the total bail amount for each  
3 infraction violation of this code prior to the date on which the  
4 defendant promised to appear, or prior to the expiration of any  
5 lawful continuance of that date, or upon receipt of information that  
6 an action has been filed and prior to the scheduled court date, if  
7 all of the following circumstances exist:

8 (1) The defendant is charged with an infraction violation of this  
9 code or an infraction violation of an ordinance adopted pursuant  
10 to this code.

11 (2) The defendant submits proof of correction, when proof of  
12 correction is mandatory for a correctable offense.

13 (3) The offense does not require an appearance in court.

14 (4) The defendant signs a written agreement to pay and forfeit  
15 the remainder of the required bail according to an installment  
16 schedule as agreed upon with the court. The Judicial Council shall  
17 prescribe the form of the agreement for payment and forfeiture of  
18 bail in installments for infraction violations.

19 (b) When a clerk accepts an agreement for payment and  
20 forfeiture of bail in installments, the clerk shall continue the  
21 appearance date of the defendant to the date to complete payment  
22 and forfeiture of bail in the agreement.

23 (c) Except for subdivisions (b) and (c) of Section 1269b and  
24 Section 1305.1, the provisions of Chapter 1 (commencing with  
25 Section 1268) of Title 10 of Part 2 of the Penal Code do not apply  
26 to an agreement to pay and forfeit bail in installments under this  
27 section.

28 (d) For the purposes of reporting violations of this code to the  
29 department under Section 1803, the date that the defendant signs  
30 an agreement to pay and forfeit bail in installments shall be  
31 reported as the date of conviction.

32 (e) Payment of a bail amount under this section is forfeited when  
33 collected and shall be distributed by the court in the same manner  
34 as other fines, penalties, and forfeitures collected for infractions.

35 ~~SEC. 128.~~

36 *SEC. 86.* Section 40512 of the Vehicle Code is amended to  
37 read:

38 40512. (a) (1) Except as specified in paragraph (2) and  
39 subdivision (b), if at the time the case is called for arraignment  
40 before the magistrate the defendant does not appear, either in

1 person or by counsel, the magistrate may declare the bail forfeited  
2 and may, in the magistrate's discretion, order that no further  
3 proceedings be had in the case, unless the defendant has been  
4 charged with a violation of Section 23111 or 23112, or subdivision  
5 (a) of Section 23113, and has been previously convicted of the  
6 same offense, except if the magistrate finds that undue hardship  
7 will be imposed upon the defendant by requiring the defendant to  
8 appear, the magistrate may declare the bail forfeited and order that  
9 no further proceedings shall be had in the case.

10 (2) If the defendant has posted surety bail and the magistrate  
11 has ordered the bail forfeited and that no further proceedings shall  
12 be had in the case, the bail retains the right to obtain relief from  
13 the forfeiture as provided in Section 1305 of the Penal Code if the  
14 amount of the bond, money, or property deposited exceeds seven  
15 hundred dollars (\$700).

16 (b) (1) If, at the time the case is called for a compliance  
17 appearance before the magistrate, the defendant has entered into  
18 a bail installment agreement pursuant to Section 40510.5 but has  
19 not made an installment payment as agreed and does not appear,  
20 either in person or by counsel, the court may continue the  
21 arraignment to a date beyond the last agreed upon installment  
22 payment or issue a warrant of arrest.

23 (2) If, at the time the case is called for a compliance appearance  
24 before the magistrate, the defendant has paid all required bail funds  
25 and the defendant does not appear, either in person or by counsel,  
26 the court may order that no further proceedings shall be had in the  
27 case, unless the defendant has been charged with a violation of  
28 Section 23111 or 23112, or subdivision (a) of Section 23113, and  
29 has been previously convicted of the same offense, except that if  
30 the magistrate finds that undue hardship will be imposed upon the  
31 defendant by requiring the defendant to appear, the magistrate may  
32 order that no further proceedings shall be had in the case.

33 (c) Upon the making of the order that no further proceedings  
34 shall be had, all sums deposited as bail shall be paid into the city  
35 or county treasury, as the case may be.

36 (d) If a guaranteed traffic arrest bail bond certificate has been  
37 filed, the clerk of the court shall bill the issuer for the amount of  
38 bail fixed by the uniform countywide schedule of bail required  
39 under subdivision (c) of Section 1269b of the Penal Code.

1 (e) Upon presentation by a court of the bill for a fine or bail  
2 assessed against an individual covered by a guaranteed traffic  
3 arrest bail bond certificate, the issuer shall pay to the court the  
4 amount of the fine or forfeited bail that is within the maximum  
5 amount guaranteed by the terms of the certificate.

6 (f) The court shall return the guaranteed traffic arrest bail bond  
7 certificate to the issuer upon receipt of payment in accordance with  
8 subdivision (d).

9 ~~SEC. 129. Section 40611 of the Vehicle Code is repealed.~~

10 ~~SEC. 130. Section 42003 of the Vehicle Code is amended to~~  
11 ~~read:~~

12 ~~42003. (a) A judgment that a person convicted of an infraction~~  
13 ~~be punished by a fine may also provide for the payment to be made~~  
14 ~~within a specified time or in specified installments. A judgment~~  
15 ~~granting a defendant time to pay the fine shall order that if the~~  
16 ~~defendant fails to pay the fine or any installment thereof on the~~  
17 ~~date that it is due, the defendant shall appear in court on that date~~  
18 ~~for further proceedings. Willful violation of the order is punishable~~  
19 ~~as contempt.~~

20 ~~(b) A judgment that a person convicted of any other violation~~  
21 ~~of this code be punished by a fine may also order, adjudge, and~~  
22 ~~decree that the person be imprisoned until the fine is satisfied. In~~  
23 ~~all of these cases, the judgment shall specify the extent of the~~  
24 ~~imprisonment which shall not exceed one day for every thirty~~  
25 ~~dollars (\$30) of the fine, nor extend in this case beyond the term~~  
26 ~~for which the defendant might be sentenced to imprisonment for~~  
27 ~~the offense of which the defendant was convicted.~~

28 ~~(c) In any case when a person appears before a traffic referee~~  
29 ~~or judge of the superior court for adjudication of a violation of this~~  
30 ~~code, the court, upon request of the defendant, shall consider the~~  
31 ~~defendant's ability to pay the fine. Consideration of a defendant's~~  
32 ~~ability to pay the fine may include the defendant's future earning~~  
33 ~~capacity. A defendant shall bear the burden of demonstrating lack~~  
34 ~~of the defendant's ability to pay. Express findings by the court as~~  
35 ~~to the factors bearing on the amount of the fine shall not be~~  
36 ~~required. The court shall order the defendant to appear before a~~  
37 ~~county officer designated by the court to make an inquiry into the~~  
38 ~~ability of the defendant to pay all or a portion of the fine. At that~~  
39 ~~hearing, the defendant shall be entitled to have, but shall not be~~  
40 ~~limited to, the opportunity to be heard in person, to present~~

~~witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against them, and to a written statement of the findings of the court or the county officer. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or, with the consent of a defendant who is placed on probation, the court shall order the probation officer to set the amount of payment, which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account any amount the defendant has been ordered to pay in restitution.~~

~~The court may hold additional hearings during the probationary period. If practicable, the court or the probation officer shall order payments to be made on a monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.~~

~~(d) The term "ability to pay" means the overall capability of the defendant to pay the fine or a portion of the fine and includes, but is not limited to, all of the following regarding the defendant:~~

~~(1) Present financial position.~~

~~(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.~~

~~(3) Likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing.~~

~~(4) Any other factors that may bear upon the defendant's financial capability to pay the fine.~~

~~(e) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the~~

1 judgment. The court shall advise the defendant of this right at the  
2 time of rendering of the judgment.

3 ~~SEC. 131.~~

4 SEC. 87. Section 42007 of the Vehicle Code is amended to  
5 read:

6 42007. (a) (1) The clerk of the court shall collect a fee from  
7 every person who is ordered or permitted to attend a traffic violator  
8 school pursuant to Section 41501 or 42005 in an amount equal to  
9 the total bail set forth for the eligible offense on the uniform  
10 countywide bail schedule. As used in this subdivision, “total bail”  
11 means the amount established pursuant to Section 1269b of the  
12 Penal Code in accordance with the Uniform Bail and Penalty  
13 Schedule adopted by the Judicial Council, including all  
14 assessments, surcharges, and penalty amounts. Where multiple  
15 offenses are charged in a single notice to appear, the “total bail”  
16 is the amount applicable for the greater of the qualifying offenses.  
17 However, the court may determine a lesser fee under this  
18 subdivision upon a showing that the defendant is unable to pay  
19 the full amount.

20 The fee shall not include the cost, or any part thereof, of traffic  
21 safety instruction offered by a traffic violator school.

22 (2) The clerk may accept from a defendant who is ordered or  
23 permitted to attend traffic violator school a payment of at least 10  
24 percent of the fee required by paragraph (1) upon filing a written  
25 agreement by the defendant to pay the remainder of the fee  
26 according to an installment payment schedule of no more than 90  
27 days as agreed upon with the court. The Judicial Council shall  
28 prescribe the form of the agreement for payment of the fee in  
29 installments. When the defendant signs the Judicial Council form  
30 for payment of the fee in installments, the court shall continue the  
31 case to the date in the agreement to complete payment of the fee  
32 and submit the certificate of completion of traffic violator school  
33 to the court. *The clerk shall collect a fee of up to thirty-five dollars*  
34 *(\$35) to cover administrative and clerical costs for processing an*  
35 *installment payment of the traffic violator school fee under this*  
36 *paragraph.*

37 (3) If a defendant fails to make an installment payment of the  
38 fee according to an installment agreement, the court may convert  
39 the fee to bail, declare it forfeited, and report the forfeiture as a  
40 conviction under Section 1803. The court may also charge a failure

1 to pay under Section 40508 or issue an arrest warrant for a failure  
2 to pay. For the purposes of reporting a conviction under this  
3 subdivision to the department under Section 1803, the date that  
4 the court declares the bail forfeited shall be reported as the date  
5 of conviction.

6 (b) Revenues derived from the fee collected under this section  
7 shall be deposited in accordance with Section 68084 of the  
8 Government Code in the general fund of the county and, as may  
9 be applicable, distributed as follows:

10 (1) In any county in which a fund is established pursuant to  
11 Section 76100 or 76101 of the Government Code, the sum of one  
12 dollar (\$1) for each fund so established shall be deposited with the  
13 county treasurer and placed in that fund.

14 (2) In any county that has established a Maddy Emergency  
15 Medical Services Fund pursuant to Section 1797.98a of the Health  
16 and Safety Code, an amount equal to the sum of each two dollars  
17 (\$2) for every seven dollars (\$7) that would have been collected  
18 pursuant to Section 76000 of the Government Code and,  
19 commencing January 1, 2009, an amount equal to the sum of each  
20 two dollars (\$2) for every ten dollars (\$10) that would have been  
21 collected pursuant to Section 76000.5 of the Government Code  
22 with respect to those counties to which that section is applicable  
23 shall be deposited in that fund. Nothing in the act that added this  
24 paragraph shall be interpreted in a manner that would result in  
25 either of the following:

26 (A) The utilization of penalty assessment funds that had been  
27 set aside, on or before January 1, 2000, to finance debt service on  
28 a capital facility that existed before January 1, 2000.

29 (B) The reduction of the availability of penalty assessment  
30 revenues that had been pledged, on or before January 1, 2000, as  
31 a means of financing a facility which was approved by a county  
32 board of supervisors, but on January 1, 2000, is not under  
33 construction.

34 (3) The amount of the fee that is attributable to Section 70372  
35 of the Government Code shall be transferred pursuant to  
36 subdivision (f) of that section.

37 (c) For fees resulting from city arrests, an amount equal to the  
38 amount of base fines that would have been deposited in the treasury  
39 of the appropriate city pursuant to paragraph (3) of subdivision

1 (b) of Section 1463.001 of the Penal Code shall be deposited in  
2 the treasury of the appropriate city.

3 (d) The clerk of the court, in a county that offers traffic school  
4 shall include in any courtesy notice mailed to a defendant for an  
5 offense that qualifies for traffic school attendance the following  
6 statement:

7  
8 NOTICE: If you are eligible and decide not to attend traffic  
9 school your automobile insurance may be adversely affected. For  
10 drivers with a noncommercial driver's license, one conviction in  
11 any 18-month period will be held confidential and not show on  
12 your driving record if you complete a traffic violator school  
13 program. For drivers with a commercial driver's license, one  
14 conviction in any 18-month period will show on your driving  
15 record without a violation point if you complete a traffic violator  
16 school program.

17  
18 (e) Notwithstanding any other provision of law, a county that  
19 has established a Maddy Emergency Medical Services Fund  
20 pursuant to Section 1797.98a of the Health and Safety Code shall  
21 not be held liable for having deposited into the fund, prior to  
22 January 1, 2009, an amount equal to two dollars (\$2) for every ten  
23 dollars (\$10) that would have been collected pursuant to Section  
24 76000.5 of the Government Code from revenues derived from  
25 traffic violator school fees collected pursuant to this section.

26 ~~SEC. 132. Section 42007.1 of the Vehicle Code is amended to~~  
27 ~~read:~~

28 ~~42007.1. (a) The amount collected by the clerk pursuant to~~  
29 ~~subdivision (a) of Section 42007 shall be in an amount equal to~~  
30 ~~the total bail set forth for the eligible offense on the uniform~~  
31 ~~countywide bail schedule.~~

32 ~~SEC. 133. Section 42007.3 of the Vehicle Code is amended to~~  
33 ~~read:~~

34 ~~42007.3. Notwithstanding Section 42007, revenues derived~~  
35 ~~from fees collected under Section 42007 from each person required~~  
36 ~~or permitted to attend traffic violator school pursuant to Section~~  
37 ~~41501 or 42005 as a result of a violation of subdivision (a) or (c)~~  
38 ~~of Section 21453, subdivision (c) of Section 21454, or subdivision~~  
39 ~~(a) of Section 21457 shall be allocated as follows:~~

1     ~~(a) The first 30 percent of the amount collected shall be allocated~~  
2     ~~to the general fund of the city or county in which the offense~~  
3     ~~occurred.~~

4     ~~(b) The balance of the amount collected shall be deposited by~~  
5     ~~the county treasurer under Section 42007.~~

6     ~~SEC. 134. Section 42007.4 of the Vehicle Code is amended to~~  
7     ~~read:~~

8     ~~42007.4. Notwithstanding Section 42007, revenues derived~~  
9     ~~from fees collected under Section 42007 from each person required~~  
10    ~~or permitted to attend traffic violator school pursuant to Section~~  
11    ~~369b of the Penal Code as a result of a violation of subdivision (c)~~  
12    ~~of Section 21752, involving railroad grade crossings, or Section~~  
13    ~~22451 or 22452 shall be allocated as follows:~~

14    ~~(a) If the offense occurred in an area where a transit district or~~  
15    ~~transportation commission established under Division 12~~  
16    ~~(commencing with Section 130000) of the Public Utilities Code~~  
17    ~~provides rail transportation, the first 30 percent of the amount~~  
18    ~~collected shall be allocated to the general fund of that transit district~~  
19    ~~or transportation commission to be used only for public safety and~~  
20    ~~public education purposes relating to railroad grade crossings.~~

21    ~~(b) If there is no transit district or transportation commission~~  
22    ~~providing rail transportation in the area where the offense occurred,~~  
23    ~~the first 30 percent of the amount collected shall be allocated to~~  
24    ~~the general fund of the county in which the offense occurred, to~~  
25    ~~be used only for public safety and public education purposes~~  
26    ~~relating to railroad grade crossings.~~

27    ~~(c) The balance of the amount collected shall be deposited by~~  
28    ~~the county treasurer under Section 1463 of the Penal Code.~~

29    ~~(d) A transit district, transportation commission, or a county~~  
30    ~~that is allocated funds pursuant to subdivision (a) or (b) shall~~  
31    ~~provide public safety and public education relating to railroad~~  
32    ~~grade crossings only to the extent that those purposes are funded~~  
33    ~~by the allocations provided pursuant to subdivision (a) or (b).~~

34    ~~SEC. 135.~~

35    ~~SEC. 88. Section 42008.5 of the Vehicle Code is amended to~~  
36    ~~read:~~

37    ~~42008.5. (a) A county may establish a one-time amnesty~~  
38    ~~program for fines and bail that have been delinquent for not less~~  
39    ~~than six months as of the date upon which the program commences~~  
40    ~~and were imposed for an infraction or misdemeanor violation of~~

1 this code, except parking violations of this code and violations of  
2 Section 23103, 23104, 23105, 23152, or 23153.

3 (b) A person owing a fine or bail that is eligible for amnesty  
4 under the program may pay to the superior or juvenile court the  
5 amount scheduled by the court, that shall be accepted by the court  
6 in full satisfaction of the delinquent fine or bail and shall be either  
7 of the following:

8 (1) Seventy percent of the total fine or bail.

9 (2) The amount of one hundred dollars (\$100) for an infraction  
10 or five hundred dollars (\$500) for a misdemeanor.

11 (c) The amnesty program shall be implemented by the courts  
12 of the county on a one-time basis and conducted in accordance  
13 with Judicial Council guidelines for a period of not less than 120  
14 days. The program shall operate not longer than six months from  
15 the date the court initiates the program.

16 (d) No criminal action shall be brought against a person for a  
17 delinquent fine or bail paid under the amnesty program and no  
18 other additional penalties shall be assessed for the late payment  
19 of the fine or bail made under the amnesty program.

20 (e) Notwithstanding Section 1463 of the Penal Code, the total  
21 amount of funds collected by the courts pursuant to the amnesty  
22 program shall be deposited in the county treasury until 150 percent  
23 of the cost of operating the program, excluding capital  
24 expenditures, have been so deposited. Thereafter, 37 percent of  
25 the amount of the delinquent fines and bail deposited in the county  
26 treasury shall be distributed by the county pursuant to Section 1464  
27 of the Penal Code, 26 percent of the amount deposited shall be  
28 distributed by the county pursuant to Article 2 (commencing with  
29 Section 76100) of Chapter 12 of Title 8 of the Government Code,  
30 and the remaining 37 percent of the amount deposited shall be  
31 retained by the county.

32 (f) The deposit of fines and bails in the county treasury as  
33 described in subdivision (e) is limited to the amnesty program  
34 described in this section, and it is the intent of the Legislature that  
35 it shall not be considered a precedent with respect to affecting  
36 programs that receive funding pursuant to Section 1463 of the  
37 Penal Code.

38 (g) Each county participating in the program shall file, not later  
39 than six months after the termination of the program, a written  
40 report with the Assembly Committee on Judiciary and the Senate

1 Committee on Judiciary. The report shall summarize the amount  
2 of money collected, operating costs of the program, distribution  
3 of funds collected, and when possible, how the funds were  
4 expended.

5 ~~SEC. 136.~~

6 *SEC. 89.* Section 42008.7 of the Vehicle Code is amended to  
7 read:

8 42008.7. (a) The State of California continues to face a fiscal  
9 and economic crisis affecting the State Budget and the overall state  
10 economy. In light of this crisis, a one-time infraction amnesty  
11 program would do the following:

12 (1) Provide relief to individuals who have found themselves in  
13 violation of a court-ordered obligation because they are financially  
14 unable to pay traffic bail or fines.

15 (2) Provide increased revenue at a time when revenue is scarce  
16 by encouraging payment of old fines that have remained unpaid.

17 (3) Allow courts and counties to resolve older delinquent cases  
18 and focus limited resources on collecting on more recent cases.

19 (b) A one-time amnesty program for fines and bail meeting the  
20 eligibility requirements set forth in subdivision (e) shall be  
21 established in each county. Unless agreed otherwise by the court  
22 and the county in writing, the government entities that are  
23 responsible for the collection of delinquent court-ordered debt  
24 shall be responsible for implementation of the amnesty program  
25 as to that debt, maintaining the same division of responsibility in  
26 place with respect to the collection of court-ordered debt under  
27 subdivision (b) of Section 1463.010 of the Penal Code.

28 (c) As used in this section, the term “fine” or “bail” refers to  
29 the total amounts due in connection with a specific violation, which  
30 ~~include, but are~~ *includes, but is* not limited to, the following:

31 (1) Base fine or bail, as established by court order, by statute,  
32 or by the court’s bail schedule.

33 (2) Penalty assessments imposed pursuant to Section 1464 of  
34 the Penal Code and Sections 70372, 76000, 76000.5, 76104.6, and  
35 76104.7 of the Government Code.

36 (3) State surcharge imposed pursuant to Section 1465.7 of the  
37 Penal Code.

38 (4) Court security fee imposed pursuant to Section 1465.8 of  
39 the Penal Code.

(d) In addition to and at the same time as the mandatory one-time amnesty program is established pursuant to subdivision (b), the court and the county may jointly agree to extend that amnesty program to fines and bail imposed for a misdemeanor violation of this code and a violation of Section 853.7 of the Penal Code added to the misdemeanor case otherwise subject to the amnesty. The amnesty program authorized pursuant to this subdivision shall not apply to parking violations and violations of Section 23103, 23104, 23105, 23152, or 23153 of this code.

(e) Violations are only eligible for amnesty if paragraph (1), (2), or (3) applies and the requirements of paragraphs (4), (5), and (6) are met:

(1) The violation is an infraction violation filed with the court.

(2) It is a violation of subdivision (a) or (b) of Section 40508, or a violation of Section 853.7 of the Penal Code added to the case subject to paragraph (1).

(3) The violation is a misdemeanor violation filed with the court to which subdivision (d) applies.

(4) The due date for payment of the fine or bail was on or before January 1, 2009.

(5) The defendant does not owe victim restitution on any case within the county.

(6) There are no outstanding misdemeanor or felony warrants for the defendant within the county, except for misdemeanor warrants for misdemeanor violations authorized by the court and the county pursuant to subdivision (d).

(f) Each amnesty program shall accept, in full satisfaction of any eligible fine or bail, 50 percent of the fine or bail amount, as defined in subdivision (c) of this section. Payment of a fine or bail under an amnesty program implemented pursuant to this section shall be accepted beginning January 1, 2012, and ending June 30, 2012. The Judicial Council shall adopt guidelines for the amnesty program no later than November 1, 2011, and each program shall be conducted in accordance with Judicial Council guidelines.

(g) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.

(h) The total amount of funds collected under the amnesty program shall as soon as practical after receipt thereof be deposited in the county treasury or the account established under Section 77009 of the Government Code. Any unreimbursed costs of

operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or the county that incurred the expense of operating the program. Notwithstanding Section 1203.1d of the Penal Code, the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed pursuant to Section 1462.5 of the Penal Code.

(i) Each court or county implementing an amnesty program shall file, not later than September 30, 2012, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Notwithstanding Section 10231.5 of the Government Code, on or before December 31, 2012, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.

~~SEC. 137. Section 42008.8 of the Vehicle Code is amended to read:~~

~~42008.8. (a) The Legislature finds and declares that a one-time infraction amnesty program would do all of the following:~~

~~(1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have unpaid traffic bail or fines.~~

~~(2) Provide relief to individuals who have found themselves in violation of a court-ordered obligation or who have had their driving privileges suspended pursuant to Section 13365.~~

~~(3) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.~~

~~(4) Allow courts and counties to resolve older delinquent cases and focus limited resources on collections for more recent cases.~~

~~(b) A one-time amnesty program for unpaid fines and bail meeting the eligibility requirements set forth in subdivision (g) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.~~

1 (e) ~~As used in this section, the term “fine” or “bail” refers to~~  
2 ~~the total amounts due in connection with a specific violation;~~  
3 ~~including, but not limited to, all of the following:~~

4 (1) ~~Base fine or bail, as established by court order, by statute,~~  
5 ~~or by the court’s bail schedule.~~

6 (2) ~~Penalty assessments imposed pursuant to Section 1464 of~~  
7 ~~the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,~~  
8 ~~and 76104.7 of, and paragraph (1) of subdivision (c) of Section~~  
9 ~~76000.10 of, the Government Code, and Section 42006 of this~~  
10 ~~code.~~

11 (3) ~~State surcharges imposed pursuant to Section 1465.7 of the~~  
12 ~~Penal Code.~~

13 (4) ~~Court operations assessments imposed pursuant to Section~~  
14 ~~1465.8 of the Penal Code.~~

15 (5) ~~Criminal conviction assessments pursuant to Section 70373~~  
16 ~~of the Government Code.~~

17 (d) ~~Notwithstanding subdivision (c), any civil assessment~~  
18 ~~imposed pursuant to former Section 1214.1 of the Penal Code shall~~  
19 ~~not be collected, nor shall the payment of that assessment be a~~  
20 ~~requirement of participation in the amnesty program.~~

21 (e) ~~Concurrent with the amnesty program established pursuant~~  
22 ~~to subdivision (b), between October 1, 2015, to March 31, 2017,~~  
23 ~~inclusive, the following shall apply:~~

24 (1) ~~The court shall, within 90 days, issue and file the appropriate~~  
25 ~~certificate pursuant to subdivisions (a) and (b) of Section 40509~~  
26 ~~for any participant of the one-time amnesty program established~~  
27 ~~pursuant to subdivision (b) demonstrating that the participant has~~  
28 ~~appeared in court, paid the fine, or otherwise satisfied the court,~~  
29 ~~if the driving privilege of that participant was suspended pursuant~~  
30 ~~to Section 13365 in connection with a specific violation described~~  
31 ~~in paragraph (1), (2), or (3) of subdivision (g). For applications~~  
32 ~~submitted prior to January 1, 2017, that remain outstanding as of~~  
33 ~~that date, the court shall issue and file the certificate no later than~~  
34 ~~March 31, 2017. For applications submitted on or before March~~  
35 ~~31, 2017, all terms and procedures related to the participant’s~~  
36 ~~payment plans shall remain in effect after March 31, 2017.~~

37 (2) ~~The court shall, within 90 days, issue and file with the~~  
38 ~~department the appropriate certificate pursuant to subdivisions (a)~~  
39 ~~and (b) of Section 40509 for any person in good standing in a~~  
40 ~~comprehensive collection program pursuant to subdivision (c) of~~

1 Section 1463.007 of the Penal Code demonstrating that the person  
2 has appeared in court, paid the fine, or otherwise satisfied the court,  
3 if the driving privilege was suspended pursuant to Section 13365  
4 in connection with a specific violation described in paragraph (1);  
5 (2), or (3) of subdivision (g). For applications submitted prior to  
6 January 1, 2017, that remain outstanding as of that date, the court  
7 shall issue and file the certificate no later than March 31, 2017.  
8 For applications submitted on or before March 31, 2017, all terms  
9 and procedures related to the participant's payment plans shall  
10 remain in effect after March 31, 2017.

11 (3) Any person who is eligible for a driver's license pursuant  
12 to Section 12801, 12801.5, or 12801.9 shall be eligible for the  
13 amnesty program established pursuant to subdivision (b) for any  
14 specific violation described in subdivision (g). The department  
15 shall issue a driver's license to any person who is eligible pursuant  
16 to Section 12801, 12801.5, or 12801.9 if the person is participating  
17 in the amnesty program and is otherwise eligible for the driver's  
18 license but for the fines or bail to be collected through the program.

19 (4) The Department of Motor Vehicles shall not deny reinstating  
20 the driving privilege of any person who participates in the amnesty  
21 program established pursuant to subdivision (b) for any fines or  
22 bail in connection with the specific violation that is the basis for  
23 participation in the amnesty program.

24 (f) In addition to, and at the same time as, the mandatory  
25 one-time amnesty program is established pursuant to subdivision  
26 (b), the court and the county may jointly agree to extend that  
27 amnesty program to fines and bail imposed for a misdemeanor  
28 violation of this code and a violation of Section 853.7 of the Penal  
29 Code that was added to the misdemeanor case otherwise subject  
30 to the amnesty. The amnesty program authorized pursuant to this  
31 subdivision shall not apply to parking violations and violations of  
32 Sections 23103, 23104, 23105, 23152, and 23153.

33 (g) A violation is only eligible for amnesty if paragraph (1), (2),  
34 or (3) applies, and the requirements of paragraphs (4) to (8),  
35 inclusive, are met:

36 (1) The violation is an infraction violation filed with the court.

37 (2) It is a violation of subdivision (a) or (b) of Section 40508,  
38 or a violation of Section 853.7 of the Penal Code that was added  
39 to the case subject to paragraph (1).

1     ~~(3) The violation is a misdemeanor violation filed with the court~~  
2 ~~to which subdivision (f) applies.~~

3     ~~(4) The initial due date for payment of the fine or bail was on~~  
4 ~~or before January 1, 2013.~~

5     ~~(5) There are no outstanding misdemeanor or felony warrants~~  
6 ~~for the defendant within the county, except for misdemeanor~~  
7 ~~warrants for misdemeanor violations subject to this section.~~

8     ~~(6) The person does not owe victim restitution on any case~~  
9 ~~within the county.~~

10    ~~(7) The person has not made any payments for the violation~~  
11 ~~after September 30, 2015, to a comprehensive collection program~~  
12 ~~in the county pursuant to subdivision (c) of Section 1463.007 of~~  
13 ~~the Penal Code.~~

14    ~~(8) The person filed a request with the court on or before March~~  
15 ~~31, 2017.~~

16    ~~(h) (1) Except as provided in paragraph (2), each amnesty~~  
17 ~~program shall accept, in full satisfaction of any eligible fine or~~  
18 ~~bail, 50 percent of the fine or bail amount, as defined in subdivision~~  
19 ~~(c).~~

20    ~~(2) If the participant certifies under penalty of perjury that the~~  
21 ~~participant receives any of the public benefits listed in subdivision~~  
22 ~~(a) of Section 68632 of the Government Code or is within the~~  
23 ~~conditions described in subdivision (b) of Section 68632 of the~~  
24 ~~Government Code, the amnesty program shall accept, in full~~  
25 ~~satisfaction of any eligible fine or bail, 20 percent of the fine or~~  
26 ~~bail amount, as defined in subdivision (c).~~

27    ~~(i) The Judicial Council, in consultation with the California~~  
28 ~~State Association of Counties, shall adopt guidelines for the~~  
29 ~~amnesty program no later than October 1, 2015, and each program~~  
30 ~~shall be conducted in accordance with the Judicial Council's~~  
31 ~~guidelines. As part of its guidelines, the Judicial Council shall~~  
32 ~~include all of the following:~~

33    ~~(1) A payment plan option created pursuant to Judicial Council~~  
34 ~~guidelines in which a monthly payment is equal to the amount that~~  
35 ~~an eligible participant can afford to pay per month consistent with~~  
36 ~~Sections 68633 and 68634 of the Government Code. If a participant~~  
37 ~~chooses the payment plan option, the county or court shall collect~~  
38 ~~all relevant information to allow for collection by the Franchise~~  
39 ~~Tax Board pursuant to existing protocols prescribed by the~~  
40 ~~Franchise Tax Board to collect delinquent debts of any amount in~~

1 which a participant is delinquent or otherwise in default under the  
2 amnesty payment plan:

3 ~~(2) If a participant does not comply with the terms of the~~  
4 ~~participant's payment plan under the amnesty program, including~~  
5 ~~failing to make one or more payments, the appropriate agency~~  
6 ~~shall send a notice to the participant that they have failed to make~~  
7 ~~one or more payments and that the participant has 30 days to either~~  
8 ~~resume making payments or to request that the agency change the~~  
9 ~~payment amount. If the participant fails to respond to the notice~~  
10 ~~within 30 days, the appropriate agency may refer the participant~~  
11 ~~to the Franchise Tax Board for collection of any remaining balance~~  
12 ~~owed, including an amount equal to the reasonable administrative~~  
13 ~~costs incurred by the Franchise Tax Board to collect the delinquent~~  
14 ~~amount owed. The Franchise Tax Board shall collect any~~  
15 ~~delinquent amounts owed pursuant to existing protocols prescribed~~  
16 ~~by the Franchise Tax Board. The comprehensive collection~~  
17 ~~program may also utilize additional collection efforts pursuant to~~  
18 ~~Section 1463.007 of the Penal Code, except for subparagraph (C)~~  
19 ~~of paragraph (4) of subdivision (c) of that section.~~

20 ~~(3) A plan for outreach that will, at a minimum, make available~~  
21 ~~via an internet website relevant information regarding the amnesty~~  
22 ~~program, including how an individual may participate in the~~  
23 ~~amnesty program.~~

24 ~~(4) The Judicial Council shall reimburse costs incurred by the~~  
25 ~~Department of Motor Vehicles up to an amount not to exceed two~~  
26 ~~hundred fifty thousand dollars (\$250,000), including all of the~~  
27 ~~following:~~

28 ~~(A) Providing on a separate insert with each motor vehicle~~  
29 ~~registration renewal notice a summary of the amnesty program~~  
30 ~~established pursuant to this section that is compliant with Section~~  
31 ~~7292 of the Government Code.~~

32 ~~(B) Posting on the department's internet website information~~  
33 ~~regarding the amnesty program.~~

34 ~~(C) Personnel costs associated with the amnesty program:~~

35 ~~(j) The Judicial Council, in consultation with the department,~~  
36 ~~may, within its existing resources, consider, adopt, or develop~~  
37 ~~recommendations for an appropriate mechanism or mechanisms~~  
38 ~~to allow reinstatement of the driving privilege of any person who~~  
39 ~~otherwise meets the criteria for amnesty but who has violations in~~  
40 ~~more than one county.~~

1 ~~(k) A criminal action shall not be brought against a person for~~  
2 ~~a delinquent fine or bail paid under the amnesty program.~~

3 ~~(l) (1) The total amount of funds collected under the amnesty~~  
4 ~~program shall, as soon as practical after receipt thereof, be~~  
5 ~~deposited in the county treasury or the account established under~~  
6 ~~Section 77009 of the Government Code. After acceptance of the~~  
7 ~~amount specified in subdivision (h), notwithstanding Section~~  
8 ~~1203.1d of the Penal Code, the remaining revenues collected under~~  
9 ~~the amnesty program shall be distributed on a pro rata basis in the~~  
10 ~~same manner as a partial payment distributed pursuant to Section~~  
11 ~~1462.5 of the Penal Code.~~

12 ~~(2) Notwithstanding Section 1464 of the Penal Code, the amount~~  
13 ~~of funds collected pursuant to this section that would be available~~  
14 ~~for distribution pursuant to subdivision (f) of Section 1464 of the~~  
15 ~~Penal Code shall instead be distributed as follows:~~

16 ~~(A) The first two hundred fifty thousand dollars (\$250,000)~~  
17 ~~received shall be transferred to the Judicial Council.~~

18 ~~(B) Following the transfer of the funds described in~~  
19 ~~subparagraph (A), once a month, both of the following transfers~~  
20 ~~shall occur:~~

21 ~~(i) An amount equal to 82.20 percent of the amount of funds~~  
22 ~~collected pursuant to this section during the preceding month shall~~  
23 ~~be transferred into the Peace Officers' Training Fund.~~

24 ~~(ii) An amount equal to 17.80 percent of the amount of funds~~  
25 ~~collected pursuant to this section during the preceding month shall~~  
26 ~~be transferred into the Corrections Training Fund.~~

27 ~~(m) Each court or county implementing an amnesty program~~  
28 ~~shall file, not later than May 31, 2017, a written report with the~~  
29 ~~Judicial Council, on a form approved by the Judicial Council. The~~  
30 ~~report shall include information about the number of cases resolved,~~  
31 ~~the amount of money collected, and the operating costs of the~~  
32 ~~amnesty program. Notwithstanding Section 10231.5 of the~~  
33 ~~Government Code, on or before August 31, 2017, the Judicial~~  
34 ~~Council shall submit a report to the Legislature summarizing the~~  
35 ~~information provided by each court or county.~~

36 ~~SEC. 138.~~

37 ~~SEC. 90. Section 44237 is added to the Vehicle Code, to read:~~

38 ~~44237. On and after January 1, 2020, the unpaid balance of~~  
39 ~~any court-imposed costs pursuant to subdivision (e) of Section~~  
40 ~~44208, Sections 23573, 23575.3, 40508.5, and 40508.6; and~~

1 40508.5, and subdivision (g) of Section 40510.5, ~~Section 40611,~~  
2 ~~the imposition of the thirty-five-dollar (\$35) fee specified in~~  
3 ~~paragraph (2) of subdivision (a) of Section 42007, the~~  
4 ~~forty-nine-dollar (\$49) fee specified in Section 42007.1, and~~  
5 ~~paragraph (2) of subdivision (i) of Section 42008.8,~~ as those  
6 sections read on December 31, 2019, shall be unenforceable and  
7 uncollectible and any portion of a judgment imposing those costs  
8 shall be vacated.

9 ~~SEC. 139.~~

10 *SEC. 91.* Section 903.3 of the Welfare and Institutions Code  
11 is repealed.

12 ~~SEC. 140.~~

13 *SEC. 92.* Section 903.45 of the Welfare and Institutions Code  
14 is amended to read:

15 903.45. (a) The board of supervisors may designate a county  
16 financial evaluation officer pursuant to Section 27750 of the  
17 Government Code to make financial evaluations of liability for  
18 reimbursement pursuant to Sections 903, 903.1, 903.2, 903.25,  
19 and 903.5, and other reimbursable costs allowed by law, as set  
20 forth in this section.

21 (b) (1) (A) In a county where a board of supervisors has  
22 designated a county financial evaluation officer, the juvenile court  
23 shall, at the close of the disposition hearing, order any person liable  
24 for the cost of support, pursuant to Section 903, the cost of legal  
25 services as provided for in Section 903.1, supervision costs as  
26 provided for in Section 903.2, or any other reimbursable costs  
27 allowed under this code, to appear before the county financial  
28 evaluation officer for a financial evaluation of the person's ability  
29 to pay those costs. If the responsible person is not present at the  
30 disposition hearing, the court shall cite the person to appear for a  
31 financial evaluation. In the case of a parent, guardian, or other  
32 person assessed for the costs of transport, food, shelter, or care of  
33 a minor under Section 903.25, the juvenile court shall, upon request  
34 of the county probation department, order the appearance of the  
35 parent, guardian, or other person before the county financial  
36 evaluation officer for a financial evaluation of their ability to pay  
37 the costs assessed.

38 (B) (i) This paragraph does not apply to costs described in this  
39 paragraph for purposes of a minor who is adjudged a ward of the  
40 juvenile court, who is placed on probation pursuant to Section 725,

1 who is the subject of a petition that has been filed to adjudge the  
2 minor a ward of the juvenile court, or who is the subject of a  
3 program of supervision undertaken pursuant to Section 654.

4 (ii) Notwithstanding clause (i), this paragraph applies to a minor  
5 who is designated as a dual status child pursuant to Section 241.1,  
6 for purposes of the dependency jurisdiction only and not for  
7 purposes of the delinquency jurisdiction.

8 (2) If the county financial evaluation officer determines that a  
9 person so responsible has the ability to pay all or part of the costs,  
10 the county financial evaluation officer shall petition the court for  
11 an order requiring the person to pay that sum to the county or court,  
12 depending on which entity incurred the expense. If the parent or  
13 guardian is liable for costs for legal services pursuant to Section  
14 903.1, the parent or guardian has been reunified with the child  
15 pursuant to a court order, and the county financial evaluation officer  
16 determines that repayment of the costs would harm the ability of  
17 the parent or guardian to support the child, then the county financial  
18 evaluation officer shall not petition the court for an order of  
19 repayment, and the court shall not make that order. In addition, if  
20 the parent or guardian is currently receiving reunification services,  
21 and the court finds, or the county financial officer determines, that  
22 repayment by the parent or guardian will pose a barrier to  
23 reunification with the child because it will limit the ability of the  
24 parent or guardian to comply with the requirements of the  
25 reunification plan or compromise the parent's or guardian's current  
26 or future ability to meet the financial needs of the child, or in any  
27 case in which the court finds that the repayment would be unjust  
28 under the circumstances of the case, then the county financial  
29 evaluation officer shall not petition the court for an order of  
30 repayment, and the court shall not order repayment by the parent  
31 or guardian. In evaluating a person's ability to pay under this  
32 section, the county financial evaluation officer and the court shall  
33 take into consideration the family's income, the necessary  
34 obligations of the family, and the number of persons dependent  
35 upon this income. A person appearing for a financial evaluation  
36 has the right to dispute the county financial evaluation officer's  
37 determination, in which case the person is entitled to a hearing  
38 before the juvenile court. The county financial evaluation officer,  
39 at the time of the financial evaluation, shall advise the person of

1 the right to a hearing and of their rights pursuant to subdivision  
2 (c).

3 (3) At the hearing, a person responsible for costs is entitled to  
4 have, but shall not be limited to, the opportunity to be heard in  
5 person, to present witnesses and other documentary evidence, to  
6 confront and cross-examine adverse witnesses, to disclosure of  
7 the evidence against them and to receive a written statement of  
8 the findings of the court. The person has the right to be represented  
9 by counsel, and, if the person is unable to afford counsel, the right  
10 to appointed counsel. If the court determines that the person has  
11 the ability to pay all or part of the costs, including the costs of any  
12 counsel appointed to represent the person at the hearing, the court  
13 shall set the amount to be reimbursed and order them to pay that  
14 sum to the county or court, depending on which entity incurred  
15 the expense, in a manner in which the court believes reasonable  
16 and compatible with the person's financial ability.

17 (4) If the person, after having been ordered to appear before the  
18 county financial evaluation officer, has been given proper notice  
19 and fails to appear as ordered, the county financial evaluation  
20 officer shall recommend to the court that the person be ordered to  
21 pay the full amount of the costs. Proper notice to the person shall  
22 contain all of the following:

23 (A) That the person has a right to a statement of the costs as  
24 soon as it is available.

25 (B) The person's procedural rights under Section 27755 of the  
26 Government Code.

27 (C) The time limit within which the person's appearance is  
28 required.

29 (D) A warning that if the person fails to appear before the county  
30 financial evaluation officer, the officer will recommend that the  
31 court order the person to pay the costs in full.

32 (5) If the county financial evaluation officer determines that the  
33 person has the ability to pay all or a portion of these costs, with or  
34 without terms, and the person concurs in this determination and  
35 agrees to the terms of payment, the county financial evaluation  
36 officer, upon the officer's written evaluation and the person's  
37 written agreement, shall petition the court for an order requiring  
38 the person to pay that sum to the county or the court in a manner  
39 that is reasonable and compatible with the person's financial ability.  
40 This order may be granted without further notice to the person,

1 provided that a copy of the order is served on the person by mail  
2 or by electronic means pursuant to Section 212.5.

3 (6) However, if the county financial evaluation officer cannot  
4 reach an agreement with the person with respect to either the  
5 liability for the costs, the amount of the costs, the person's ability  
6 to pay the costs, or the terms of payment, the matter shall be  
7 deemed in dispute and referred by the county financial evaluation  
8 officer back to the court for a hearing.

9 (c) At any time prior to the satisfaction of a judgment entered  
10 pursuant to this section, a person against whom the judgment was  
11 entered may petition the rendering court to modify or vacate the  
12 judgment on the basis of a change in circumstances relating to  
13 their ability to pay the judgment.

14 (d) Execution may be issued on the order in the same manner  
15 as on a judgment in a civil action, including any balance remaining  
16 unpaid at the termination of the court's jurisdiction over the minor.

17 ~~SEC. 141.~~

18 *SEC. 93.* Section 904 of the Welfare and Institutions Code is  
19 amended to read:

20 904. (a) The monthly or daily charge, not to exceed cost, for  
21 care, support, and maintenance of minor persons placed or detained  
22 in or committed to any institution by order of a juvenile court, and  
23 the cost of supervision referred to by Section 903.2 shall be  
24 determined by the board of supervisors. The cost of  
25 dependency-related legal services referred to by Section 903.1  
26 shall be determined by the court. Any determination made by a  
27 court under this section shall be valid only if either (1) made under  
28 procedures adopted by the Judicial Council or (2) approved by the  
29 Judicial Council.

30 (b) (1) This section does not apply to a minor who is adjudged  
31 a ward of the juvenile court, who is placed on probation pursuant  
32 to Section 725, who is the subject of a petition that has been filed  
33 to adjudge the minor a ward of the juvenile court, or who is the  
34 subject of a program of supervision undertaken pursuant to Section  
35 654.

36 (2) Notwithstanding paragraph (1), this section applies to a  
37 minor who is designated as a dual status child pursuant to Section  
38 241.1, for purposes of the dependency jurisdiction only and not  
39 for purposes of the delinquency jurisdiction.

1     ~~SEC. 142.~~

2     *SEC. 94.* If the Commission on State Mandates determines that  
3 this act contains costs mandated by the state, reimbursement to  
4 local agencies and school districts for those costs shall be made  
5 pursuant to Part 7 (commencing with Section 17500) of Division  
6 4 of Title 2 of the Government Code.

O

AMENDED IN SENATE JANUARY 23, 2020

AMENDED IN SENATE APRIL 25, 2019

AMENDED IN SENATE APRIL 22, 2019

AMENDED IN SENATE MARCH 27, 2019

## SENATE BILL

**No. 653**

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### Introduced by Senator Chang

February 22, 2019

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An act to amend Sections 1911, 1925, 1926, and 1926.05 of, and to add Sections ~~1911.5, 1926.01, and 1926.5~~ *1911.5 and 1926.01* to, the Business and Professions Code, relating to healing arts.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 653, as amended, Chang. Dental hygienists: registered dental hygienist in alternative practice: scope of practice.

Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice by the Dental Hygiene Board of California within the Department of Consumer Affairs. Existing law makes certain violations of specific provisions relating to healing arts by a licensee a crime.

Existing law specifies the scope of practice of a registered dental hygienist and requires any procedure performed by a registered dental hygienist that does not specifically require direct supervision of a dentist to be performed under the general supervision of a dentist. Existing law authorizes a registered dental hygienist to provide, without supervision, dental hygiene preventive services in addition to oral screenings in a specified federal, state, or local public health program.

This bill would authorize a registered dental hygienist to provide, without supervision, fluoride varnish to a patient. The bill would additionally authorize a registered dental hygienist to provide dental hygiene preventive services and oral screenings at specified sponsored events and nonprofit organizations.

Existing law authorizes a registered dental hygienist in alternative practice to perform any of the duties or functions authorized to be performed by a registered dental hygienist as an employee of a dentist, as an employee of another registered dental hygienist in alternative practice, as an employee of specified clinics, or as an employee of a professional corporation. Existing law authorizes a registered dental hygienist in alternative practice to perform additional duties and functions in residences of the homebound, schools, residential facilities and other institutions, and dental health professional shortage areas, as provided, and requires ~~the duties and functions that interim therapeutic tooth restorations that are performed in these settings to be done under the general supervision of a dentist when specified.~~ *dentist.*

This bill would *instead* authorize a registered dental hygienist in alternative practice to practice in specified clinics or in a professional corporation without being an employee of that clinic or professional corporation. The bill would additionally authorize a registered dental hygienist in alternative practice to perform specified functions and duties of a registered dental hygienist in dental *offices or both dental or medical settings.* ~~settings, as specified.~~ *The*

*This* bill would *also* authorize a registered dental hygienist in alternative practice to perform soft-tissue ~~curettage, curettage and~~ administration of local anesthesia, ~~and administration of nitrous oxide and oxygen with emergency protocols and under the direct supervision of a dentist~~ *anesthesia with documented consultation with a collaborating dentist* in the residences of the homebound, residential facilities and other institutions, *medical settings that a residential facility patient has been transferred to for outpatient services,* dental health professional shortage areas, and dental ~~or medical settings.~~ *The bill would remove the general supervision requirement and instead require prior authorization by a collaborating dentist for specified duties in those settings. The bill would also authorize a registered dental hygienist in alternative practice to continue to practice in a former dental health professional shortage area if certain conditions are met: offices, as long as a specified protocols are followed. The bill would remove the general supervision requirement for interim therapeutic tooth restorations that*

*are performed in specified settings and instead would require that a diagnosis, treatment plan, and instruction be provided by a dentist prior to performing the procedure.*

Because a violation of certain provisions of the bill would be a crime, the bill would create a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 1911 of the Business and Professions  
2 Code is amended to read:  
3 1911. (a) A registered dental hygienist may provide, without  
4 supervision, educational services, oral health training programs,  
5 and oral health screenings.  
6 (b) A registered dental hygienist shall refer any screened patients  
7 with possible oral abnormalities to a dentist for a comprehensive  
8 examination, diagnosis, and treatment plan.  
9 (c) In any public health program created by federal, state, or  
10 local law or administered by a federal, state, county, or local  
11 governmental entity, at a sponsored event by a sponsoring ~~entity~~,  
12 ~~entity~~ or at a nonprofit organization, a registered dental hygienist  
13 may provide, without supervision, dental hygiene preventive  
14 services in addition to oral screenings, including, but not limited  
15 to, the application of fluorides and pit and fissure sealants. A  
16 registered dental hygienist ~~employed~~ *practicing* as described in  
17 this subdivision may submit, or allow to be submitted, any  
18 insurance or third-party claims for patient services performed as  
19 authorized in this article.  
20 (d) For purposes of this section, the following shall apply:  
21 (1) "Nonprofit organization" means a tax-exempt nonprofit  
22 corporation supported and maintained in whole or in substantial  
23 part by donations, bequests, gifts, grants, government funds, or  
24 contributions, in the form of money, goods, or services, where  
25 dental hygiene services are performed. A nonprofit organization

1 shall not be construed to be engaging in the unlicensed practice of  
2 dentistry if all of the following apply: *dentistry*.

3 ~~(A) The nonprofit organization obtains the dental hygiene~~  
4 ~~board's approval to offer dental hygiene services pursuant to~~  
5 ~~regulations adopted by the dental hygiene board.~~

6 ~~(B) The nonprofit organization does nothing to interfere with,~~  
7 ~~control, or otherwise direct the professional judgment of, or the~~  
8 ~~services performed by, a registered dental hygienist acting within~~  
9 ~~their scope of practice pursuant to this chapter.~~

10 ~~(C) The licensees providing services for or at the nonprofit~~  
11 ~~organization are in compliance with all applicable provisions of~~  
12 ~~this chapter.~~

13 ~~(D) The nonprofit organization operating is in compliance with~~  
14 ~~this chapter and all other applicable provisions of state and federal~~  
15 ~~law.~~

16 (2) "Sponsored event" shall be defined as in paragraph (4) of  
17 subdivision (b) of Section 1626.6.

18 (3) "Sponsoring entity" shall be defined as in paragraph (6) of  
19 subdivision (b) of Section 1626.6.

20 SEC. 2. Section 1911.5 is added to the Business and Professions  
21 Code, to read:

22 1911.5. Notwithstanding Section 1912, a registered dental  
23 hygienist may provide, without supervision, fluoride varnish to a  
24 patient.

25 SEC. 3. Section 1925 of the Business and Professions Code is  
26 amended to read:

27 1925. A registered dental hygienist in alternative practice may  
28 practice, pursuant to subdivision (a) of Section 1907, subdivision  
29 (a) of Section 1908, subdivisions (a) and (b) of Section 1910,  
30 Section 1910.5, and Section 1926.05 as an employee of a dentist  
31 or of another registered dental hygienist in alternative practice, as  
32 an independent contractor, as a sole proprietor of an alternative  
33 dental hygiene practice, in a primary care clinic or specialty clinic  
34 that is licensed pursuant to Section 1204 of the Health and Safety  
35 Code, in a primary care clinic exempt from licensure pursuant to  
36 subdivision (c) of Section 1206 of the Health and Safety Code, in  
37 a clinic owned or operated by a public hospital or health system,  
38 in a clinic owned and operated by a hospital that maintains the  
39 primary contract with a county government to fill the county's role  
40 under Section 17000 of the Welfare and Institutions Code, or in a

1 professional corporation under the Moscone-Knox Professional  
2 Corporation Act (commencing with Section 13400) of Part 4 of  
3 Division 3 of Title 1 of the Corporations Code.

4 SEC. 4. Section 1926 of the Business and Professions Code is  
5 amended to read:

6 1926. In addition to practices authorized in Section 1925, a  
7 registered dental hygienist in alternative practice may perform the  
8 duties authorized pursuant to subdivision (a) of Section 1907,  
9 subdivision (a) of Section 1908, and subdivisions (a) and (b) of  
10 Section 1910 in the following settings:

11 (a) Residences of the homebound.

12 (b) Schools.

13 (c) Residential facilities ~~and other institutions.~~ *and other*  
14 *institutions and medical settings that a residential facility patient*  
15 *has been transferred to for outpatient services.*

16 (d) Dental health professional shortage areas, as certified by the  
17 Office of Statewide Health Planning and Development in  
18 accordance with existing office guidelines.

19 (e) *Dental offices.*

20 SEC. 5. Section 1926.01 is added to the Business and  
21 Professions Code, to read:

22 1926.01. (a) In addition to practices authorized in Section  
23 1925, a registered dental hygienist in alternative practice may  
24 perform the duties authorized pursuant to subdivisions (a) and (b)  
25 of Section 1909 ~~with emergency protocols~~ *documented consultation*  
26 *with a collaborating dentist* in the following settings:

27 ~~(a)~~

28 (1) Residences of the homebound.

29 ~~(b)~~

30 (2) Residential facilities ~~and other institutions.~~ *institutions and*  
31 *medical settings that a residential facility patient has been*  
32 *transferred to for outpatient services.*

33 ~~(c)~~

34 (3) Dental health professional shortage areas, as certified by the  
35 Office of Statewide Health Planning and Development in  
36 accordance with existing office guidelines.

37 ~~(d) Dental or medical settings.~~

38 (4) *Dental offices.*

1 (b) *The registered dental hygienist in alternative practice shall*  
2 *have all of the following immediately available when services*  
3 *authorized in this section are being performed:*

4 (1) *One additional individual trained in basic life support*  
5 *qualified to administer cardiopulmonary resuscitation during an*  
6 *emergency.*

7 (2) *Equipment and supplies for emergency response, including*  
8 *oxygen.*

9 SEC. 6. Section 1926.05 of the Business and Professions Code  
10 is amended to read:

11 1926.05. (a) In addition to the duties specified in Section 1926,  
12 a registered dental hygienist in alternative practice is authorized  
13 to perform the duties pursuant to Section 1910.5, in the following  
14 settings:

15 (1) Residences of the homebound.

16 (2) Schools.

17 (3) Residential facilities and other institutions.

18 (4) Dental or medical settings.

19 (5) Dental health professional shortage areas, as certified by the  
20 Office of Statewide Health Planning and Development in  
21 accordance with existing office guidelines.

22 (b) A registered dental hygienist in alternative practice is  
23 authorized to perform the duties pursuant to paragraph (2) of  
24 subdivision (a) of Section 1910.5 in the settings specified in this  
25 ~~section with prior authorization of a collaborating dentist.~~ *after*  
26 *there has been a diagnosis, treatment plan, and instruction to*  
27 *perform the procedure provided by a dentist.*

28 SEC. 7. ~~Section 1926.5 is added to the Business and Professions~~  
29 ~~Code, to read:~~

30 ~~1926.5. A registered dental hygienist in alternative practice~~  
31 ~~may continue to practice in a former dental health professional~~  
32 ~~shortage area, if both of the following conditions are met:~~

33 ~~(a) The registered dental hygienist in alternative practice~~  
34 ~~established their practice in a certified dental health professional~~  
35 ~~shortage area.~~

36 ~~(b) The registered dental hygienist in alternative practice~~  
37 ~~continues to practice within the dental health professional shortage~~  
38 ~~area after the date the dental health professional shortage area~~  
39 ~~designation was lifted, if a minimum of 15 percent of the annual~~  
40 ~~visits at their practice are for persons with Medi-Cal benefits.~~

~~SEC. 8.~~

SEC. 7. 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.

O

**Introduced by Senator Skinner**

February 22, 2019

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~~An act to amend Section 11174.4 of the Penal Code, relating to elder and dependent adult abuse. An act to add Section 66024.5 to the Education Code, relating to postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

~~SB 776, as amended, Skinner. Elder and dependent adult abuse: death review teams. College admissions: criminal history inquiry: prohibition.~~

~~Existing law establishes the California Community Colleges, the California State University, the University of California, independent institutions of higher education, and private postsecondary educational institutions as the segments of postsecondary education in this state.~~

~~This bill would prohibit a postsecondary educational institution in this state from inquiring about a prospective student's criminal history on an initial application form or at any time during the admissions process before the institution's final decision relative to the prospective student's application for admission. By imposing new duties on community college districts, this bill would impose a state-mandated local program.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

*reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law authorizes each county to establish an interagency elder and dependent adult death review team to assist local agencies in identifying and reviewing suspicious elder and dependent adult deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in elder and dependent adult abuse or neglect cases. Existing law also authorizes each county to develop a protocol to be used as a guideline by persons performing autopsies on elders and dependent adults to assist coroners and other persons who perform autopsies to identify elder and dependent adult abuse or neglect, among other things. Existing law defines “elder” and “abuse” for purposes of those provisions, as specified, and excludes from the definition of “abuse” any reasonable and necessary force that may result in an injury used by a peace officer acting within the scope of the peace officer’s employment.~~

~~This bill would make technical, nonsubstantive changes to those definitions.~~

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

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

- 1     SECTION 1. Section 66024.5 is added to the Education Code,
- 2     to read:
- 3     66024.5. (a) This section shall apply to all segments of
- 4     postsecondary education in this state.
- 5     (b) A postsecondary educational institution shall not inquire
- 6     about a prospective student’s criminal history on an initial
- 7     application form or at any time during the admissions process
- 8     before the institution’s final decision relative to the prospective
- 9     student’s application for admission.
- 10    SEC. 2. If the Commission on State Mandates determines that
- 11    this act contains costs mandated by the state, reimbursement to
- 12    local agencies and school districts for those costs shall be made
- 13    pursuant to Part 7 (commencing with Section 17500) of Division
- 14    4 of Title 2 of the Government Code.
- 15    SECTION 1. ~~Section 11174.4 of the Penal Code is amended~~
- 16    to read:

1     ~~11174.4. The following definitions shall govern the~~  
2 ~~construction of this article, unless the context requires otherwise:~~

3     ~~(a) “Elder” means a person who is 65 years of age or older.~~

4     ~~(b) (1) “Abuse” means any of the conduct described in Article~~  
5 ~~2 (commencing with Section 15610) of Chapter 11 of Part 3 of~~  
6 ~~Division 9 of the Welfare and Institutions Code.~~

7     ~~(2) Abuse does not include the use of any reasonable and~~  
8 ~~necessary force that may result in an injury used by a peace officer~~  
9 ~~acting within the course of the peace officer’s employment as a~~  
10 ~~peace officer.~~

O

**Introduced by Senator Jones**

January 22, 2020

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An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 878, as introduced, Jones. Department of Consumer Affairs Licensing: applications: wait times.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require each board within the department that issues licenses to prominently display the current timeframe for processing initial and renewal license applications on its internet website, as provided.

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

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

- 1 SECTION 1. Section 139.5 is added to the Business and
- 2 Professions Code, to read:
- 3 139.5. Each board, as defined in section 22, within the
- 4 department that issues a license shall do both of the following:
- 5 (a) Prominently display the current timeframe for processing
- 6 initial and renewal license applications on its internet website.

- 1 (b) With respect to the information displayed on the website,
- 2 specify the average timeframe for each license category.

O

AMENDED IN SENATE APRIL 17, 2020  
AMENDED IN SENATE MARCH 25, 2020

**SENATE BILL**

**No. 1168**

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**Introduced by Senator Morrell**

February 20, 2020

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An act to amend Section 11009.5 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Morrell. State agencies: licensing services.

Existing law authorizes a state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

*This bill would require a state agency that issues any business license to establish a process for a person or business that is experiencing economic hardship as a result of an emergency caused by a virus to submit an application for deferral of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display. The bill would require the deferral period to end 60 days following the end of the emergency.*

This bill would *also* require a state agency that issues any business license to establish a process to expedite licensing services, as defined, for a person or business that meets specified criteria, including that the person or business has been displaced by an emergency proclaimed or declared within 365 days of the request for licensing services.

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

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

1 SECTION 1. Section 11009.5 of the Government Code is  
2 amended to read:  
3 11009.5. (a) For purposes of this section:  
4 (1) “Displaced” means a condition in which the person or  
5 business is unable to return to the address of record or other address  
6 associated with the license before experiencing economic hardship.  
7 (2) “Economic hardship” means the inability to pay living or  
8 business expenses, unless otherwise defined by a state agency  
9 pursuant to subdivision (c).  
10 (3) “Emergency” means an emergency as defined in Section  
11 8558 or a declared federal emergency.  
12 (4) “License” includes, but is not limited to, a certificate,  
13 registration, or other document required to engage in business.  
14 (5) “Licensing services” includes, but is not limited to, replacing  
15 a physical copy of a license that is required to be displayed or  
16 carried, applying for or renewing a license, and applying for a  
17 waiver or reduction of licensing fees.  
18 (b) (1) Notwithstanding any other law, a state agency that  
19 issues any business license—~~may~~ *may, in addition to the*  
20 *requirements of paragraph (2),* establish a process for a person or  
21 business that has been displaced or is experiencing economic  
22 hardship as a result of an emergency to submit an application, that  
23 the agency may grant, for a reduction or waiver of any fees required  
24 by the agency to obtain a license, renew or activate a license, or  
25 replace a physical license for display.  
26 (2) (A) *A state agency that issues any business license shall*  
27 *establish a process for a person or business that is experiencing*  
28 *economic hardship as a result of an emergency caused by a virus*  
29 *to submit an application, that the agency shall grant, for a deferral*  
30 *of any fees required by the agency to obtain a license, renew or*  
31 *activate a license, or replace a physical license for display.*  
32 (B) *The deferral period granted pursuant to this paragraph*  
33 *shall end 60 days following the end of the emergency.*

1 (c) A fee *deferral*, *reduction*, or waiver process established  
2 pursuant to subdivision (b) shall specify, at a minimum, all of the  
3 following:

4 (1) The methodology used by the agency for determining  
5 whether a person, as a result of an emergency, has been displaced  
6 or is experiencing economic hardship.

7 (2) The procedure for applying for a ~~reduction~~ *fee deferral*,  
8 *reduction*, or ~~fee~~ waiver.

9 (3) That the application shall be made within one year of the  
10 date on which the emergency was proclaimed or declared.

11 (d) Notwithstanding any other law, a state agency that issues  
12 any business license shall establish a process to expedite licensing  
13 services for a person or business that meets either of the following  
14 criteria:

15 (1) The person or business has been displaced by an emergency  
16 proclaimed or declared within 365 days of the request for licensing  
17 services.

18 (2) The person or business is experiencing economic hardship  
19 directly resulting from an emergency proclaimed or declared within  
20 365 days of the request for licensing services.

O

**Introduced by Senator Allen**

February 21, 2020

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An act to add Section 95 to the Military and Veterans Code, relating to veterans.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1324, as introduced, Allen. Professional licenses.

Existing law requires the Department of Veterans Affairs to develop a transition assistance program for veterans who have been discharged from the Armed Forces of the United States designed to assist them in successfully transitioning from military to civilian life in California. Existing law requires the program to include, among other topics, higher education benefits, vocational training assistance, small business resources and information, and housing information. Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law establishes the Commission on Teacher Credentialing to establish professional standards, assessments, and examinations for entry and advancement in the education profession. Existing law makes it unlawful for a person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or real estate sales person without first obtaining a real estate license from the Department of Real Estate. Under existing law, the State Department of Public Health is responsible for issuing licenses for the operation of health facilities, clinics, and other facilities, as specified.

This bill would require the Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate,

and the State Department of Public Health to each place a prominently displayed military licensure icon or hyperlink on the home page of its internet website that is linked to information about each occupational board or program for licensure or certification that it administers along with additional information relating to the professional licensure of veterans, service members, and their spouses, as specified. The bill requires the Department of Veterans Affairs to have a prominently displayed military licensure icon or hyperlink at an appropriate location on its internet website that links to those websites. The bill would require an annual report to the Legislature based on information collected to satisfy this requirement.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) If spouses of active duty military personnel, veterans, and
- 3 service members separating from military service are able to
- 4 maintain careers through frequent moves and key transitions, they
- 5 are able to help support their families while providing critical
- 6 services to their communities. Yet, if a military spouse is
- 7 transferred to California, or a service member leaves the Armed
- 8 Forces of the United States and returns to or remains in California,
- 9 these professionals may face difficulty transporting their
- 10 professional licenses obtained in another state.
- 11 (b) The process for transferring licenses for professional careers
- 12 can be long, burdensome, redundant, and expensive and can prevent
- 13 some military spouses, veterans, and separating service members
- 14 from obtaining employment in their field.
- 15 (c) Removing barriers to license transfers for spouses of active
- 16 duty service members, separating service members, and veterans
- 17 would ease the burden of relocation and transition and provide
- 18 vital stability to military families and the communities they serve.
- 19 SEC. 2. Section 95 is added to the Military and Veterans Code,
- 20 to read:
- 21 95. (a) The Department of Veterans Affairs shall place a
- 22 prominently displayed military licensure icon or hyperlink on its
- 23 internet website, in an appropriate location pertaining to

1 employment opportunities for veterans, service members, and  
2 spouses, that links to the internet websites identified in this section.

3 (b) The Department of Consumer Affairs, the Commission on  
4 Teacher Credentialing, the Department of Real Estate, and the  
5 State Department of Public Health shall place a prominently  
6 displayed military licensure icon or hyperlink on the home page  
7 of their internet websites, linked to information for each  
8 occupational board or program for licensure or certification that  
9 it administers. In addition to general licensure or certificate  
10 information, the following information shall be displayed:

11 (1) The number of applications for a license submitted by active  
12 duty service members, separating service members, veterans, or  
13 military spouses per calendar year.

14 (2) The number of applications for waived renewal fees received  
15 from active duty service members and military spouses per calendar  
16 year.

17 (3) Each licensing agency's process for expediting applications  
18 for service members, veterans, and spouses, including the average  
19 processing times for expedited applications and the number of  
20 expedited applications requested in the calendar year.

21 (4) The availability of temporary or provisional licensure,  
22 specific requirements needed to obtain a temporary or provisional  
23 license, and how long the provisional or temporary license is valid.

24 (c) (1) The Department of Consumer Affairs shall establish a  
25 specific gateway aligned with the existing "Board and Bureau  
26 Military Contact Information," "Expedited Licensure," and  
27 "Renewal Fee Waivers" gateways on their Military Member  
28 Resources page, including a list of all boards that provide  
29 temporary or provisional licensure, with hyperlinks linking to each  
30 board's military licensure data.

31 (2) The Department of Consumer Affairs' internet website shall  
32 establish a "Licensure by Endorsement" section on its internet  
33 website listing all boards that offer an option for licensure by  
34 endorsement, accompanied by a hyperlink to each board's military  
35 licensure data.

36 (d) The Department of Consumer Affairs, the Commission on  
37 Teacher Credentialing, the Department of Real Estate, and the  
38 State Department of Public Health shall compile the information  
39 collected to satisfy the requirements of this section into an annual

- 1 report for the Legislature, which shall be submitted in conformance
- 2 with Section 9795 of the Government Code.

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**Introduced by Committee on Business, Professions and Economic Development (Senators Glazer (Chair), Archuleta, Chang, Dodd, Galgiani, Hill, Leyva, Pan, and Wilk)**

March 16, 2020

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An act to amend Sections 27, 101, 125.9, 130, 144, 200.1, 205, 494.5, 1913, 1917, 1917.1, 1922, 2065, 2113, 2135.5, 5600.4, 7000, 7000.5, 7000.6, 7011.4, 7011.5, 7011.8, 7015, 7017.3, 7028.7, 7030, 7031, 7058.7, 7071.4, 7080.5, 7085.5, 7099.2, 7123.5, 7135, 7136, 7137, 7137.5, 7138, 7139.1, 7139.2, 7145.5, 7159, 7170, 8516, 16100, and 19164 of, and to add Sections 5650.5 and 7099.9 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as introduced, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires fees and penalties received pursuant to the law to be deposited in the Contractors' License Fund, a continuously appropriated fund, except that certain service fees for the deposit of money in lieu of paying a bond are required to be deposited in the Contractors' Deposit Fund.

This bill would rename the Contractors' State license Law as the Contractors State License Law, would rename the Contractors' State License Board as the Contractors State License Board, and would rename the Contractors' License Fund as the Contractors License Fund. The bill would delete the provision establishing the Contractors' Deposit Fund, and would therefore require those service fees to be deposited in

the Contractors License Fund. By authorizing a new source of revenue to be deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes a licensee who is subject to a bonding provision under the law, in lieu of giving a bond, to deposit money or a cashier's check with the registrar of contractors.

This bill would prohibit the deposit from being released if the board is notified of a civil action against the deposit and, if the amount of the deposit is insufficient to pay all claims, would require the deposit to be distributed to claimants in proportion to the amount of the claims.

(2) Existing law authorizes the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California and any board within the Department of Consumer Affairs to issue a citation that may contain an order of abatement or an order to pay an administrative fine, and provides that a failure to pay a fine within 30 days of the date of assessment may result in disciplinary action.

This bill would also make a failure to comply with the order of abatement within 30 days of the date of the order subject to disciplinary action.

(3) Existing law provides for the licensure and regulation of registered dental hygienists by the Dental Hygiene Board of California. Existing law authorizes a registered dental hygienist to perform a procedure or provide a service within the scope of their practice under the appropriate level of supervision, as specified.

This bill would also require a registered dental hygienist to have completed the appropriate education and training required to perform the procedure or provide the service.

Existing law requires a person to have satisfactorily completed a specified examination within the preceding 2 years as a condition of licensure as a registered dental hygienist.

This bill would instead require completion of the dental hygiene examination within the preceding 3 years.

Existing law requires a person, as a condition for licensure as a registered dental hygienist in alternative practice, to successfully complete a bachelor's degree or its equivalent from an accredited college or institution of higher education, among other requirements.

This bill would specify that the equivalent of a bachelor's degree is recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education.

1 7063 or 19195 of the Revenue and Taxation Code on or after July  
2 1, 2012.

3 SEC. 10. Section 1913 of the Business and Professions Code  
4 is amended to read:

5 1913. Unless otherwise specified in this chapter, a registered  
6 dental hygienist may perform any procedure or provide any service  
7 within the scope of ~~his or her~~ *their* practice in any setting, so long  
8 as the procedure is performed or the service is provided under the  
9 appropriate level of supervision required by this article. ~~setting~~  
10 *under the appropriate level of supervision required by this article,*  
11 *if the registered dental hygienist has completed the appropriate*  
12 *education and training required to perform the procedure or*  
13 *provide the service.*

14 SEC. 11. Section 1917 of the Business and Professions Code  
15 is amended to read:

16 1917. The dental hygiene board shall grant initial licensure as  
17 a registered dental hygienist to a person who satisfies all of the  
18 following requirements:

19 (a) Completion of an educational program for registered dental  
20 hygienists, approved by the dental hygiene board, accredited by  
21 the Commission on Dental Accreditation, and conducted by a  
22 degree-granting, postsecondary institution.

23 (b) Within the preceding ~~two~~ *three* years, satisfactory completion  
24 of the dental hygiene examination given by the Western Regional  
25 Examining Board or any other clinical or dental hygiene  
26 examination approved by the dental hygiene board.

27 (c) Satisfactory completion of the National Board Dental  
28 Hygiene Examination.

29 (d) Satisfactory completion of the examination in California  
30 law and ethics as prescribed by the dental hygiene board.

31 (e) Submission of a completed application form and all fees  
32 required by the dental hygiene board.

33 (f) Satisfactory completion of dental hygiene board-approved  
34 instruction in gingival soft-tissue curettage, nitrous oxide-oxygen  
35 analgesia, and local anesthesia.

36 SEC. 12. Section 1917.1 of the Business and Professions Code  
37 is amended to read:

38 1917.1. (a) The dental hygiene board may grant a license as  
39 a registered dental hygienist to an applicant who has not taken a

1 clinical examination before the dental hygiene board, if the  
2 applicant submits all of the following to the dental hygiene board:

3 (1) A completed application form and all fees required by the  
4 dental hygiene board.

5 (2) Proof of a current license as a registered dental hygienist  
6 issued by another state that is not revoked, suspended, or otherwise  
7 restricted.

8 (3) Proof that the applicant has been in clinical practice as a  
9 registered dental hygienist or has been a full-time faculty member  
10 in an accredited dental hygiene education program for a minimum  
11 of 750 hours per year for at least five years immediately preceding  
12 the date of application under this section. The clinical practice  
13 requirement shall be deemed met if the applicant provides proof  
14 of at least three years of clinical practice and commits to  
15 completing the remaining two years of clinical practice by filing  
16 with the dental hygiene board a copy of a pending contract to  
17 practice dental hygiene in any of the following facilities:

18 (A) A primary care clinic licensed under subdivision (a) of  
19 Section 1204 of the Health and Safety Code.

20 (B) A primary care clinic exempt from licensure pursuant to  
21 subdivision (c) of Section 1206 of the Health and Safety Code.

22 (C) A clinic owned or operated by a public hospital or health  
23 system.

24 (D) A clinic owned and operated by a hospital that maintains  
25 the primary contract with a county government to fill the county's  
26 role under Section 17000 of the Welfare and Institutions Code.

27 (4) Satisfactory performance on a California law and ethics  
28 examination and any examination that may be required by the  
29 dental hygiene board.

30 (5) Proof that the applicant has not been subject to disciplinary  
31 action by any state in which the applicant is or has been previously  
32 issued any professional or vocational license. If the applicant has  
33 been subject to disciplinary action, the dental hygiene board shall  
34 review that action to determine if it warrants refusal to issue a  
35 license to the applicant.

36 (6) Proof of graduation from a school of dental hygiene  
37 accredited by the Commission on Dental Accreditation.

38 (7) Proof of satisfactory completion of the National Board  
39 Dental Hygiene Examination and of a state clinical examination,

1 regional clinical licensure examination, or any other clinical dental  
2 hygiene examination approved by the dental hygiene board.

3 (8) Proof that the applicant has not failed the state clinical  
4 examination, the examination given by the Western Regional  
5 Examining Board, or any other clinical dental hygiene examination  
6 approved by the dental hygiene board for licensure to practice  
7 dental hygiene under this chapter more than once or once within  
8 five years prior to the date of application for a license under this  
9 section.

10 (9) Documentation of completion of a minimum of 25 units of  
11 continuing education earned in the two years preceding application,  
12 including completion of any continuing education requirements  
13 imposed by the dental hygiene board on registered dental hygienists  
14 licensed in this state at the time of application.

15 (10) Any other information as specified by the dental hygiene  
16 board to the extent that it is required of applicants for licensure by  
17 examination under this article.

18 (b) The dental hygiene board may periodically request  
19 verification of compliance with the requirements of paragraph (3)  
20 of subdivision ~~(a)~~; (a) and may revoke the license upon a finding  
21 that the employment requirement or any other requirement of  
22 paragraph (3) of subdivision (a) has not been met.

23 (c) The dental hygiene board shall provide in the application  
24 packet to each out-of-state dental hygienist pursuant to this section  
25 the following information:

26 (1) The location of dental manpower shortage areas in the state.

27 (2) Any nonprofit clinics, public hospitals, and accredited dental  
28 hygiene education programs seeking to contract with licensees for  
29 dental hygiene service delivery or training purposes.

30 SEC. 13. Section 1922 of the Business and Professions Code  
31 is amended to read:

32 1922. The dental hygiene board shall license as a registered  
33 dental hygienist in alternative practice a person who demonstrates  
34 satisfactory performance on an examination in California law and  
35 ethics required by the dental hygiene board and who completes an  
36 application form and pays all application fees required by the dental  
37 hygiene board and meets either of the following requirements:

38 (a) Holds a current California license as a registered dental  
39 hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent *equivalent, recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education*, from a college or institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the dental hygiene board by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Workforce Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

SEC. 14. Section 2065 of the Business and Professions Code is amended to read:

2065. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless ~~he or she holds~~ *they hold* a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school may engage in the practice of medicine whenever and wherever required as a part of a postgraduate training program under the following conditions:

(1) The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

(2) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084,



## MEMORANDUM

|                |   |
|----------------|---|
| <b>DATE</b>    | May 29, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California  |
| <b>FROM</b>    | Anthony Lum<br>Executive Officer<br><br>Presented by Adina A. Pineschi-Petty DDS<br>Education, Legislative, and Regulatory Specialist |
| <b>SUBJECT</b> | <b>FULL 23: Dental Hygiene Educational Program Site Visit Update and Schedule.</b>  |

1. Diablo Valley College (DVC)
  - a. Site visit generated as a part of the DHBC oversight goals to review all dental hygiene educational programs in California.
  - b. On February 26, 2019 a site visit was conducted at the DVC campus.
  - c. Deficiencies were required to be corrected by June 1, 2019.
  - d. Current status:
    - i. In compliance.
    - ii. See DVC report.
2. University of the Pacific (UOP)
  - a. Site visit generated as a part of CODA Self Study review and as a part of the DHBC oversight goals to review all dental hygiene educational programs in California.
  - b. DHBC Staff reviewed the UOP Self Study and on June 28, 2019, UOP was notified of program deficiencies.
  - c. September 27, 2019 the DHBC received a compliance report responding to the deficiencies.
  - d. On February 13, 2020 the DHBC conducted a site visit of the UOP Union City Dental Clinic.
    - i. UOP in compliance.
    - ii. See UOP report.
3. Cabrillo College
  - a. Site visit generated as a part of CODA Self Study review and as a part of the DHBC oversight goals to review all dental hygiene educational programs in California.
  - b. On November 7, 2019 a site visit was conducted at the Cabrillo College campus.
  - c. Current Status:
    - i. In compliance\*.
    - ii. \*One pending deficiency.
    - iii. See Cabrillo report.

4. San Joaquin Valley College – Visalia (SJVC-Visalia)
  - a. Site visit generated as a part of CODA Self Study review and as a part of the DHBC oversight goals to review all dental hygiene educational programs in California.
  - b. On November 14, 2019 a site visit was conducted at the SJVC-Visalia campus.
  - c. Current Status:
    - i. In compliance.
    - ii. See SJVC – Visalia report.
5. Cypress College
  - a. Site visit generated as a part of the DHBC oversight goals to review all dental hygiene educational programs in California.
  - b. On March 3, 2020 a site visit was conducted at the Cypress College campus.
  - c. Current Status:
    - i. Not in compliance.
    - ii. See Cypress report
6. Moreno Valley College (MVC)
  - a. A review of the MVC Self Study was conducted as a part of DHBC's oversight goals to review all dental hygiene educational programs in California.
  - b. Based on the results of the review of documentation provided by MVC, it was noted that evidence of program compliance with the minimum dental hygiene educational program standards set by the California Code of Regulations (CCR) and the Commission on Dental Accreditation (CODA) was deficient.
  - c. On March 11, 2020, MVC provided documentation for the correction to the deficiency identified.
    - i. In compliance.
    - ii. See MVC report.
7. Concorde Career College-Garden Grove (CCC-GG)
  - a. A review of the CCC-GG conducted a review of the Self Study as a part of DHBC's oversight goals to review all dental hygiene educational programs in California.
  - b. Based on the results of the review of documentation provided by CCC-GG, it was noted that evidence of program compliance with the minimum dental hygiene educational program standards set by the California Code of Regulations (CCR) and the Commission on Dental Accreditation (CODA) was deficient.
  - c. On March 12, 2020, CCC-GG submitted a compliance report on the deficiency cited by the DHBC.
    - i. In compliance
    - ii. See CCC-GG report.

| <b>Dental Hygiene Educational Program</b> | <b>CODA Visit</b>     | <b>DHBC Visit</b> |
|---|-----------------------|-------------------|
| Cabrillo College                          | October 9-10, 2019    | November 7, 2019  |
| Carrington - Sacramento                   | September 23-24, 2020 |                   |
| Carrington - San Jose                     | June 23-24, 2020      |                   |
| Cerritos College                          | 2016 / 2023           | February 15, 2017 |
| Chabot College                            | 2015 / 2022           |                   |
| Concorde Career College-Garden Grove      | July 11-12, 2019      | January 18, 2018  |
| Concorde Career College-San Bernardino    | February 1-2, 2018    | January 19, 2018  |
| Concorde Career College-San Diego         | May 19-20, 2020       |                   |
| Cypress College                           | 2015 / 2022           | March 3, 2020     |
| Diablo Valley College                     | 2017 / 2024           | February 26, 2019 |
| Foothill College                          | June 13-15, 2018      | October 18, 2018  |
| Fresno City College                       | October 1-2, 2020     |                   |
| Loma Linda University                     | 2016 / 2023           |                   |
| Moreno Valley College                     | February 26-27, 2019  | May 30, 2017      |
| Oxnard College                            | October 27-28, 2020   |                   |
| Pasadena City College                     | 2016 / 2023           |                   |
| Sacramento City College                   | November 28-30, 2018  | December 7, 2018  |
| San Joaquin Valley College - Ontario      | 2014 / 2021           |                   |
| San Joaquin Valley College - Visalia      | July 17-18, 2019      | November 14, 2019 |
| Santa Rosa Junior College                 | 2015 / 2022           |                   |
| Shasta College                            | 2015 / 2022           | March 12, 2018    |
| Southwestern College                      | 2015 / 2022           |                   |
| Taft College                              | 2016 / 2023           | July 24, 2017     |
| University of Southern California         | 2015 / 2022           |                   |
| University of the Pacific                 | April 2-3, 2019       | February 13, 2020 |
| West Coast University                     | 2017 / 2024           |                   |
| West Los Angeles College                  | February 23-24, 2017  | October 30, 2018  |



December 13, 2019

Tonette Steeb CDA, RDH, MEd  
Director of Dental Programs  
Diablo Valley College  
321 Golf Club Road  
Pleasant Hill, CA 94523

Dear Ms. Steeb,

The Dental Hygiene Board of California (DHBC) conducted a site visit on February 26, 2019 of the Diablo Valley College Dental Hygiene Education Program (DVC). This site visit was generated due to the review of DVC's Commission on Dental Accreditation (CODA) Self Study, as well as DHBC's oversight goals to review all dental hygiene educational programs (DHEPs) in California. Based on the results of the site visit and a review of the documentation provided by DVC, it was noted that evidence of program compliance with the minimum DHEP standards set by the California Code of Regulations (CCR), CODA, and the Health and Safety Code (HSC) was deficient. During the review of the CODA Self Study and DHBC site visit, deficiencies of minimum DHEP standards were discovered.

On December 12, 2019 DVC sent a response letter to the DHBC addressing the remaining deficiency. The DHBC determination on the deficiency is as follows:

1. Deficiency: Support Staff

- a. Open full-time dental lab coordinator position since July 18, 2018 which equates 50% reduction in staff. DVC did not notify the DHBC within ten (10) days of the reduction in staff.
- b. Refer to:
  - i. CCR
    1. **§1105.3 (a)(2)(D):** (a) Each dental hygiene program holding a certificate of approval shall: (2) Notify the Board within ten (10) days of any: (D) Programmatic reduction in program faculty or support staff of more than 10%.
    2. **§1105 (i):** The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
    3. **§1105 (k):** The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.

- ii. CODA
  - 1. **3-11:** Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.
- c. Evidence of Compliance:
  - i. DVC provided job description, resume, and proposed schedule for the senior lab coordinator hired as support staff.
- d. Determination:
  - i. In compliance.
  - ii. DVC providing adequate support staff pursuant to 16 CCR §1105 (i), §1105 (k), in addition to CODA Standard 3-11.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene programs meet the same educational standards in preparing their graduates for the profession. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California  
Susan Lamb, President, Diablo Valley College  
Joseph Gorga, Dean of Physical, Biological, and Health Science, Diablo Valley College



February 13, 2020

Ms. Lori Laughter  
Program Director, Department of Dental Hygiene  
University of the Pacific  
155 Fifth Street  
San Francisco, CA 94103

Dear Ms. Laughter,

The Dental Hygiene Board of California (DHBC) reviewed the 2019 Self Study Report prepared for the Commission on Dental Accreditation (CODA) by the University of the Pacific Dental Hygiene Educational Program (UOP). It was noted that compliance with the minimum program standards set by the California Code of Regulations (CCR) and CODA was deficient. On September 27, 2019 the DHBC received a compliance report responding to the deficiencies. Additionally, on February 13, 2020 the DHBC conducted a site visit of the UOP Union City Dental clinic.

Determination for deficiencies reviewed are as follows:

1. Deficiency: Prerequisites.
  - a. Anatomy and Physiology prerequisite insufficient.
    - i. UOP accepts Anatomy and Physiology as a one semester combined course.
  - b. Refer to:
    - i. 16 CCR § 1105 (f)(1)(C)  
*(1) The minimum basis for admission into an educational program shall be the successful completion of all of the following: (C) College-level biomedical science courses, each of which must include a wet laboratory component, in: (i) Anatomy (ii) Physiology (iii) Chemistry (iv) Biochemistry (v) Microbiology.*
    - ii. CODA Standard 2-8b  
*Biomedical science content must include content in anatomy, physiology, chemistry, biochemistry, microbiology, immunology, general and maxillofacial pathology and/or pathophysiology, nutrition and pharmacology.*
  - c. UOP Response:
    - i. University of the Pacific Admissions approved the change from the combined Anatomy and Physiology course to requiring separate courses in these subjects.
  - d. Determination:
    - i. In compliance.
    - ii. UOP provided evidence of prerequisite courses of Anatomy and Physiology in compliance with 16 CCR §1105 (f)(1)(C) and CODA Standard 2-8b.

## 2. Deficiency: Required Program Curriculum

- a. Required program curriculum should include general pathology and/or pathophysiology, as well as special needs curriculum.
  - i. CODA Self Study Standard 2 p. 111
    - 1. UOP does not have general pathology or pathophysiology course. UOP only has an oral pathology course.
      - a. DHYG 122. Oral Pathology (2) Study of etiology, pathogenesis, clinical and histogenic features of oral diseases. Recognition of basic tissue reaction and lesions that occur in the mouth, jaws, and neck and formulation of differential diagnosis of lesions seen in the practice of dentistry.
  - ii. CODA Self Study Standard 2 p. 111
    - 1. UOP Does not have a course or curriculum that covers special needs
      - a. DHYG 125/126. Dental Hygiene Clinic I (2)/(5) This lecture/lab/clinic course is designed to provide students beginning clinical experience in the treatment of child, adolescent, adult, and geriatric patients.
- b. Refer to:
  - i. 16 CCR §1105.2 (d)(1)(C)  
(d) The content of the curriculum shall include biomedical and dental sciences and dental hygiene sciences and practice. This content shall be of sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the educational program's standard of competency. (1) Biomedical and Dental Sciences Content (C) General Pathology and/or Pathophysiology.
  - ii. 16 CCR §1105.2 (d)(2)(L)  
(d) The content of the curriculum shall include biomedical and dental sciences and dental hygiene sciences and practice. This content shall be of sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the educational program's standard of competency. (2) Dental Hygiene Sciences and Practice Content (L) Provision of Services for and Management of Patients with Special Needs.
  - iii. CODA Standard 2-12  
Graduates must be competent in providing dental hygiene care for the child, adolescent, adult and geriatric patient. Graduates must be competent in assessing the treatment needs of patients with special needs.
- c. UOP Response:
  - i. The Academic Council approved the course changes requested for DHYG132 Patient Management/Special Needs and DHYG122 Pathology curriculum.
- d. Determination:
  - i. In Compliance
  - ii. UOP provided evidence of general pathology and special needs curriculum pursuant to 16 CCR §1105.2 (d)(1)(C), 16 CCR §1105.2 (d)(2)(L), and CODA Standard 2-12.

3. Deficiency: Program Director.

- a. Administrative hours for the UOP Dental Hygiene Educational Program (DHEP) Director insufficient.
  - i. Self Study p. 37 (284 of roll-up) Exhibit 3-6.1 Faculty Teaching Commitments Spring 2019 Term
    - 1. Hours per week devoted to teaching for PD: 19.5
    - 2. Hours per week devoted to administration for PD: 12.5
- b. Refer to:
  - i. 16 CCR § 1105.1 (a)  
*“Program Director” or “Interim Program Director” means a registered dental hygienist or dentist who has the authority and responsibility to administer the educational program in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article. The educational program may have an Interim Program Director for a maximum of twelve (12) months. The director shall have a full-time appointment as defined by the institution, whose primary responsibility is for the operation, supervision, evaluation and revision of the program. The program director shall meet the following minimum qualifications: (1) Possess an active, current dental or dental hygiene license issued by the Committee or the Dental Board of California (DBC), with no disciplinary actions; (2) Possess a master's or higher degree from a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation; (3) Documentation of two (2) years' experience teaching in pre- or post-licensure registered dental hygiene or dental programs. This requirement may be waived for an Interim Program Director; and (4) Documentation of a minimum of 2,000 hours in direct patient care as a registered dental hygienist, or working with a registered dental hygienist.*
  - ii. CODA Standard 3-2  
*The dental hygiene program administrator must have a full-time appointment as defined by the institution, whose primary responsibility is for operation, supervision, evaluation and revision of the program.*
- c. UOP Response:
  - i. Lory Laughter RDH, MS assumed the position of Dental Hygiene Program Director after the self-study and CODA site visit. Administrative time allotment has increased.
- d. Determination:
  - i. In compliance
  - ii. UOP provided satisfactory evidence of hours devoted to program administration pursuant to 16 CCR §1105.1 (a) and CODA Standard 3-2.

4. Deficiency: DHEP Hours.

- a. DHEP hours insufficient.
  - i. CODA Self Study p. 3 (p. 7 of roll-up)
    - 1. Total program hours: 1320
      - a. Lecture: 490 hours
      - b. Laboratory: 182 hours
      - c. Clinic: 648 hours
  - ii. CODA Self Study p. 181 (p. 185 of roll-up)
    - 1. Total Clock Hours in Curriculum: 1440
- b. Refer to:
  - i. 16 CCR § 1105 (b)(3)

The length of instruction in the educational program shall include two academic years of fulltime instruction at the postsecondary college level or its equivalent, and a minimum of 1,600 clock hours.
- c. UOP Response:
  - i. The Dental Hygiene Program at University of the Pacific's total curriculum clock hours are 1,682; represented as follows:
    - 1. Lecture: 630 Hours
    - 2. Laboratory: 182 hours
    - 3. Clinic: 870 hours
    - 4. Students attend two of the 3 sessions of Integrated Clinic per week in semester 4.
- d. Determination:
  - i. In compliance.
  - ii. UOP provided evidence of correct program hours pursuant to 16 CCR § 1105 (b)(3).

5. Deficiency: Infection Control.

- a. Lack of proper infection control at the Union City Dental Clinic.
  - i. CODA Preliminary Draft Report 4-25-19
    - 1. Upon observation of the Union City Dental Clinic, the visiting committee found the instrument reprocessing area was intermingled without proper labeling of dirty, clean, and sterile equipment; therefore, there is the potential for cross contamination. Additionally, the flow from dirty to clean to sterile was inhibited by the room layout. It also appeared that the reprocessing area was a dental assistant's private office with inappropriate objects and covered/littered with personal pictures and items in the reprocessing room.
    - 2. It is recommended that the program provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. It is further recommended that the dental hygiene facilities include the following: e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol; f (DH Standard 4-1 e,).

- b. Refer to:
- i. 16 CCR§ 1105.2 (d)(3)(A)  
*An educational program shall provide infection control equipment according to the requirements of California Code of Regulations, Title 16, Division 10, Chapter 1, Article 1, Section 1005.*
  - ii. 16 CCR § 1105.2 (d)(3)(C)  
*An educational program shall comply with local, state, and federal health and safety laws and regulations.(i) All students shall have access to the program's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.(ii) All students shall have access to the program's clinic and radiation hazardous communication plan.(iii) All students shall receive a copy of the program's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.*
  - iii. 16 CCR § 1105.2(d)(3)(D)(xii)  
*Proper infection control procedures according to the provisions of Title 16, Division 10, Chapter 1, Article 1, Section 1005 of the California Code of Regulations*
  - iv. 16 CCR § 1005  
*Minimum Standards for Infection Control (a) Definitions of terms used in this section: (1) "Standard precautions" are a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which healthcare is delivered. These include: hand hygiene, use of gloves, gown, mask, eye protection, or face shield, depending on the anticipated exposure, and safe handling of sharps. Standard precautions shall be used for care of all patients regardless of their diagnoses or personal infectious status. (2) "Critical items" confer a high risk for infection if they are contaminated with any microorganism. These include all instruments, devices, and other items used to penetrate soft tissue or bone. (3) "Semi-critical items" are instruments, devices and other items that are not used to penetrate soft tissue or bone, but contact oral mucous membranes, non-intact skin or other potentially infectious materials (OPIM). (4) "Non-critical items" are instruments, devices, equipment, and surfaces that come in contact with soil, debris, saliva, blood, OPIM and intact skin, but not oral mucous membranes. (5) "Low-level disinfection" is the least effective disinfection process. It kills some bacteria, some viruses and fungi, but does not kill bacterial spores or mycobacterium tuberculosis var bovis, a laboratory test organism used to classify the strength of disinfectant chemicals. (6) "Intermediate-level disinfection" kills mycobacterium tuberculosis var bovis indicating that many human pathogens are also killed. This process does not necessarily kill spores. (7) "High-level disinfection" kills some, but not necessarily all bacterial spores. This process kills mycobacterium tuberculosis var bovis, bacteria, fungi, and viruses. (8) "Germicide" is a chemical agent that can be used to disinfect items and surfaces based on the level of contamination. (9) "Sterilization" is a validated process used to render a product free of all forms of viable microorganisms. (10) "Cleaning" is the removal of visible soil (e.g., organic and inorganic material) debris and OPIM from objects and surfaces and shall be accomplished manually or mechanically using water with detergents or enzymatic products. (11) "Personal Protective Equipment" (PPE) is specialized clothing or equipment worn or used for protection against a hazard. PPE items may include, but are not limited to, gloves, masks, respiratory devices, protective eyewear and protective attire which are intended to prevent exposure to blood, body fluids, OPIM, and*

chemicals used for infection control. General work attire such as uniforms, scrubs, pants and shirts, are not considered to be PPE.(12) "Other Potentially Infectious Materials" (OPIM) means any one of the following:(A) Human body fluids such as saliva in dental procedures and any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.(B) Any unfixed tissue or organ (other than intact skin) from a human (living or dead).(C) Any of the following, if known or reasonably likely to contain or be infected with human immunodeficiency virus (HIV), hepatitis B virus (HBV), or hepatitis C virus (HCV):1. Cell, tissue, or organ cultures from humans or experimental animals;2. Blood, organs, or other tissues from experimental animals; or3. Culture medium or other solutions.(13) "Dental Healthcare Personnel" (DHCP), are all paid and non-paid personnel in the dental healthcare setting who might be occupationally exposed to infectious materials, including body substances and contaminated supplies, equipment, environmental surfaces, water, or air. DHCP includes dentists, dental hygienists, dental assistants, dental laboratory technicians (in-office and commercial), students and trainees, contractual personnel, and other persons not directly involved in patient care but potentially exposed to infectious agents (e.g., administrative, clerical, housekeeping, maintenance, or volunteer personnel).(b) All DHCP shall comply with infection control precautions and enforce the following minimum precautions to protect patients and DHCP and to minimize the transmission of pathogens in health care settings as mandated by the California Division of Occupational Safety and Health (Cal/OSHA).(1) Standard precautions shall be practiced in the care of all patients.(2) A written protocol shall be developed, maintained, and periodically updated for proper instrument processing, operator cleanliness, and management of injuries. The protocol shall be made available to all DHCP at the dental office. (3) A copy of this regulation shall be conspicuously posted in each dental office. Personal Protective Equipment: (4) All DHCP shall wear surgical facemasks in combination with either chin length plastic face shields or protective eyewear whenever there is potential for aerosol spray, splashing or spattering of the following: droplet nuclei, blood, chemical or germicidal agents or OPIM. Chemical-resistant utility gloves and appropriate, task specific PPE shall be worn when handling hazardous chemicals. After each patient treatment, masks shall be changed and disposed. After each patient treatment, face shields and protective eyewear shall be cleaned, disinfected, or disposed. (5) Protective attire shall be worn for disinfection, sterilization, and housekeeping procedures involving the use of germicides or handling contaminated items. All DHCP shall wear reusable or disposable protective attire whenever there is a potential for aerosol spray, splashing or spattering of blood, OPIM, or chemicals and germicidal agents. Protective attire must be changed daily or between patients if they should become moist or visibly soiled. All PPE used during patient care shall be removed when leaving laboratories or areas of patient care activities. Reusable gowns shall be laundered in accordance with Cal/OSHA Bloodborne Pathogens Standards (Title 8, Cal. Code Regs., section 5193). Hand Hygiene:(6) All DHCP shall thoroughly wash their hands with soap and water at the start and end of each workday. DHCP shall wash contaminated or visibly soiled hands with soap and water and put on new gloves before treating each patient. If hands are not visibly soiled or contaminated an alcohol based hand rub may be used as an alternative to soap and water. Hands shall be thoroughly dried before donning gloves in order to prevent promotion of bacterial growth and washed again immediately after glove removal. A DHCP shall refrain from providing direct patient care if hand conditions are present that may render DHCP or patients more susceptible to opportunistic infection or exposure. (7) All DHCP who have exudative lesions or

weeping dermatitis of the hand shall refrain from all direct patient care and from handling patient care equipment until the condition resolves. Gloves:(8) Medical exam gloves shall be worn whenever there is contact with mucous membranes, blood, OPIM, and during all pre-clinical, clinical, post-clinical, and laboratory procedures. When processing contaminated sharp instruments, needles, and devices, DHCP shall wear heavy-duty utility gloves to prevent puncture wounds. Gloves must be discarded when torn or punctured, upon completion of treatment, and before leaving laboratories or areas of patient care activities. All DHCP shall perform hand hygiene procedures before donning gloves and after removing and discarding gloves. Gloves shall not be washed before or after use. Needle and Sharps Safety:(9) Needles shall be recapped only by using the scoop technique or a protective device. Needles shall not be bent or broken for the purpose of disposal. Disposable needles, syringes, scalpel blades, or other sharp items and instruments shall be placed into sharps containers for disposal as close as possible to the point of use according to all applicable local, state, and federal regulations. Sterilization and Disinfection: (10) All germicides must be used in accordance with intended use and label instructions. (11) Cleaning must precede any disinfection or sterilization process. Products used to clean items or surfaces prior to disinfection procedures shall be used according to all label instructions. (12) Critical instruments, items and devices shall be discarded or pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization shall include steam under pressure (autoclaving), chemical vapor, and dry heat. If a critical item is heat-sensitive, it shall, at minimum, be processed with high-level disinfection and packaged or wrapped upon completion of the disinfection process. These instruments, items, and devices, shall remain sealed and stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility. (13) Semi-critical instruments, items, and devices shall be pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization include steam under pressure (autoclaving), chemical vapor and dry heat. If a semi-critical item is heat sensitive, it shall, at minimum, be processed with high level disinfection and packaged or wrapped upon completion of the disinfection process. These packages or containers shall remain sealed and shall be stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility. (14) Non-critical surfaces and patient care items shall be cleaned and disinfected with a California Environmental Protection Agency (Cal/EPA)-registered hospital disinfectant (low-level disinfectant) labeled effective against HBV and HIV. When the item is visibly contaminated with blood or OPIM, a Cal/EPA-registered hospital intermediate-level disinfectant with a tuberculocidal claim shall be used. (15) All high-speed dental hand pieces, low-speed hand pieces, rotary components and dental unit attachments such as reusable air/water syringe tips and ultrasonic scaler tips, shall be packaged, labeled and heat-sterilized in a manner consistent with the same sterilization practices as a semi-critical item. (16) Single use disposable items such as prophylaxis angles, prophylaxis cups and brushes, tips for high-speed evacuators, saliva ejectors, air/water syringe tips, and gloves shall be used for one patient only and discarded. (17) Proper functioning of the sterilization cycle of all sterilization devices shall be verified at least weekly through the use of a biological indicator (such as a spore test). Test results shall be documented and maintained for 12 months. Irrigation: (18) Sterile coolants/irrigants shall be used for surgical procedures involving soft tissue or bone. Sterile coolants/irrigants must be delivered using a sterile delivery system. Facilities:(19) If non-critical items or surfaces likely to be contaminated are

*manufactured in a manner preventing cleaning and disinfection, they shall be protected with disposable impervious barriers. Disposable barriers shall be changed when visibly soiled or damaged and between patients. (20) Clean and disinfect all clinical contact surfaces that are not protected by impervious barriers using a California Environmental Protection Agency (Cal/EPA) registered, hospital grade low- to intermediate-level germicide after each patient. The low-level disinfectants used shall be labeled effective against HBV and HIV. Use disinfectants in accordance with the manufacturer's instructions. Clean all housekeeping surfaces (e.g. floors, walls, sinks) with a detergent and water or a Cal/EPA registered, hospital grade disinfectant. Products used to clean items or surfaces prior to disinfection procedures shall be clearly labeled and DHCP shall follow all material safety data sheet (MSDS) handling and storage instructions. (21) Dental unit water lines shall be anti-retractive. At the beginning of each workday, dental unit lines and devices shall be purged with air or flushed with water for at least two (2) minutes prior to attaching handpieces, scalers, air water syringe tips, or other devices. The dental unit lines and devices shall be flushed between each patient for a minimum of twenty (20) seconds. (22) Contaminated solid waste shall be disposed of according to applicable local, state, and federal environmental standards. Lab Areas: (23) Splash shields and equipment guards shall be used on dental laboratory lathes. Fresh pumice and a sterilized or new rag-wheel shall be used for each patient. Devices used to polish, trim, or adjust contaminated intraoral devices shall be disinfected or sterilized, properly packaged or wrapped and labeled with the date and the specific sterilizer used if more than one sterilizer is utilized in the facility. If packaging is compromised, the instruments shall be recleaned, packaged in new wrap, and sterilized again. Sterilized items will be stored in a manner so as to prevent contamination. (24) All intraoral items such as impressions, bite registrations, prosthetic and orthodontic appliances shall be cleaned and disinfected with an intermediate-level disinfectant before manipulation in the laboratory and before placement in the patient's mouth. Such items shall be thoroughly rinsed prior to placement in the patient's mouth. (c) The Dental Board of California and Dental Hygiene Committee of California shall review this regulation annually and establish a consensus.*

- v. § 5193. Bloodborne Pathogens.
- vi. CDC Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings - 2007
- vii. CDC Guidelines for Infection Control in Dental Health-Care Settings - 2003
- viii. CODA Standard 4-1 (d), (e), and (f)  
 The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. Clinical Facilities: The dental hygiene facilities must include the following:
  - d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments;
  - e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol;
  - f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols;

- c. UOP Response
  - i. Changes to the sterilization area at the Union City clinic include removal of personal items and photos, labeling of the clean and dirty areas and implementation of a one-direction workflow to avoid cross contamination. Construction of new cabinets and an adjacent storage area are under construction.
- d. DHBC Site Visit:
  - i. Site Visit conducted of the UOP Union City Dental Clinic on February 13, 2020.
- e. Determination:
  - i. In compliance.
  - ii. UOP provided evidence of infection control compliance pursuant to 16 CCR§ 1105.2 (d)(3)(A), 16 CCR § 1105.2 (d)(3)(C), 16 CCR § 1105.2(d)(3)(D)(xii), 16 CCR § 1005, § 5193. Bloodborne Pathogens, CDC Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings-2007, CDC Guidelines for Infection Control in Dental Health-Care Settings-2003 and CODA Standard 4-1 (d), (e), and (f).

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene programs meet the same educational standards in preparing their graduates for the profession. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

Cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California

Maria Pallavicini, Interim President, University of the Pacific

Nader Nadershahi DDS, MBA, EdD, Dean, University of the Pacific, Arthur A. Dugoni School of Dentistry



March 5, 2020

Noel Kelsch RDHAP, MS  
Program Director, Department of Dental Hygiene  
Cabrillo College  
6500 Soquel Drive  
Aptos, CA 95003

Dear Ms. Kelsch,

The Dental Hygiene Board of California (DHBC) conducted a site visit on November 7, 2019 of the Cabrillo College Dental Hygiene Educational Program (Cabrillo). This site visit was generated due to the review of Cabrillo's Commission on Dental Accreditation (CODA) of the American Dental Association Self Study, as well as DHBC's oversight goals to review all dental hygiene educational programs (DHEPs) in California. Based on the results of the site visit and a review of the documentation provided by Cabrillo, it was noted that evidence of program compliance with the minimum DHEP standards set by the California Code of Regulations (CCR) and CODA was deficient.

On February 6, 2020, Cabrillo submitted evidence of corrections to the DHBC. Determination of compliance is as follows:

1. Sponsoring Institution
  - a. Stable Financial Resources
    - i. Self Study p. 20  
"In 2014 the College reduced the teaching unit allocation to the dental hygiene department by 100 teaching units, approximately 50% of the department budget. As a result, the department has had to bring in \$140,000 a year to support an entering class."
    - ii. Self Study p. 131 "Enrollment Trends"  
"We have received fewer applications due in part to the budget reduction to the program in 2015. The perception was that the program was closing. The department is still feeling the effects of that decision."
    - iii. Self Study Exhibits p. 389 "Priorities to Improve Student Learning"
      1. "Two additional full-time faculty" and "Reinstatement of Program TU's College funding of program"
      2. "Following the College policy in requesting for reinstating two full-time (FT) faculty."
      3. "Ever since the 100 TU's were removed from the DH program in 2014 the DH program has requested restatement of Program TU's in our annual program update."

\*TU = Teaching Units

- b. Refer to:
  - i. 16 CCR §1104 (b)

The hygiene board shall review the approval of all approved educational programs in accordance with accreditation renewal standards set by the Commission on Dental Accreditation of the American Dental Association (CODA), or an equivalent accrediting body, as determined by the hygiene board. In the event that an equivalent body has not been established by the hygiene board, the standards shall be set by CODA.
  - ii. 16 CCR §1104 (b)(5)

Continuation of approval of all educational programs shall be contingent upon compliance with the requirements described in this Article. Written notification of continuation of approval shall be provided.
  - iii. CODA Standard 1-2

The institution must have a strategic plan which identifies stable financial resources sufficient to support the program's stated mission, goals and objectives. A financial statement document must be submitted providing revenue and expense data for the dental hygiene program.
- c. Cabrillo Response:
  - i. "Corrective measures:

The Institution, Cabrillo College has made every effort to ensure that the Dental Hygiene program has stable financial resources that are sufficient to support the programs mission, goals and objectives. Indeed in 2018-19, revenues from enrollment, fees, grants, and program income were sufficient to raise \$836,427, while program expenditures were roughly \$880,000. The college has provided additional reserve revenues to cover the gap between program expenditures and revenues. Current year (2019-20) changes will take program expenditures up to \$1.045 million. The intent moving forward is three-fold:

    1. Cabrillo College has increased personnel expenditures, adding the necessary hours to be in compliance. The staff member changes include hiring a full time Instructional Assistant and 10 hour a week Program Coordinator to oversee the Extension program.
    2. Cabrillo College utilizes the General Fund, Contract and Technical Education Program, grants including CTE Perkins, Strong Work Force funds, Faculty Grant, Student Senate Grant, Crocker Grant, Cabrillo College Foundation Grant, American Dental Association Educators Grant and income from the Cabrillo College Dental Hygiene program patient fee and Cabrillo College Extension program income to fund the Dental Hygiene program. When there are gaps in the expenditures versus revenues, Cabrillo College is committed to supporting any gaps in funding. Cabrillo College has a healthy reserve of about 12% of the operating budget. At any given moment Cabrillo College has \$11 million in reserve funds in recent years. \*Please see page 32 of this report for the details of Cabrillo's ability to demonstrate stable financial resources to support the program's operation.
    3. Cabrillo College is in compliance with ratios and faculty. There are two full time faculty members and the director position is full time. The additional full time faculty member started as a temporary full time faculty member in August 16th, 2018. The position changed to a permanent position August 19th, 2019. The

information was not included in the CODA report due to the timing. The teaching units were increased for faculty and new faculty were hired. Cabrillo College Dental Hygiene is now in compliance with regulatory requirements of one faculty member for five students in clinic and one faculty member to five students in the lab (except Dental Materials which is one to ten).

4. Cabrillo college has been able to supply sufficient funding for the Dental Hygiene program for 52 years and has an on-going commitment to ensure the Cabrillo Dental Hygiene program's future."

- ii. Cabrillo provided a Financial Report for the 2019-2020 school year.

d. Determination:

- i. **Not in compliance.**

- ii. **Cabrillo to provide a Financial Report for the 2020-2021 school year.**

- iii. Cabrillo to provide stable financial resources to the dental hygiene program to ensure continuity of the program.

2. Requirements for RDH Educational Programs

a. Prerequisites

- i. Self Study p. 35 "Prerequisites"

1. Inorganic chemistry prerequisite is missing.

- ii. Self Study Exhibits p. 116 Mathematics Competency Requirement

1. "The A.S. Mathematics requirement may be met by successful completion of Intermediate Algebra or equivalent or a higher-level mathematics course with a grade of "C" or better. Successful completion must be verified by an official college transcript or by an appropriate score on the Cabrillo mathematics assessment."

- iii. Self Study Exhibits p. 217 "DH Program Application Evaluation Form"

1. Inorganic chemistry prerequisite is missing.
2. Psychology, sociology, oral communication, and mathematics not included on form.

- iv. Self Study Exhibits p. 222

1. Not all prerequisites required by the DHBC are included on the application under "prerequisites".

- v. Self Study Exhibits p. 223

1. "Courses with this symbol (\*) are required by the Committee on American Dental Accreditation (CODA)
  - a. Should be "Commission on Dental Accreditation".
  - b. Should include that DHBC requires these as well.
  - c. Asterisks (\*) in the exhibit are not accurate.

2. "Due to Commission on Dental Accreditation (CODA) requirements for an Associate Degree in Dental Hygiene some General Education courses are specific to dental hygiene, see table below."
  - a. Should include that DHBC requires these as well.

vi. Self Study p. 135

1. "One area that we are working on to increase is the availability of tutoring. While we have office hours and a tutoring center for specific courses there is a strong need for student success to add additional tutoring hours in clinic and dental hygiene specific courses. The other area that we are working on is HESI evaluations for each student to see what their academic needs are specific to the program and help them resolve any needs that are identified through the HESI system."

\*HESI = Health Education Systems, Inc. standardized test

b. Refer to:

i. 16 CCR §1105 (f)

*Admission. (1) The minimum basis for admission into an educational program shall be the successful completion of all of the following: (A) A high school diploma or the recognized equivalent, which will permit entrance to a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation; and, (B) College-level general education courses in the topic areas of: (i) Oral and Written Communication (ii) Psychology (iii) Sociology (iv) Mathematics (v) Cultural Diversity\* (vi) Nutrition\**

*\*This course is required prior to graduation, and may be waived as an admission requirement if included within the dental hygiene program curriculum.*

*(C) College-level biomedical science courses, each of which must include a wet laboratory component, in: (i) Anatomy (ii) Physiology (iii) Chemistry (iv) Biochemistry (v) Microbiology.*

c. Cabrillo Response:

i. "Corrective measures:

1. Previous to the DHBC visit all materials had been submitted to the Cabrillo College curriculum committee on October 26th to include both Mathematics and Inorganic Chemistry in the prerequisites. These prerequisites were approved by the curriculum committee.
2. In an audit of both current cohorts and potential students on the waiting list all students have completed both Inorganic Chemistry and Mathematics.
3. Approval has been received from the curriculum committee to make the necessary changes to be in compliance with prerequisites. Changes have been made in the counseling packet, website, application and any other necessary areas. An audit of all materials related to prerequisites continues to assure complete compliance has been conducted."

d. Determination:

i. **In compliance.**

- ii. Cabrillo provided evidence of correction to prerequisite deficiencies conforming to requirements pursuant to 16 CCR §1105 (f).

### 3. Learning Resources and Support Services

#### a. Faculty, Staff, and Support Services

##### i. Self Study Exhibits pp. 21-26 SLO\* Departmental Assessment Analysis #2

###### 1. "Priorities to Improve Student Learning"

###### a. "Two additional full-time faculty"

"All of this fund raising impacts the educational goals of the program. 87% of our students are first generation learners and are of ethnicity other than Caucasian. These students have greater academic challenges that require additional didactic and clinical tutoring that the program cannot provide with limited FT faculty. Restating the two FT faculty would facilitate the support and consistency needed to help with student success."

###### b. "Reinstatement of Program TU's College funding of program"

"Ever since the 100 TU's were removed from the DH program in 2014 the DH program has requested restatement of Program TU's in our annual program update."

###### c. "Tutoring"

"Seek grant funding from SWF and the Cabrillo College Tutoring Center for tutoring"

\*SLO = Student Learning Objectives

\*\* SWF = Strong Work Force

##### ii. Self Study p. 133

"Currently there are 2 full time faculty positions and in 2018-2019 one temporary full time faculty position in the dental hygiene department. A hire is in process for a full time tenure track position to begin in fall 2019. The full time faculty allocation is misleading since the DH director is required to spend a majority of her time in administrative duties and oversees fund raising of \$140,000 a year to accept a new incoming class."

##### iii. Program Assistant

Program assistant shared among three programs equating to twelve hours per week devoted to program support.

#### b. Refer to:

##### i. 16 CCR § 1105 (i)

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.

- ii. 16 CCR § 1105 (k)  
The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
- iii. CODA Standard 3-11  
Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.

c. Cabrillo Response:

i. "Corrective measures

- 1. Currently there are two full time faculty members and the director position is also full time. A permanent fulltime faculty member started after the CODA self-study was completed. The permanent full time faculty member started as a temporary full-time faculty member and became permanent August 19th, 2019.
- 2. Program Assistant will now be shared between two departments instead of 3. This will give Dental Hygiene eight (8) additional hours with the program assistant for a total of 20 hours a week.
- 3. Tutoring has always been available to all students through instructor office hours. Additional tutoring funding has been obtained through a grant funding. This will start in Spring 2020.
- 4. HESI pilot program started December 11th.
- 5. Reinstatement of Program TU's College funding of program has occurred. An additional 47.92 units being added to spring and 35 units being added to fall for a total of 82.95 additional units."

d. Determination

i. **In compliance.**

- ii. Cabrillo provided evidence of faculty, staff, learning resources and support services pursuant to 16 CCR § 1105 (i), 16 CCR § 1105 (k), and CODA Standard 3-11.

4. Faculty

a. Faculty to Student Ratio

i. Site Visit Observation

- 1. Dentist assigned to oversee student in sterilization while overseeing five student clinicians on the clinic floor resulting in a six to one ratio.
- 2. One faculty for eighteen students observed on floor during set-up and clean-up of clinic.

b. Refer to:

i. 16 CCR § 1105 (b)(4)

The instructor to student ratio shall meet approved Commission on Dental Accreditation standards referenced in subsection (c) of section 1103 of this article

ii. 16 CCR § 1105 (i)

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and

in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.

- iii. 16 CCR § 1105 (k)  
The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
  - iv. CODA Standard 3-5  
The number and distribution of faculty and staff must be sufficient to meet the dental hygiene program's stated purpose, goals and objectives.
  - v. CODA Standard 3-6 The faculty to student ratios must be sufficient to ensure the development of competence and ensure the health and safety of the public. The faculty to student ratios for preclinical, clinical and radiographic clinical and laboratory sessions must not be less than one to five. Faculty to student ratios for laboratory sessions in dental materials courses must not be less than one to ten to ensure the development of clinical competence and maximum protection of the patient, faculty and students.
- c. Cabrillo Response:
- i. "Corrective measures:
    - 1. The faculty to student ratio in clinic includes auxiliary duties students and will be five to one. This is scheduled to begin January 26th, 2020.
    - 2. Additional TUs have been added to include the start and end of the day in clinic.
    - 3. Additional faculty members have been assigned and new faculty hired to comply with the five to one ratio in clinic.
    - 4. Lab courses have been adapted to meet the required ratio (ten to one in dental materials and five to one for all other lab courses)."
- d. Determination
- i. **In compliance.**
  - ii. Cabrillo provided evidence of resolution to deficient faculty to student ratios pursuant to 16 CCR § 1105 (b)(4), 16 CCR § 1105 (i), 16 CCR § 1105 (k), CODA Standard 3-5, and CODA Standard 3-6.

## 5. Staffing

- a. Sterilization Staff
  - i. Self Study p. 87 and Exhibits p. 485
    - 1. Instructional Assistant I
      - a. "The instructional assistant (IA) is a 50% part time eleven-month position designated solely for dental hygiene. The IA is responsible for equipment management and maintenance, instrument and kit ordering, program purchasing, clinic/sterilization/radiology management, software/computer management, hazardous waste management, inventory, and clinic record management. As of the self-study year 2017-2018, for two (2) years we have had a temporary person in this position working ten (10) hours a week. We have had a job announcement posted for this position for two (2) years. The low pay

scale and lack benefits for the qualifications have made this a difficult position to fill.”

- ii. Site Visit Observation:
  - 1. Insufficient supervision of sterilization.
    - a. IA only assigned 10 hours per week.
    - b. Clinic DDS assigned to oversee sterilization during clinic resulting in unacceptable faculty to student ratio to one in six.
    - c. No one faculty or staff member is directly responsible for overseeing complete process.
- b. Refer to:
  - i. 16 CCR § 1105 (b)(4)  
The instructor to student ratio shall meet approved Commission on Dental Accreditation standards referenced in subsection (c) of section 1103 of this article
  - ii. 16 CCR § 1105 (i)  
The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  - iii. 16 CCR § 1105 (k)  
The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
  - iv. CODA Standard 3-5  
The number and distribution of faculty and staff must be sufficient to meet the dental hygiene program's stated purpose, goals and objectives.
  - v. CODA Standard 3-6  
The faculty to student ratios must be sufficient to ensure the development of competence and ensure the health and safety of the public. The faculty to student ratios for preclinical, clinical and radiographic clinical and laboratory sessions must not be less than one to five. Faculty to student ratios for laboratory sessions in dental materials courses must not be less than one to ten to ensure the development of clinical competence and maximum protection of the patient, faculty and students.
  - vi. CODA Standard 3-11:  
Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.
- c. Cabrillo Response:
  - i. "Corrective measures:
    - 1. A new job description was developed for the instructional assistant position. Recruitment has been initiated. A temporary instructional assistant is filling the role of instructional assistant until the permanent hire is in place.

2. Hours were increased for the instructional assistant to correspond with clinic and lab hours.”

d. Determination:

i. **In compliance.**

- ii. Cabrillo provided evidence of sufficient supervision of the sterilization area to oversee infection control process pursuant to 16 CCR § 1105 (b)(4), 16 CCR § 1105 (i), 16 CCR § 1105 (k), CODA Standard 3-5, CODA Standard 3-6, and CODA Standard 3-11.

6. Program Director

a. Program Director Responsibilities

i. Exhibits p. 442

1. Exhibit 3-5 Administrative Duties and Authority of The Program Administrator

- a. Requires 10 hours of fundraising a week placing hours worked at 61 hours per week
- b. Fundraising not in description of duties “Source: 2016-19 Contract, Appendix D.1 Job Description Department Chair/Academic Specialist Director”

b. Refer to:

i. 16 CCR § 1105 (j)

The educational program director shall have the primary responsibility for developing policies and procedures, planning, organizing, implementing and evaluating all aspects of the program.

ii. 16 CCR § 1105.1 (a)

“Program Director” or “Interim Program Director” means a registered dental hygienist or dentist who has the authority and responsibility to administer the educational program in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article. The educational program may have an Interim Program Director for a maximum of twelve (12) months. The director shall have a full-time appointment as defined by the institution, whose primary responsibility is for the operation, supervision, evaluation and revision of the program. The program director shall meet the following minimum qualifications:

- (1) Possess an active, current dental or dental hygiene license issued by the Dental Hygiene Board or the Dental Board of California (DBC), with no disciplinary actions;
- (2) Possess a master's or higher degree from a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation;
- (3) Documentation of two (2) years' experience teaching in pre- or post-licensure registered dental hygiene or dental programs. This requirement may be waived for an Interim Program Director; and
- (4) Documentation of a minimum of 2,000 hours in direct patient care as a registered dental hygienist or working with a registered dental hygienist.

iii. CODA Standard 3-2

The dental hygiene program administrator must have a full-time appointment as defined by the institution, whose primary responsibility is for operation, supervision, evaluation and revision of the program.

- c. Cabrillo Response:
  - i. "Corrective measures:
    - 1. The directors' hours have been evaluated and adjusted to focus on developing policies and procedures, planning, organizing, implementing and evaluating all aspects of the program.
    - 2. An additional temporary hire filling the role as program coordinator has been hired to coordinate ongoing professional development courses and fund-raising explicitly for the program.
    - 3. The foundation will continue to support the dental hygiene department with fund raising."
- d. Determination
  - i. **In compliance.**
  - ii. Cabrillo provided evidence of administrative duties for the Program Director pursuant to 16 CCR § 1105 (j), 16 CCR § 1105.1 (a) and CODA Standard 3-2.

## 7. Facilities

- a. Faculty Offices
  - i. Office space lacking sufficient space to provide for privacy for faculty. One office is utilized by sixteen faculty and staff.
  - ii. Office space does not provide sufficient privacy for faculty consultation with other faculty or students.
- b. Refer to:
  - i. 16 CCR § 1105 (i)
 

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  - ii. CODA Standard 4-1
 

The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. The dental hygiene facilities must include the following: a) sufficient clinical facility with clinical stations for students including conveniently located hand washing sinks and view boxes and/or computer monitors; a working space for the patient's record adjacent to units; functional, modern equipment; an area that accommodates a full range of operator movement and opportunity for proper instructor supervision; b) a number of clinical stations based on the number of students admitted to a class (If the number of stations is less than the number of students in the class, one clinical station is available for every student scheduled for each clinical session.); c) a capacity of the clinic that accommodates individual student practice on a regularly scheduled basis throughout all phases of preclinical technique and clinical instruction; d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments; e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol; f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols; g)

space and furnishings for patient reception and waiting provided adjacent to the clinic;  
h) patient records kept in an area assuring safety and confidentiality.

iii. CODA Standard 4-6

Office space which allows for privacy must be provided for the program administrator and faculty. Student and program records must be stored to ensure confidentiality and safety.

c. Cabrillo Response:

i. "Corrective measures:

1. The Instructional Assistant workspace has been moved to a separate office apart from the faculty office freeing up room in the large faculty office space. The part-time 2nd year clinic coordinator's assigned office will now be shared with 2 other faculty members, coordinated on the days that they are on site. A work cubical was assigned to three didactic teachers to allow them a workspace to utilize computers and store their confidential files. For tutoring purposes there are five conference rooms in the building that can be used for tutoring session for individuals and groups."

d. Determination:

i. **In compliance.**

- ii. Cabrillo to provided office facilities pursuant to 16 CCR § 1105 (i), CODA Standard 4-1, and CODA Standard 4-6.

You will be required to provide evidence of compliance to the above remaining deficiency no later than **August 1, 2020**.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene programs meet the same educational standards in preparing their graduates for the profession. If Cabrillo does not correct the above deficiencies by **August 1, 2020**, Cabrillo risks the DHBC's approval of the Cabrillo College Dental Hygiene Educational Program and for Cabrillo graduates to obtain a California license in dental hygiene. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

Cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California  
Dr. Matthew Wetstein, Superintendent/President, Cabrillo College  
Dr. Cynthia FitzGerald, Associate Dean, Cabrillo College



January 23, 2020

Brenda M. Serpa RDH, BS, MA  
Program Director, Department of Dental Hygiene  
San Joaquin Valley College - Visalia  
3828 West Caldwell Avenue  
Visalia, CA 93277

Dear Ms. Serpa,

The Dental Hygiene Board of California (DHBC) conducted a site visit on November 14, 2019 of the San Joaquin Valley College - Visalia Dental Hygiene Educational Program (SJVC Visalia). This site visit was generated due to the review of SJVC Visalia's Commission on Dental Accreditation (CODA) Self Study, as well as DHBC's oversight goals to review all dental hygiene educational programs (DHEPs) in California. Based on the results of the site visit and a review of the documentation provided by SJVC Visalia, it was noted that evidence of program compliance with the minimum DHEP standards set by the California Code of Regulations (CCR) and CODA was deficient.

On January 10, 2020, SJVC Visalia sent a response letter to the DHBC addressing the deficiencies. The DHBC determination on deficiencies are as follows:

1. Program Equipment
  - a. Computers required to be used by students during class not working.
    - i. Submitted "repair tickets" for computers 6 weeks ago and still not repaired.
  - b. Lack of a definitive equipment maintenance and replacement plan for educational and clinical equipment.
    - i. Clinical equipment not repaired in a timely matter.
    - ii. Clinical dental units are 22 years old.
      1. No plan for replacement.
2. Refer to:
  - a. **16 CCR § 1105 (i)**

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  - b. **CODA Standard 4-1**

The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. Clinical Facilities The dental hygiene facilities must include the following: a) sufficient clinical facility with clinical stations for students including conveniently located hand washing sinks and view boxes and/or computer monitors; a working space for the patient's record adjacent to units; functional, modern equipment; an area that accommodates a full range of operator movement and

opportunity for proper instructor supervision; b) a number of clinical stations based on the number of students admitted to a class (If the number of stations is less than the number of students in the class, one clinical station is available for every student scheduled for each clinical session.); c) a capacity of the clinic that accommodates individual student practice on a regularly scheduled basis throughout all phases of preclinical technique and clinical instruction; d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments; e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol; f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols; g) space and furnishings for patient reception and waiting provided adjacent to the clinic; h) patient records kept in an area assuring safety and confidentiality.

3. Response:

- a. "The computers will be replaced with Chromeboxes which boot into a web browser, where students can access the web or MyDesktop. The replacement of lab 303 in Visalia has been moved up to February 2020. (Source: Meeting with and e-mail from David Mendes, SJVC Central Administrative Office (CAO) Director of IT Systems and Support, and Scott Hagar, SJVC Vice President of Administration)."
- b. "DH Staff, faculty, and students reviewed the policies and procedures for reporting equipment that is not in working order, as well as the standards as stated in the Ember Education Building and Equipment Maintenance Standards. Policies and procedures for reporting needed repairs are discussed as part of the Introduction to Clinic course and are provided, in writing, to students in the DH Clinic Manual."
- c. "On November 1, 2019, Ember Education implemented a process that will provide campus users with an improved and more accountable way to request repair services for all dental and medical related equipment. This process included the hiring of a new full-time Facilities Service Help Desk Coordinator who now monitors campus Facilities Service Desk and equipment repair in order to ensure that campus Purchasing and Facilities Technicians are addressing and resolving ticket inquiries in a timely manner. The intent of this new process is to facilitate rapid repair and/or replacement of defective equipment within 72 hours. Eight weeks into this protocol, the DH department has not had any issues with delayed service for equipment repair."
- d. "The above measures combined with the institution's portfolio of policies, procedures, best practices and inter-departmental collaboration will ensure improved facilities and equipment functionality for years to come. (Source: Meeting with and e-mail from Ralph Ortiz, Ember Vice President of Purchasing)"
- e. "Finally, SJVC, Inc. has a stable financial budget, a strong pool of cash reserves, along with a \$10,000,000 line-of-credit with Comerica Bank for any emergencies. The college is fully committed to maintaining quality working equipment to support the DH program. When educational or clinical equipment (including capital equipment, such as dental units) is deemed irreparable, SJVC will begin the replacement process, immediately. (Source: Meeting with Stephen Miller, Ember Vice President of Finance)"

4. Determination:

- a. In compliance.
- b. SJVC Visalia provided evidence of a long- and short-term equipment maintenance and replacement plan.
- c. SJVC Visalia shall continue to provide appropriately maintained facilities to support the academic and clinical purposes of the SJVC Visalia DHEP pursuant to 16 CCR § 1105 (i) and CODA Standard 4-1.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene programs meet the same educational standards in preparing their graduates for the profession. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

Cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California

Sumer Avila, Provost, San Joaquin Valley College

Gregory Osborn, Director of Program Compliance, San Joaquin Valley College



March 5, 2020

JoAnna Schilling, Ph.D.  
President  
Cypress College  
9200 Valley View Street  
Cypress, CA 90630

Dear Dr. Schilling,

The Dental Hygiene Board of California (DHBC) conducted a site visit on March 3, 2020 of the Cypress College Dental Hygiene Program (Cypress). This site visit was generated due to DHBC's oversight goals to review all dental hygiene educational programs (DHEPs) in California. Based on the results of the site visit, it was noted that evidence of program compliance with the minimum DHEP standards set by the California Code of Regulations (CCR) and the Commission on Dental Accreditation (CODA) was deficient.

During the DHBC site visit, the following deficiencies of minimum DHEP standards were discovered:

### **1. Deficiency 1 - Stable Financial Resources**

a. Documentation:

- i. 2020 Operating Budget (as of February 10, 2020)
  1. Faculty salaries paid by Cypress College budget.
  2. Clinic operating expenses and other programmatic needs paid by clinical fees collected from patients.
    - a. Burden on program to sustain viability.
    - b. No guarantee of stable financial resources from collection of clinic fees.
  3. No formal clinic equipment replacement funding or emergency maintenance plan in place.

b. Refer to:

- i. 16 CCR §1104 (b)

The hygiene board shall review the approval of all approved educational programs in accordance with accreditation renewal standards set by the Commission on Dental Accreditation of the American Dental Association (CODA), or an equivalent accrediting body, as determined by the hygiene board. In the event that an equivalent body has not been established by the hygiene board, the standards shall be set by CODA.

- ii. 16 CCR §1104 (b)(5)  
Continuation of approval of all educational programs shall be contingent upon compliance with the requirements described in this Article. Written notification of continuation of approval shall be provided.
  - iii. CODA Standard 1-2  
The institution must have a strategic plan which identifies stable financial resources sufficient to support the program's stated mission, goals and objectives. A financial statement document must be submitted providing revenue and expense data for the dental hygiene program.
- c. Determination:
- i. **Not in compliance.**
  - ii. Cypress to provide stable financial resources to the DHEP pursuant to 16 CCR §1104 (b), 16 CCR §1104 (b)(5), and CODA Standard 1-2.

## **2. Deficiency 2 - Program Director Assignment**

- a. Documentation:
  - i. Cypress has a “Dental Hygiene Coordinator” and not a “Dental Hygiene Program Director” as prescribed by regulations.
    - 1. Letter from John Sciacca, Dean, Health Science Division verifying that that effective January 4, 2016, Kendra Velasco would be the sole coordinator of the Dental Hygiene Department.
    - 2. Cypress College Department Coordinators Guideline of Duties (Article 16 of the United Faculty Contract).
  - ii. Program director overloaded and insufficient time devoted to administration of the DHEP.
    - 1. Spring and Fall DHEP Schedules.
  - iii. Program director does not have the primary responsibility for all aspects of the program.
    - 1. Not on selection committee, nor bears any responsibility for student selection for admission to the DHEP program.
    - 2. Not responsible for day-to-day operations of the DHEP.
      - a. Does not have access to ordering, etc.
      - b. Must rely on Dean for these functions.
    - 3. Not responsible for long-term planning for the DHEP
      - a. Not given access to, nor responsible for, budgets, etc.
      - b. Must rely on Dean for these functions.
  - iv. **Previous Site Visit Report:**  
CODA Formal Report from the September 30- October 2, 2015 Site Visit
    - 1. “Through review of the self-study document, on-site interviews and documentation provided on site, the visiting committee noted two,

full-time dental hygiene faculty share responsibilities for program administration. Additionally, these faculty serve as first and second year clinic coordinators. The visiting committee noted the program administrators receive a total of 7.0 hours of release time from teaching for program administration. The visiting committee noted the program administrators spend personal time to fulfill all required responsibilities. The visiting committee could not verify the program administrators' primary responsibility is for program operation, evaluation and revision. Further, the site visiting team determined the program administrators do not have sufficient time to fulfill the administrative responsibilities."

2. "It is recommended that the dental hygiene program administrator have a full-time appointment as defined by the institution, whose primary responsibility is for operation, supervision, evaluation and revision of the program. (DH Standard 3-2)"

b. Refer to

i. 16 CCR § 1105 (j)

The educational program director shall have the primary responsibility for developing policies and procedures, planning, organizing, implementing and evaluating all aspects of the program.

ii. 16 CCR § 1105.1 (a)

"Program Director" or "Interim Program Director" means a registered dental hygienist or dentist who has the authority and responsibility to administer the educational program in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article. The educational program may have an Interim Program Director for a maximum of twelve (12) months. The director shall have a full-time appointment as defined by the institution, whose primary responsibility is for the operation, supervision, evaluation and revision of the program. The program director shall meet the following minimum qualifications: (1) Possess an active, current dental or dental hygiene license issued by the Committee or the Dental Board of California (DBC), with no disciplinary actions; (2) Possess a master's or higher degree from a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation; (3) Documentation of two (2) years' experience teaching in pre- or post-licensure registered dental hygiene or dental programs. This requirement may be waived for an Interim Program Director; and (4) Documentation of a minimum of 2,000 hours in direct patient care as a registered dental hygienist, or working with a registered dental hygienist.

iii. CODA Standard 3-2

The dental hygiene program administrator must have a full-time appointment as defined by the institution, whose primary responsibility is for operation, supervision, evaluation and revision of the program.

iv. CODA Standard 3-4

The program administrator must have the authority and responsibility necessary to fulfill program goals including: a) curriculum development, evaluation and revision; b) faculty recruitment, assignments and supervision; c) input into faculty evaluation; d) initiation of program or department in-service and faculty development; e) assessing, planning and operating program facilities; f) input into budget preparation and fiscal administration; g) coordination, evaluation and participation in determining admission criteria and procedures as well as student promotion and retention criteria.

c. Determination

i. **Not in compliance.**

ii. The program director assignment must allow for sufficient administrative time to address the primary responsibility of the operation, supervision, evaluation and revision of the program.

1. Deficiency was cited in 2015 report from CODA noted above and not corrected.

iii. The program director must have the authority and responsibility to administer the educational program in accordance with CODA Standard 3-4.

iv. Cypress shall provide evidence of a "Dental Hygiene Program Director" position and responsibilities pursuant to 16 CCR § 1105 (j), 16 CCR § 1105.1 (a), in addition to meeting CODA Standards 3-2 and 3-4.

**3. Deficiency 3 – Faculty and Faculty Facilities:**

a. Documentation

i. Faculty are being paid for lab hours (.75 credit instead of 1 credit) for clinical instruction.

1. Many of the faculty are working 10-hour days without a lunch to meet contractual obligations to allow for office hours to meet with students.

ii. Ten part-time faculty share a table in a storage room with no air conditioner/ventilation.

b. Refer to

i. 16 CCR § 1105 (i)

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.

- ii. 16 CCR § 1105 (k)  
The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
- iii. CODA Standard 3-5  
The number and distribution of faculty and staff must be sufficient to meet the dental hygiene program's stated purpose, goals and objectives.  
*Intent: Student contact loads should allow the faculty sufficient time for class preparation, student evaluation and counseling, development of subject content and appropriate evaluation criteria and methods, program development and review, and professional development.*
- iv. CODA Standard 4-1  
The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations
- v. CODA Standard 4-6  
Office space which allows for privacy must be provided for the program administrator and faculty. Student and program records must be stored to ensure confidentiality and safety.
- c. Determination
  - i. **Not in compliance.**
  - ii. Cypress shall provide faculty and faculty facilities pursuant to 16 CCR § 1105 (i), 16 CCR § 1105 (k), CODA Standard 3-5, CODA Standard 4-1 and CODA Standard 4-6.

#### 4. Deficiency 4 – DHEP Prerequisites

- a. Documentation
  - i. Mathematics not required as a prerequisite for the Cypress College DHEP.
- b. Refer to:
  - i. 16 CCR §1105(f)  
Admission.(1) The minimum basis for admission into an educational program shall be the successful completion of all of the following: (A) A high school diploma or the recognized equivalent, which will permit entrance to a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation; and, (B) College-level general education courses in the topic areas of: (i) Oral and Written Communication (ii) Psychology (iii) Sociology (iv) Mathematics (v) Cultural Diversity\* (vi) Nutrition\* \*This course is required prior to graduation, and may be waived as an admission requirement if included within the dental hygiene program curriculum. (C) College-level biomedical science courses, each of which must include a wet laboratory component, in: (i) Anatomy (ii) Physiology (iii) Chemistry (iv) Biochemistry (v) Microbiology.

- c. Determination
  - i. **Not in compliance.**
  - ii. Cypress to require mathematics as a prerequisite to the DHEP program pursuant to 16 CCR §1105(f).

## 5. Deficiency 5 – Administrative Staffing

- a. Documentation:
  - i. Administrative Staff
    - 1. Assignment of 50% to DHEP but according to schedule only assigned one hour at the beginning of the morning clinic and one hour at the beginning of the afternoon clinic.
    - 2. No staff assigned to front desk duties during clinic.
      - a. No staff responsible for cashiering, etc.
        - i. Completed by faculty which removes faculty from clinic floor and compromises faculty to student ratio.
      - b. Clinic open to waiting room, allowing unauthorized personnel access to clinic.
    - 3. Responsible for “Hazardous Waste” in job description but not qualified to handle duty.
- b. Refer to:
  - i. 16 CCR § 1105 (i)

The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  - ii. 16 CCR § 1105 (k)

The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
  - iii. CODA Standard 3-11

Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.
- c. Determination
  - i. **Not in compliance.**
  - ii. Cypress to provide qualified institutional support personnel pursuant to 16 CCR § 1105 (i), 16 CCR § 1105 (k), and CODA Standard 3-11.

## 6. Deficiency 6 – Clinical Staffing and Infection Control Oversight

### a. Documentation:

- i. Deficient oversight of infection control processes.
  - 1. No one faculty or staff member is directly responsible for overseeing complete process.
- ii. Deficient oversight of sterilization processes.
  - 1. Faculty oversee to sterilization in their faculty to student ratio.
  - 2. Sterilization oversight should not be included in the faculty to student ratio.
  - 3. No one faculty or staff member is directly responsible for overseeing complete process.
  - 4. Oversight insufficient as it should be overseen at all times during clinical hours and during sterilization processes.

### b. Refer to:

- i. 16 CCR § 1105 (b)(4)  
The instructor to student ratio shall meet approved Commission on Dental Accreditation standards referenced in subsection (c) of section 1103 of this article
- ii. 16 CCR § 1105 (i)  
The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
- iii. 16 CCR § 1105 (k)  
The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
- iv. 16 CCR § 1105.2(d)(3)(A)  
An educational program shall provide infection control equipment according to the requirements of California Code of Regulations, Title 16, Division 10, Chapter 1, Article 1, Section 1005.
- v. CODA Standard 3-11  
Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.
- vi. CODA Standard 4-1  
The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. Clinical Facilities The dental hygiene facilities

must include the following: a) sufficient clinical facility with clinical stations for students including conveniently located hand washing sinks and view boxes and/or computer monitors; a working space for the patient's record adjacent to units; functional, modern equipment; an area that accommodates a full range of operator movement and opportunity for proper instructor supervision; b) a number of clinical stations based on the number of students admitted to a class (If the number of stations is less than the number of students in the class, one clinical station is available for every student scheduled for each clinical session.); c) a capacity of the clinic that accommodates individual student practice on a regularly scheduled basis throughout all phases of preclinical technique and clinical instruction; d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments; e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol; f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols; g) space and furnishings for patient reception and waiting provided adjacent to the clinic; h) patient records kept in an area assuring safety and confidentiality.

c. Determination

i. **Not in compliance.**

- ii. Cypress shall provide adequate oversight to sterilization and infection control processes pursuant to 16 CCR § 1105 (b)(4), 16 CCR § 1105 (i), 16 CCR § 1105 (k), 16 CCR § 1105.2(d)(3)(A), in addition to CODA Standard 3-11, and CODA Standard 4-1.

## 7. Deficiency 7 – Clinic Infection Control

a. Documentation:

- i. Clinic open to reception providing no barrier to aerosols.
  - 1. Distance from reception to patient chair 8 feet.
- ii. No patient privacy barriers between most patient operator chairs providing no barrier to aerosols.
  - 1. Distance between chairs (most) 4.5 feet.
- iii. Dental hygiene sterilization area open and faces dental hygiene operator chairs providing no barrier to aerosols.
  - 1. Two feet from head or foot of dental hygiene operator chair.
- iv. Dental Assisting sterilization area open and faces dental hygiene chairs providing no barrier to aerosols nor protection from autoclave malfunction.
  - 1. Two feet from head or foot of dental hygiene operator chair.
- v. Dirty vs. clean areas of dental hygiene sterilization area not clearly marked.
- vi. Eyewash station not clearly marked.

b. Refer to:

i. 16 CCR § 1105.2 (d)(3)(A)

An educational program shall provide infection control equipment according to the requirements of California Code of Regulations, Title 16, Division 10, Chapter 1, Article 1, Section 1005.

ii. 16 CCR § 1105.2(d)(3)(C)

An educational program shall comply with local, state, and federal health and safety laws and regulations.(i) All students shall have access to the program's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.(ii) All students shall have access to the program's clinic and radiation hazardous communication plan.(iii) All students shall receive a copy of the program's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.

iii. 16 CCR § 1105.2(d)(3)(D)(xii)

Proper infection control procedures according to the provisions of Title 16, Division 10, Chapter 1, Article 1, Section 1005 of the California Code of Regulations.

iv. 16 CCR § 1005

Minimum Standards for Infection Control (a) Definitions of terms used in this section: (1) "Standard precautions" are a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which healthcare is delivered. These include: hand hygiene, use of gloves, gown, mask, eye protection, or face shield, depending on the anticipated exposure, and safe handling of sharps. Standard precautions shall be used for care of all patients regardless of their diagnoses or personal infectious status. (2) "Critical items" confer a high risk for infection if they are contaminated with any microorganism. These include all instruments, devices, and other items used to penetrate soft tissue or bone. (3) "Semi-critical items" are instruments, devices and other items that are not used to penetrate soft tissue or bone, but contact oral mucous membranes, non-intact skin or other potentially infectious materials (OPIM). (4) "Non-critical items" are instruments, devices, equipment, and surfaces that come in contact with soil, debris, saliva, blood, OPIM and intact skin, but not oral mucous membranes. (5) "Low-level disinfection" is the least effective disinfection process. It kills some bacteria, some viruses and fungi, but does not kill bacterial spores or mycobacterium tuberculosis var bovis, a laboratory test organism used to classify the strength of disinfectant chemicals. (6) "Intermediate-level disinfection" kills mycobacterium tuberculosis var bovis indicating that many human pathogens are also killed. This process does not necessarily kill spores. (7) "High-level disinfection" kills some, but not necessarily all bacterial spores. This process kills mycobacterium tuberculosis var bovis, bacteria, fungi, and viruses. (8) "Germicide" is a chemical agent that can be used to disinfect items and surfaces based on the level of contamination. (9) "Sterilization" is a validated process used to render a product free of all forms of viable microorganisms. (10) "Cleaning"

is the removal of visible soil (e.g., organic and inorganic material) debris and OPIM from objects and surfaces and shall be accomplished manually or mechanically using water with detergents or enzymatic products. (11) "Personal Protective Equipment" (PPE) is specialized clothing or equipment worn or used for protection against a hazard. PPE items may include, but are not limited to, gloves, masks, respiratory devices, protective eyewear and protective attire which are intended to prevent exposure to blood, body fluids, OPIM, and chemicals used for infection control. General work attire such as uniforms, scrubs, pants and shirts, are not considered to be PPE. (12) "Other Potentially Infectious Materials" (OPIM) means any one of the following: (A) Human body fluids such as saliva in dental procedures and any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids. (B) Any unfixed tissue or organ (other than intact skin) from a human (living or dead). (C) Any of the following, if known or reasonably likely to contain or be infected with human immunodeficiency virus (HIV), hepatitis B virus (HBV), or hepatitis C virus (HCV): 1. Cell, tissue, or organ cultures from humans or experimental animals; 2. Blood, organs, or other tissues from experimental animals; or 3. Culture medium or other solutions. (13) "Dental Healthcare Personnel" (DHCP), are all paid and non-paid personnel in the dental healthcare setting who might be occupationally exposed to infectious materials, including body substances and contaminated supplies, equipment, environmental surfaces, water, or air. DHCP includes dentists, dental hygienists, dental assistants, dental laboratory technicians (in-office and commercial), students and trainees, contractual personnel, and other persons not directly involved in patient care but potentially exposed to infectious agents (e.g., administrative, clerical, housekeeping, maintenance, or volunteer personnel). (b) All DHCP shall comply with infection control precautions and enforce the following minimum precautions to protect patients and DHCP and to minimize the transmission of pathogens in health care settings as mandated by the California Division of Occupational Safety and Health (Cal/OSHA). (1) Standard precautions shall be practiced in the care of all patients. (2) A written protocol shall be developed, maintained, and periodically updated for proper instrument processing, operator cleanliness, and management of injuries. The protocol shall be made available to all DHCP at the dental office. (3) A copy of this regulation shall be conspicuously posted in each dental office. Personal Protective Equipment: (4) All DHCP shall wear surgical facemasks in combination with either chin length plastic face shields or protective eyewear whenever there is potential for aerosol spray, splashing or spattering of the following: droplet nuclei, blood, chemical or germicidal agents or OPIM. Chemical-resistant utility gloves and appropriate, task specific PPE shall be worn when handling hazardous chemicals. After each patient treatment, masks shall be changed and disposed. After each patient treatment, face shields and protective eyewear shall be cleaned, disinfected, or disposed. (5) Protective attire shall be worn for disinfection, sterilization, and housekeeping procedures involving the use of germicides or handling contaminated items. All DHCP shall wear reusable or disposable protective attire whenever there is a potential for aerosol spray,

splashing or spattering of blood, OPIM, or chemicals and germicidal agents. Protective attire must be changed daily or between patients if they should become moist or visibly soiled. All PPE used during patient care shall be removed when leaving laboratories or areas of patient care activities. Reusable gowns shall be laundered in accordance with Cal/OSHA Bloodborne Pathogens Standards (Title 8, Cal. Code Regs., section 5193). Hand Hygiene:(6) All DHCP shall thoroughly wash their hands with soap and water at the start and end of each workday. DHCP shall wash contaminated or visibly soiled hands with soap and water and put on new gloves before treating each patient. If hands are not visibly soiled or contaminated an alcohol based hand rub may be used as an alternative to soap and water. Hands shall be thoroughly dried before donning gloves in order to prevent promotion of bacterial growth and washed again immediately after glove removal. A DHCP shall refrain from providing direct patient care if hand conditions are present that may render DHCP or patients more susceptible to opportunistic infection or exposure. (7) All DHCP who have exudative lesions or weeping dermatitis of the hand shall refrain from all direct patient care and from handling patient care equipment until the condition resolves. Gloves:(8) Medical exam gloves shall be worn whenever there is contact with mucous membranes, blood, OPIM, and during all pre-clinical, clinical, post-clinical, and laboratory procedures. When processing contaminated sharp instruments, needles, and devices, DHCP shall wear heavy-duty utility gloves to prevent puncture wounds. Gloves must be discarded when torn or punctured, upon completion of treatment, and before leaving laboratories or areas of patient care activities. All DHCP shall perform hand hygiene procedures before donning gloves and after removing and discarding gloves. Gloves shall not be washed before or after use. Needle and Sharps Safety:(9) Needles shall be recapped only by using the scoop technique or a protective device. Needles shall not be bent or broken for the purpose of disposal. Disposable needles, syringes, scalpel blades, or other sharp items and instruments shall be placed into sharps containers for disposal as close as possible to the point of use according to all applicable local, state, and federal regulations. Sterilization and Disinfection: (10) All germicides must be used in accordance with intended use and label instructions. (11) Cleaning must precede any disinfection or sterilization process. Products used to clean items or surfaces prior to disinfection procedures shall be used according to all label instructions. (12) Critical instruments, items and devices shall be discarded or pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization shall include steam under pressure (autoclaving), chemical vapor, and dry heat. If a critical item is heat-sensitive, it shall, at minimum, be processed with high-level disinfection and packaged or wrapped upon completion of the disinfection process. These instruments, items, and devices, shall remain sealed and stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility. (13) Semi-critical instruments, items, and devices shall be pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization include steam under pressure (autoclaving), chemical vapor and dry heat. If a semi-critical item is heat sensitive, it shall,

at minimum, be processed with high level disinfection and packaged or wrapped upon completion of the disinfection process. These packages or containers shall remain sealed and shall be stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility. (14) Non-critical surfaces and patient care items shall be cleaned and disinfected with a California Environmental Protection Agency (Cal/EPA)-registered hospital disinfectant (low-level disinfectant) labeled effective against HBV and HIV. When the item is visibly contaminated with blood or OPIM, a Cal/EPA-registered hospital intermediate-level disinfectant with a tuberculocidal claim shall be used. (15) All high-speed dental hand pieces, low-speed hand pieces, rotary components and dental unit attachments such as reusable air/water syringe tips and ultrasonic scaler tips, shall be packaged, labeled and heat-sterilized in a manner consistent with the same sterilization practices as a semi-critical item. (16) Single use disposable items such as prophylaxis angles, prophylaxis cups and brushes, tips for high-speed evacuators, saliva ejectors, air/water syringe tips, and gloves shall be used for one patient only and discarded. (17) Proper functioning of the sterilization cycle of all sterilization devices shall be verified at least weekly through the use of a biological indicator (such as a spore test). Test results shall be documented and maintained for 12 months. Irrigation: (18) Sterile coolants/irrigants shall be used for surgical procedures involving soft tissue or bone. Sterile coolants/irrigants must be delivered using a sterile delivery system. Facilities: (19) If non-critical items or surfaces likely to be contaminated are manufactured in a manner preventing cleaning and disinfection, they shall be protected with disposable impervious barriers. Disposable barriers shall be changed when visibly soiled or damaged and between patients. (20) Clean and disinfect all clinical contact surfaces that are not protected by impervious barriers using a California Environmental Protection Agency (Cal/EPA) registered, hospital grade low- to intermediate-level germicide after each patient. The low-level disinfectants used shall be labeled effective against HBV and HIV. Use disinfectants in accordance with the manufacturer's instructions. Clean all housekeeping surfaces (e.g. floors, walls, sinks) with a detergent and water or a Cal/EPA registered, hospital grade disinfectant. Products used to clean items or surfaces prior to disinfection procedures shall be clearly labeled and DHCP shall follow all material safety data sheet (MSDS) handling and storage instructions. (21) Dental unit water lines shall be anti-retractable. At the beginning of each workday, dental unit lines and devices shall be purged with air or flushed with water for at least two (2) minutes prior to attaching handpieces, scalers, air water syringe tips, or other devices. The dental unit lines and devices shall be flushed between each patient for a minimum of twenty (20) seconds. (22) Contaminated solid waste shall be disposed of according to applicable local, state, and federal environmental standards. Lab Areas: (23) Splash shields and equipment guards shall be used on dental laboratory lathes. Fresh pumice and a sterilized or new rag-wheel shall be used for each patient. Devices used to polish, trim, or adjust contaminated intraoral devices shall be disinfected or sterilized, properly packaged or wrapped and labeled with the date and the specific sterilizer used if more than one sterilizer is utilized

in the facility. If packaging is compromised, the instruments shall be recleaned, packaged in new wrap, and sterilized again. Sterilized items will be stored in a manner so as to prevent contamination. (24) All intraoral items such as impressions, bite registrations, prosthetic and orthodontic appliances shall be cleaned and disinfected with an intermediate-level disinfectant before manipulation in the laboratory and before placement in the patient's mouth. Such items shall be thoroughly rinsed prior to placement in the patient's mouth. (c) The Dental Board of California and Dental Hygiene Committee of California shall review this regulation annually and establish a consensus.

v. 16 CCR § 5193 Bloodborne Pathogens.

vi. CODA Standard 5-1

The program must document its compliance with institutional policy and applicable regulations of local, state and federal agencies including, but not limited to, radiation hygiene and protection, ionizing radiation, hazardous materials, and bloodborne and infectious diseases. Policies must be provided to all students, faculty, and appropriate support staff, and continuously monitored for compliance. Policies on bloodborne and infectious diseases must be made available to applicants for admission and patients.

vii. Centers for Disease Control and Prevention (CDC) Guidelines for Infection Control in Dental Health Care Settings – 2003.

c. Determination

i. **Not in compliance**

ii. Cypress shall follow infection control protocols pursuant to 16 CCR §§ 1105.2 (d)(3)(A), 1105.2(d)(3)(C), 1105.2(d)(3)(D)(xii), 1005, in addition to 8 CCR § 5193, CODA Standard 5-1, and following the recommendations of the CDC Guidelines for Infection Control in Dental Health Care Settings – 2003.

## **8. Deficiency 8 – Patient Privacy and Health Insurance Portability and Accountability Act (HIPAA) and Americans with Disabilities Act (ADA) Compliance**

a. Documentation:

i. Clinic open to reception providing no barrier for patient confidentiality.

1. Distance from reception to patient operator chair 8 feet.

ii. No patient privacy barriers between most patient operator chairs providing no barrier for patient confidentiality.

1. Distance between patient operator chairs (most) 4.5 feet.

iii. Computer display screens displaying protected health information (PHI) clearly visible to entirety of clinic.

iv. Access to reception area limited and not ADA compliant.

- v. Reception desk access limited and not ADA compliant.
- b. Refer to:
  - i. Patient Privacy and Health Insurance Portability and Accountability Act of 1996.
  - ii. Americans with Disabilities Act of 1990.
  - iii. Health and Safety Code (HSC) Division 109, section 130203 (a)  
Every provider of health care shall establish and implement appropriate administrative, technical, and physical safeguards to protect the privacy of a patient's medical information. Every provider of health care shall reasonably safeguard confidential medical information from any unauthorized access or unlawful access, use, or disclosure.
- c. Determination
  - i. **Not in compliance.**
  - ii. Cypress shall follow patient privacy protocols pursuant to the Patient Privacy and Health Insurance Portability and Accountability Act of 1996 and HSC Division 109, section 130203 (a).

You will be required to provide evidence of compliance to the above deficiencies no later than **July 5, 2020**.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene programs meet the same educational standards in preparing their graduates for the profession. If Cypress does not correct the above deficiencies by **July 5, 2020**, Cypress risks the DHBC's approval of the Cypress Dental Hygiene Educational Program and for Cypress graduates to obtain a California license in dental hygiene. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California  
Kendra Velasco R.D.H., M.S., Dental Hygiene Program Coordinator, Cypress College  
Rebecca R. Gomez M.S., M.A., RHIA, Health Science Division Dean, Cypress College



March 11, 2020

Ms. Debbie Moon  
Program Director, Department of Dental Hygiene  
Moreno Valley College  
16130 Lasselle Ave.  
Moreno Valley, CA 92557

Dear Ms. Moon:

The Dental Hygiene Board of California (DHBC) conducted a review of the Moreno Valley College Dental Hygiene Educational Program (MVC) Self Study as a part of DHBC's oversight goals to review all dental hygiene educational programs in California. Based on the results of the review of documentation provided by MVC, it was noted that evidence of program compliance with the minimum dental hygiene educational program standards set by the California Code of Regulations (CCR) and the Commission on Dental Accreditation (CODA) was deficient. On March 11, 2020, MVC provided documentation for the remaining deficiency. The DHBC determination is as follows:

1. Deficiency – Infection Control Oversight and Administrative Staff

a. Staff:

- i. Lack of qualified staff for full-time oversight of infection control processes.
- ii. Lack of administrative staff for full-time oversight of the Moreno Valley (MVC) Dental Hygiene Educational program.

b. Refer to:

- i. CCR
  1. **§ 1105 (i):** The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  2. **§ 1105 (k):** The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
  3. **§ 1105.2(d)(3)(A):** An educational program shall provide infection control equipment according to the requirements of California Code of Regulations, Title 16, Division 10, Chapter 1, Article 1, Section 1005.
- ii. CODA
  1. **3-11:** Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.

2. **4-1:** The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations. Clinical Facilities The dental hygiene facilities must include the following: a) sufficient clinical facility with clinical stations for students including conveniently located hand washing sinks and view boxes and/or computer monitors; a working space for the patient's record adjacent to units; functional, modern equipment; an area that accommodates a full range of operator movement and opportunity for proper instructor supervision; b) a number of clinical stations based on the number of students admitted to a class (If the number of stations is less than the number of students in the class, one clinical station is available for every student scheduled for each clinical session.); c) a capacity of the clinic that accommodates individual student practice on a regularly scheduled basis throughout all phases of preclinical technique and clinical instruction; d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments; e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol; f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols; g) space and furnishings for patient reception and waiting provided adjacent to the clinic; h) patient records kept in an area assuring safety and confidentiality.

c. Determination

i. In compliance.

- ii. MVC provided evidence of adequate administrative and infection control staff to oversee program needs full-time pursuant to 16 CCR §§ 1105(i), 1105(k), and 1105.2 (d)(3)(A), in addition to CODA Standards 3-11 and 4-1.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene educational programs meet the same educational standards in preparing their graduates for the profession. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist

Dental Hygiene Board of California

Cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California  
Robin Steinback, Ph.D., President, Moreno Valley College  
Melody Graveen, Ph.D., CTE, Dean of Instruction, Moreno Valley College



March 13, 2020

Arezou Goshtasbi DDS  
Concorde Career College-Garden Grove  
12951 Euclid Street, Suite 101  
Garden Grove CA 92840

Dear Dr. Goshtasbi,

The Dental Hygiene Board of California (DHBC) conducted a review of the Concorde Career College-Garden Grove Dental Hygiene Educational Program (CCC-GG) Self Study as a part of DHBC's oversight goals to review all dental hygiene educational programs in California. Based on the results of the review of documentation provided by CCC-GG, it was noted that evidence of program compliance with the minimum dental hygiene educational program standards set by the California Code of Regulations (CCR) and the Commission on Dental Accreditation (CODA) was deficient.

On March 12, 2020, CCC-GG submitted a compliance report on the remaining deficiency cited by the DHBC. Determination of the remaining deficiency is as follows:

1. Deficiency: Faculty

- a. 50% reduction in full-time staff was discovered during Self Study review.
  - i. Self Study p. 75
    1. "At this time, all full-time equivalent positions are filled with part-time Faculty Members. We use part-time instructors to cover long hours in clinic and to teach several lecture courses."
  - ii. Two full-time faculty positions currently being held by program director and one other faculty member.
  - iii. Two vacated full-time faculty positions have not been replaced.
    1. Notified via electronic mail by program director on June 13, 2019 after phone call from DHBC.
- b. Refer to:
  - i. **16 CCR § 1105 (i)**: The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.
  - ii. **16 CCR § 1105 (k)**: The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.
  - iii. **16 CCR § 1105.3 (a)(2)(D)**: (a) Each dental hygiene program holding a certificate of approval shall: (2) Notify the Committee within ten (10) days of any: (D) Programmatic reduction in program faculty or support staff of more than 10%.

- iv. **CODA Standard 3-5:** The number and distribution of faculty and staff must be sufficient to meet the dental hygiene program's stated purpose, goals, and objectives.
- c. Determination:
  - i. In compliance.
  - ii. CCC-GG provided evidence of sufficient faculty and staff pursuant to 16 CCR § 1105 (i), 16 CCR § 1105 (k), 16 CCR § 1105.3 (a)(2)(D), and CODA Standard 3-5.

The priority of the DHBC is consumer protection. To ensure consumer protection and the public's right to receive quality dental hygiene care, the DHBC has a responsibility to ensure that all dental hygiene educational programs meet the same educational standards in preparing their graduates for the profession. If you have any questions regarding this report, please feel free to contact me at [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov).

Sincerely,

*Adina A. Pineschi-Petty DDS*

Education, Legislative, and Regulatory Specialist  
Dental Hygiene Board of California

Cc: Anthony Lum, Executive Officer, Dental Hygiene Board of California  
Lisa Rhodes, Campus President, Concorde Career College-Garden Grove



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 4, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum, Executive Officer<br>Presented by Traci Napper, Program Analyst |
| <b>SUBJECT</b> | <b>Licensure Statistics</b>  |

### DHBC Licensure Statistics (as of May 4, 2020)

| LICENSE STATUS  | LICENSE TYPE  |            |           |            |               |
|---|---------------|------------|-----------|------------|---------------|
|   | RDH           | RDHAP      | RDHEF     | FNP        | TOTAL         |
| <b>ACTIVE</b>   | 17,856        | 592        | 23        | 128        | 18,599        |
| <b>INACTIVE</b>   | 1,893         | 42         |           |            | 1,935         |
| <b>DELINQUENT</b>   | 3,534         | 111        | 6         | 72         | 3,723         |
| <b>LICENSED SUBTOTAL</b>  | <b>23,283</b> | <b>745</b> | <b>29</b> | <b>200</b> | <b>24,257</b> |
| <b>REVOKED</b>  | 30            | 1          | 0         | 0          | 31            |
| <b>DENIED</b>   | 0             | 0          | 0         | 0          | 0             |
| <b>VOLUNTARY SURRENDERED</b>  | 16            | 2          | 0         | 0          | 18            |
| <b>CANCELLED</b>  | 9,023         | 26         | 3         | 49         | 9,101         |
| <b>DECEASED</b>   | 220           | 2          | 0         | 0          | 222           |
| <b>RETIRED</b>  | 34            | 0          | 0         | 0          | 34            |
| <b>*COVID-19</b>  | 2             | 0          | 0         | 0          | 2             |
| <b>NON-LICENSED SUBTOTAL</b>  | <b>9,325</b>  | <b>31</b>  | <b>3</b>  | <b>49</b>  | <b>9,408</b>  |
| <b>TOTAL POPULATION</b><br>(Licensed Subtotal plus Non-licensed Subtotal) | <b>32,608</b> | <b>776</b> | <b>32</b> | <b>249</b> | <b>33,665</b> |

#### LICENSE TYPES

Registered Dental Hygienist - **RDH**  
Registered Dental Hygienist in Alternative Practice - **RDHAP**  
Registered Dental Hygienist in Extended Function - **RDHEF**  
Fictitious Name Permit - **FNP**

#### LICENSE STATUS

**Active** – A license that has completed all renewal requirements.  
**Inactive** – Renewal fees paid and license placed on Inactive status.  
(Reasons include: not practicing, live scan or CE incomplete)  
**Delinquent** – Fees have not been paid for one or more renewal periods.  
**Revoked** – Disciplinary action taken; not licensed to practice in CA.  
**Denied** – License or application denied due to disciplinary action.  
**Voluntary Surrendered** – Surrendered license voluntarily due to disciplinary action.  
**Cancelled** – Result from nonpayment of renewal fees for five years after expiration.  
**\*COVID-19** – Corona Virus Pandemic



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 4, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum, Executive Officer<br>Presented by Traci Napper, Program Analyst |
| <b>SUBJECT</b> | <b>Monthly Licensure Statistics</b>  |

### DHBC Licensure Statistics (January 01, 2019 – December 31, 2019)

| MONTHLY LICENSE STATUS | APPLICATIONS RECEIVED |           |           |            |
|------------------------|-----------------------|-----------|-----------|------------|
|                        | RDH WREB/CRDTS        | RDH - LBC | RDHAP     | TOTAL      |
| JANUARY                | 44                    | 3         | 4         | 51         |
| FEBRUARY               | 35                    | 6         | 4         | 45         |
| MARCH                  | 12                    | 10        | 5         | 27         |
| APRIL                  | 23                    | 2         | 9         | 34         |
| MAY                    | 79                    | 3         | 7         | 89         |
| JUNE                   | 191                   | 4         | 3         | 198        |
| JULY                   | 131                   | 3         | 1         | 135        |
| AUGUST                 | 84                    | 6         | 5         | 95         |
| SEPTEMBER              | 64                    | 3         | 0         | 67         |
| OCTOBER                | 61                    | 6         | 1         | 68         |
| NOVEMBER               | 9                     | 2         | 2         | 13         |
| DECEMBER               | 15                    | 0         | 3         | 18         |
| <b>TOTAL</b>           | <b>748</b>            | <b>48</b> | <b>44</b> | <b>840</b> |

| MONTHLY LICENSE STATUS | LICENSES ISSUED |           |           |            |
|------------------------|-----------------|-----------|-----------|------------|
|                        | RDH             | LBC       | RDHAP     | TOTAL      |
| JANUARY                | 39              | 2         | 8         | 49         |
| FEBRUARY               | 47              | 4         | 3         | 54         |
| MARCH                  | 23              | 4         | 3         | 30         |
| APRIL                  | 27              | 1         | 5         | 33         |
| MAY                    | 32              | 2         | 5         | 39         |
| JUNE                   | 116             | 2         | 1         | 119        |
| JULY                   | 120             | 5         | 5         | 130        |
| AUGUST                 | 115             | 2         | 3         | 120        |
| SEPTEMBER              | 71              | 2         | 2         | 75         |
| OCTOBER                | 73              | 4         | 1         | 78         |
| NOVEMBER               | 48              | 3         | 1         | 52         |
| DECEMBER               | 40              | 3         | 0         | 43         |
| <b>TOTAL</b>           | <b>751</b>      | <b>34</b> | <b>37</b> | <b>822</b> |



## MEMORANDUM

|                |  |
|----------------|--|
| <b>DATE</b>    | May 7, 2020  |
| <b>TO</b>      | Dental Hygiene Board of California   |
| <b>FROM</b>    | Anthony Lum, Executive Officer<br>Presented by Traci Napper, Program Analyst |
| <b>SUBJECT</b> | <b>Written Examination Statistics</b>  |

### RDH AND RDHAP WRITTEN LAW AND ETHICS EXAM (NOVEMBER 01, 2019 – MARCH 31, 2020)

|                |                 |             |                  |             |                  |              |
|----------------|-----------------|-------------|------------------|-------------|------------------|--------------|
|                | 400<br>200<br>0 |             |                  |             |                  |              |
|                |                 | <b>Pass</b> | <b>Pass Rate</b> | <b>Fail</b> | <b>Fail Rate</b> | <b>Total</b> |
| ■ <b>RDH</b>   |                 | <b>179</b>  | <b>77%</b>       | <b>54</b>   | <b>23%</b>       | <b>233</b>   |
| ■ <b>RDHAP</b> |                 | <b>11</b>   | <b>65%</b>       | <b>6</b>    | <b>35%</b>       | <b>17</b>    |

| RDH WRITTEN LAW & ETHICS EXAMINATION                                   |                         |                   |                   |       |       |
|--|-------------------------|-------------------|-------------------|-------|-------|
| Date Range   | RDH Candidates Tested   | Pass              |                   | Fail  |       |
| 11/01/2019 – 03/31/2020  | 233                     | 179               | 77%               | 54    | 23%   |
| 03/12/2019 – 10/03/2019  | 726                     | 586               | 81%               | 140   | 19%   |
| 10/20/2018 – 03/11/2019  | 292                     | 242               | 82%               | 50    | 17%   |
| RDHAP WRITTEN LAW & ETHICS EXAMINATION                                 |                         |                   |                   |       |       |
| Date Range   | RDHAP Tested            | Pass              |                   | Fail  |       |
| 11/01/2019 – 03/31/2020  | 17                      | 11                | 65%               | 6     | 35%   |
| 03/12/2019 – 10/03/2019  | 43                      | 29                | 67%               | 14    | 33%   |
| 10/20/2018 – 03/11/2019  | 20                      | 17                | 85%               | 3     | 15%   |
| NUMBER OF ATTEMPTS FOR PASSAGE OF THE RDH OR RDHAP WRITTEN EXAMINATION |                         |                   |                   |       |       |
| 11/01/2019 – 03/31/2020  | 1 <sup>st</sup> Attempt | Multiple Attempts |                   | Total |       |
| <ul style="list-style-type: none"><li>RDH</li><li>RDHAP</li></ul>      | 125                     | 54                |                   | 179   |       |
|  | 11                      | 0                 |                   | 11    |       |
| Total  | 129                     | 51                |                   | 180   |       |
| NUMBER OF OUT-OF-STATE WRITTEN LAW & ETHICS EXAMINATION PARTICIPANTS   |                         |                   |                   |       |       |
| 11/01/2019 – 03/31/2020  | Pass                    |                   | Fail              |       | Total |
| <ul style="list-style-type: none"><li>RDH</li><li>RDHAP</li></ul>      | 2                       | 33%               | 4                 | 67%   | 6     |
|  | 0                       | 0%                | 0                 | 0%    | 0     |
| OUT OF STATE ATTEMPTS  | 1 <sup>st</sup> Attempt |                   | Multiple Attempts |       | Total |
| 11/01/2019 – 03/31/2020  |                         |                   |                   |       |       |
| RDH  | 7                       |                   | 0                 |       | 7     |
| RDHAP  | 0                       |                   | 0                 |       | 0     |

**Dental Hygiene Board of California  
Enforcement Statistics  
FY 19/20**

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| As Of | 7/30 | 8/31 | 9/30 | 10/31 | 11/30 | 12/31 | 1/31 | 2/29 | 3/31 | 4/30 | 5/31 | 6/30 |
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|

**Complaints Received**

|                     |           |           |          |           |           |           |           |           |           |           |  |  |
|---------------------|-----------|-----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|--|
| Consumer Complaints | 16        | 11        | 3        | 3         | 4         | 2         | 8         | 6         | 24        | 22        |  |  |
| Arrests/Convictions | 10        | 15        | 2        | 7         | 3         | 8         | 5         | 6         | 6         | 2         |  |  |
| Applicants          | 13        | 7         | 3        | 9         | 4         | 4         | 2         | 4         | 1         | 2         |  |  |
| <b>Totals</b>       | <b>39</b> | <b>33</b> | <b>8</b> | <b>19</b> | <b>11</b> | <b>14</b> | <b>15</b> | <b>16</b> | <b>31</b> | <b>26</b> |  |  |

**Complaint Case Type Received**

|                                       |    |    |   |    |   |    |   |    |    |    |  |  |
|---------------------------------------|----|----|---|----|---|----|---|----|----|----|--|--|
| Criminal Charges/Convictions          | 23 | 22 | 5 | 16 | 8 | 12 | 6 | 10 | 7  | 3  |  |  |
| Incompetence/Negligence               | 0  | 0  | 0 | 0  | 0 | 0  | 0 | 0  | 0  | 0  |  |  |
| Non-Jurisdictional                    | 0  | 1  | 0 | 1  | 0 | 2  | 0 | 0  | 2  | 0  |  |  |
| Sexual Misconduct                     | 1  | 0  | 0 | 0  | 1 | 0  | 0 | 1  | 0  | 0  |  |  |
| Substance Abuse - No criminal charges | 0  | 0  | 1 | 0  | 1 | 0  | 0 | 0  | 0  | 0  |  |  |
| Unprofessional Conduct                | 12 | 6  | 2 | 1  | 0 | 0  | 8 | 2  | 19 | 22 |  |  |
| Unlicensed                            | 2  | 4  | 0 | 1  | 0 | 0  | 0 | 2  | 0  | 0  |  |  |
| Unsafe/Unsanitary Conditions          | 1  | 0  | 0 | 0  | 1 | 0  | 1 | 0  | 2  | 2  |  |  |
| Other                                 | 0  | 0  | 0 | 0  | 0 | 0  | 0 | 1  | 1  | 0  |  |  |

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## Enforcement Statistics

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| As Of | 7/30 | 8/31 | 9/30 | 10/31 | 11/30 | 12/31 | 1/31 | 2/29 | 3/31 | 4/30 | 5/31 | 6/30 |
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|

#### Complaint Closures w/no additional Disciplinary or Administrative Action

|   |           |           |           |           |           |           |           |           |           |           |  |  |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|--|
| Application Approved  | 9         | 4         | 3         | 10        | 4         | 5         | 3         | 4         | 1         | 3         |  |  |
| Insufficient Evidence   | 1         | 6         | 5         | 3         | 3         | 3         | 0         | 2         | 6         | 1         |  |  |
| No Violation  | 5         | 4         | 2         | 0         | 1         | 0         | 2         | 1         | 2         | 3         |  |  |
| No Jurisdiction   | 6         | 4         | 2         | 0         | 1         | 3         | 6         | 2         | 3         | 1         |  |  |
| Other (includes, but not limited to redundant complaints and those awaiting criminal disposition) | 14        | 3         | 9         | 1         | 3         | 2         | 10        | 2         | 1         | 2         |  |  |
| <b>Totals</b>   | <b>35</b> | <b>21</b> | <b>21</b> | <b>14</b> | <b>12</b> | <b>13</b> | <b>21</b> | <b>11</b> | <b>13</b> | <b>10</b> |  |  |

#### Investigations

##### Open Investigations

|                      |             |             |           |           |           |           |           |           |           |           |  |  |
|----------------------|-------------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|--|
| Desk Investigations  | *N/A        | *N/A        | 41        | 40        | 40        | 31        | 24        | 21        | 37        | 26        |  |  |
| Field Investigations | *N/A        | *N/A        | 46        | 46        | 47        | 41        | 39        | 42        | 40        | 41        |  |  |
| <b>Totals</b>        | <b>*N/A</b> | <b>*N/A</b> | <b>87</b> | <b>86</b> | <b>87</b> | <b>72</b> | <b>63</b> | <b>63</b> | <b>77</b> | <b>67</b> |  |  |

##### Closed Investigations

|                      |           |           |           |           |           |           |           |           |           |           |  |  |
|----------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|--|
| Desk Investigations  | 25        | 12        | 14        | 25        | 12        | 17        | 19        | 9         | 26        | 24        |  |  |
| Field Investigations | 4         | 3         | 4         | 4         | 3         | 3         | 6         | 2         | 7         | 4         |  |  |
| <b>Totals</b>        | <b>29</b> | <b>15</b> | <b>18</b> | <b>29</b> | <b>15</b> | <b>20</b> | <b>25</b> | <b>11</b> | <b>33</b> | <b>28</b> |  |  |

# Dental Hygiene Board of California

## Enforcement Statistics

### FY 19/20

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| As Of | 7/30 | 8/31 | 9/30 | 10/31 | 11/30 | 12/31 | 1/31 | 2/29 | 3/31 | 4/30 | 5/31 | 6/30 |
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|

#### Case Aging for Investigations (Open Cases)

##### Desk Investigations

|                      |      |      |    |    |    |    |    |    |    |    |  |  |
|----------------------|------|------|----|----|----|----|----|----|----|----|--|--|
| 0-6 months           | *N/A | *N/A | 25 | 23 | 14 | 22 | 19 | 17 | 33 | 22 |  |  |
| 7-12 months          | *N/A | *N/A | 11 | 10 | 8  | 9  | 5  | 4  | 2  | 3  |  |  |
| >1 yr - 1.5 years    | *N/A | *N/A | 5  | 3  | 5  | 0  | 0  | 1  | 2  | 1  |  |  |
| >1.5 years - 2 years | *N/A | *N/A | 5  | 4  | 3  | 0  | 0  | 0  | 0  | 0  |  |  |
| >2 years             | *N/A | *N/A | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  |  |  |

##### Field Investigations

|                      |      |      |    |    |    |    |   |    |    |    |  |  |
|----------------------|------|------|----|----|----|----|---|----|----|----|--|--|
| 0-6 months           | *N/A | *N/A | 14 | 15 | 15 | 12 | 9 | 11 | 15 | 19 |  |  |
| 7-12 months          | *N/A | *N/A | 12 | 10 | 10 | 8  | 9 | 12 | 11 | 9  |  |  |
| >1 yr - 1.5 years    | *N/A | *N/A | 7  | 8  | 9  | 10 | 9 | 10 | 7  | 6  |  |  |
| >1.5 years - 2 years | *N/A | *N/A | 8  | 7  | 6  | 5  | 7 | 6  | 5  | 4  |  |  |
| >2 years             | *N/A | *N/A | 5  | 6  | 7  | 6  | 5 | 3  | 2  | 3  |  |  |

#### Attorney General's Office (AG)

##### Discipline

|                           |   |   |   |   |   |   |   |   |   |   |  |  |
|---------------------------|---|---|---|---|---|---|---|---|---|---|--|--|
| Cases Transmitted to AG   | 0 | 1 | 4 | 8 | 1 | 6 | 2 | 0 | 2 | 1 |  |  |
| Statement of Issues Filed | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |  |  |
| Accusations Filed         | 1 | 0 | 0 | 2 | 4 | 1 | 0 | 0 | 2 | 1 |  |  |
| Accusations Withdrawn     | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |  |  |
| Revocation                | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 1 |  |  |
| Surrender                 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |  |  |
| Probation                 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 3 | 1 | 0 |  |  |

# Dental Hygiene Board of California

## Enforcement Statistics

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| As Of  | 7/30 | 8/31 | 9/30 | 10/31 | 11/30 | 12/31 | 1/31 | 2/29 | 3/31 | 4/30 | 5/31 | 6/30 |
|--|------|------|------|-------|-------|-------|------|------|------|------|------|------|
| <b>Probation Subsequent Discipline</b>         |      |      |      |       |       |       |      |      |      |      |      |      |
| Subsequent Case Transmitted to AG              | 2    | 1    | 2    | 5     | 1     | 1     | 0    | 1    | 1    | 1    |      |      |
| Petition to Revoke Probation Filed             | 0    | 1    | 2    | 3     | 2     | 2     | 0    | 0    | 0    | 0    |      |      |
| Accusation/Petition to Revoked Probation Filed | 0    | 0    | 0    | 0     | 0     | 0     | 0    | 0    | 0    | 0    |      |      |
| Revoked  | 0    | 0    | 1    | 0     | 0     | 1     | 0    | 0    | 0    | 0    |      |      |
| Surrendered                                    | 0    | 1    | 0    | 0     | 0     | 1     | 1    | 0    | 0    | 0    |      |      |
| Probation Extended                             | 0    | 1    | 0    | 0     | 0     | 0     | 0    | 0    | 1    | 0    |      |      |

### All AG Cases Pending Disciplinary Action

|               |      |      |    |    |    |    |    |    |    |    |  |  |
|---------------|------|------|----|----|----|----|----|----|----|----|--|--|
| <b>Totals</b> | *N/A | *N/A | 17 | 26 | 28 | 34 | 34 | 32 | 31 | 31 |  |  |
|---------------|------|------|----|----|----|----|----|----|----|----|--|--|

### Case Aging for Pending AG Cases From Time of Transmittal

|                      |      |      |    |    |    |    |    |    |    |    |  |  |
|----------------------|------|------|----|----|----|----|----|----|----|----|--|--|
| 0-6 months           | *N/A | *N/A | 11 | 21 | 23 | 28 | 28 | 25 | 23 | 17 |  |  |
| 7-12 months          | *N/A | *N/A | 3  | 3  | 3  | 3  | 4  | 6  | 7  | 11 |  |  |
| >1 yr - 1.5 years    | *N/A | *N/A | 3  | 2  | 2  | 2  | 2  | 1  | 0  | 2  |  |  |
| >1.5 years - 2 years | *N/A | *N/A | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1  |  |  |
| >2 years             | *N/A | *N/A | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  |  |  |

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|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|
|-------|------|------|------|-------|-------|-------|------|------|------|------|------|------|

**Citation/Fine**

|                                  |              |   |    |   |   |   |   |   |   |    |  |  |
|----------------------------------|--------------|---|----|---|---|---|---|---|---|----|--|--|
| Citations Issued                 | 1            | 3 | 13 | 3 | 2 | 2 | 3 | 0 | 2 | 23 |  |  |
| Citations Dismissed              | 0            | 0 | 0  | 0 | 1 | 0 | 0 | 0 | 0 | 0  |  |  |
| Total Amount Ordered<br>FY 19/20 | \$ 26,900.00 |   |    |   |   |   |   |   |   |    |  |  |

**Probation**

|   |    |    |    |    |    |    |    |    |    |    |  |  |
|---|----|----|----|----|----|----|----|----|----|----|--|--|
| Active Probationers                           | 41 | 39 | 40 | 41 | 41 | 39 | 36 | 39 | 38 | 37 |  |  |
| Tolled Probationers                           | 3  | 3  | 3  | 3  | 3  | 3  | 3  | 3  | 3  | 3  |  |  |
| Probationers                                  | 26 | 24 | 24 | 24 | 24 | 22 | 20 | 22 | 23 | 22 |  |  |
| Positive Drug Screen for<br>Banned Substances | 3  | 3  | 3  | 4  | 3  | 0  | 1  | 0  | 0  | 1  |  |  |
| Violations of Probation<br>Issued             | 8  | 4  | 6  | 5  | 1  | 7  | 6  | 5  | 5  | 9  |  |  |