

AMENDED IN SENATE APRIL 16, 2013

SENATE BILL

No. 304

Introduced by Senator Price
(Principal coauthor: Assembly Member Gordon)

February 15, 2013

An act to amend Sections ~~2001, 2020, 2569, 3010.5, and 3014.6~~ of 651, 2021, 2177, 2220.08, 2225.5, 2334, 2514, and 2569 of, and to add Sections 2291.5 and 2403 to, the Business and Professions Code, and to amend Sections 11529, 12529.6, and 12529.7 of, and to amend and repeal Sections 12529 and 12529.5 of, the Government Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 304, as amended, Price. Healing arts: boards.

~~Existing law provides for the licensure and regulation of various healing arts licensees by various boards, as defined, within the Department of Consumer Affairs, including the Medical Board of California. Existing law requires the Governor to appoint members to the board, as provided. Existing law authorizes the board to employ an executive director. Existing law provides that those provisions will be repealed on January 1, 2014. Under existing law, the board is subject to evaluation by the Joint Sunset Review Committee.~~

~~This bill would instead repeal those provisions on January 1, 2018, and subject the board to review by the appropriate policy committees of the Legislature.~~

~~Existing law makes it unlawful for a healing arts practitioner to disseminate, or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of, or likely to induce, the~~

rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. Existing law provides for the licensure of physicians and surgeons by the Medical Board of California. Existing law prohibits a physician and surgeon's advertisements from including a statement that he or she is certified or eligible for certification by a private or public board or parent association, including a multidisciplinary board or association, as defined, unless that board or association meets at least one of several standards, including being a board or association with equivalent requirements approved by that physician and surgeon's licensing board. A violation of these requirements is a crime.

This bill would limit the application of that exception to a board or association with equivalent requirements approved by that physician and surgeon's licensing board prior to January 1, 2014. The bill would establish that the exception continues to apply to a multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2014.

Because the bill would specify additional provisions regarding the advertising practices of healing art practitioners, the violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

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

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

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

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

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

This bill would require that a physician and surgeon's failure to comply with an order related to these examination requirements shall result in the issuance of notification from the board to cease the practice of medicine immediately until the ordered examinations have been completed and would provide that continued failure to comply would be grounds for suspension or revocation of his or her certificate.

Existing law prohibits a party from bringing expert testimony in a matter brought by the board unless certain information is exchanged in written form with counsel for the other party, as specified, within 30 calendar days prior to the commencement of the hearing. Existing law provides that the information exchanged include a brief narrative statement of the testimony the expert is expected to bring.

This bill would instead require that information to be exchanged within 90 days from the filing of a notice of defense and would instead require the information to include a complete expert witness report.

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

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

Existing law, the Licensed Midwifery Practice Act of 1993, licenses and regulates licensed midwives by the Medical Board of California. Existing law specifies that a midwife student meeting certain conditions is not precluded from engaging in the practice of midwifery as part of his or her course of study, if certain conditions are met, including, that the student is under the supervision of a licensed midwife.

This bill would require that to engage in those practices, the student is to be enrolled and participating in a midwifery education program or enrolled in a program of supervised clinical training, as provided. The bill would add that the student is permitted to engage in those

practices if he or she is under the supervision of a licensed nurse-midwife.

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

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

Existing law authorizes the administrative law judge of the Medical Quality Hearing Panel to issue an interim order related to licenses, as provided. Existing law requires that in all of those cases in which an interim order is issued, and an accusation is not filed and served within 15 days of the date in which the parties to the hearing have submitted the matter, the order be dissolved.

This bill would extend the time in which the accusation must be filed and served to 30 days from the date on which the parties to the hearing submitted the matter.

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

This bill would extend the operation of those provisions indefinitely.

Existing law establishes a vertical enforcement and prosecution model for cases before the Medical Board of California. Existing law requires that a complaint referred to a district office of the board for investigation also be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health and Quality Enforcement Section, as provided. Existing law provides for the repeal of those

provisions, as provided, on January 1, 2014. Existing law requires the board to report to the Governor and Legislature on the vertical prosecution model by March 1, 2012.

This bill would extend the operation of those provisions indefinitely and would extend the date that report is due to March 1, 2015.

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.

Existing law provides for the licensure and regulation of optometrists by the State Board of Optometry. Existing law requires that the board consist of specified members and authorizes the board to appoint an executive officer. Existing law repeals those provisions on January 1, 2014 and subjects the board to review by the Joint Sunset Review Committee.

This bill would instead repeal those provisions on January 1, 2018, and require that the board be subject to review by the appropriate policy committees of the Legislature.

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

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

- 1 SECTION 1. ~~Section 2001 of the Business and Professions~~
- 2 ~~Code is amended to read:~~
- 3 2001. (a) ~~There is in the Department of Consumer Affairs a~~
- 4 ~~Medical Board of California that consists of 15 members, seven~~
- 5 ~~of whom shall be public members.~~
- 6 (b) ~~The Governor shall appoint 13 members to the board, subject~~
- 7 ~~to confirmation by the Senate, five of whom shall be public~~
- 8 ~~members. The Senate Committee on Rules and the Speaker of the~~
- 9 ~~Assembly shall each appoint a public member.~~
- 10 (c) ~~This section shall remain in effect only until January 1, 2018,~~
- 11 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 12 ~~is enacted before January 1, 2018, deletes or extends that date.~~
- 13 ~~Notwithstanding any other law, the repeal of this section renders~~
- 14 ~~the board subject to review by the appropriate policy committees~~
- 15 ~~of the Legislature.~~

1 ~~SEC. 2. Section 2020 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~2020. (a) The board may employ an executive director exempt~~
4 ~~from the provisions of the Civil Service Act and may also employ~~
5 ~~investigators, legal counsel, medical consultants, and other~~
6 ~~assistance as it may deem necessary to carry this chapter into effect.~~
7 ~~The board may fix the compensation to be paid for services subject~~
8 ~~to the provisions of applicable state laws and regulations and may~~
9 ~~incur other expenses as it may deem necessary. Investigators~~
10 ~~employed by the board shall be provided special training in~~
11 ~~investigating medical practice activities.~~

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

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

18 *SECTION 1. Section 651 of the Business and Professions Code*
19 *is amended to read:*

20 651. (a) It is unlawful for any person licensed under this
21 division or under any initiative act referred to in this division to
22 disseminate or cause to be disseminated any form of public
23 communication containing a false, fraudulent, misleading, or
24 deceptive statement, claim, or image for the purpose of or likely
25 to induce, directly or indirectly, the rendering of professional
26 services or furnishing of products in connection with the
27 professional practice or business for which he or she is licensed.
28 A “public communication” as used in this section includes, but is
29 not limited to, communication by means of mail, television, radio,
30 motion picture, newspaper, book, list or directory of healing arts
31 practitioners, Internet, or other electronic communication.

32 (b) A false, fraudulent, misleading, or deceptive statement,
33 claim, or image includes a statement or claim that does any of the
34 following:

35 (1) Contains a misrepresentation of fact.

36 (2) Is likely to mislead or deceive because of a failure to disclose
37 material facts.

38 (3) (A) Is intended or is likely to create false or unjustified
39 expectations of favorable results, including the use of any
40 photograph or other image that does not accurately depict the

1 results of the procedure being advertised or that has been altered
2 in any manner from the image of the actual subject depicted in the
3 photograph or image.

4 (B) Use of any photograph or other image of a model without
5 clearly stating in a prominent location in easily readable type the
6 fact that the photograph or image is of a model is a violation of
7 subdivision (a). For purposes of this paragraph, a model is anyone
8 other than an actual patient, who has undergone the procedure
9 being advertised, of the licensee who is advertising for his or her
10 services.

11 (C) Use of any photograph or other image of an actual patient
12 that depicts or purports to depict the results of any procedure, or
13 presents “before” and “after” views of a patient, without specifying
14 in a prominent location in easily readable type size what procedures
15 were performed on that patient is a violation of subdivision (a).
16 Any “before” and “after” views (i) shall be comparable in
17 presentation so that the results are not distorted by favorable poses,
18 lighting, or other features of presentation, and (ii) shall contain a
19 statement that the same “before” and “after” results may not occur
20 for all patients.

21 (4) Relates to fees, other than a standard consultation fee or a
22 range of fees for specific types of services, without fully and
23 specifically disclosing all variables and other material factors.

24 (5) Contains other representations or implications that in
25 reasonable probability will cause an ordinarily prudent person to
26 misunderstand or be deceived.

27 (6) Makes a claim either of professional superiority or of
28 performing services in a superior manner, unless that claim is
29 relevant to the service being performed and can be substantiated
30 with objective scientific evidence.

31 (7) Makes a scientific claim that cannot be substantiated by
32 reliable, peer reviewed, published scientific studies.

33 (8) Includes any statement, endorsement, or testimonial that is
34 likely to mislead or deceive because of a failure to disclose material
35 facts.

36 (c) Any price advertisement shall be exact, without the use of
37 phrases, including, but not limited to, “as low as,” “and up,”
38 “lowest prices,” or words or phrases of similar import. Any
39 advertisement that refers to services, or costs for services, and that
40 uses words of comparison shall be based on verifiable data

1 substantiating the comparison. Any person so advertising shall be
2 prepared to provide information sufficient to establish the accuracy
3 of that comparison. Price advertising shall not be fraudulent,
4 deceitful, or misleading, including statements or advertisements
5 of bait, discount, premiums, gifts, or any statements of a similar
6 nature. In connection with price advertising, the price for each
7 product or service shall be clearly identifiable. The price advertised
8 for products shall include charges for any related professional
9 services, including dispensing and fitting services, unless the
10 advertisement specifically and clearly indicates otherwise.

11 (d) Any person so licensed shall not compensate or give anything
12 of value to a representative of the press, radio, television, or other
13 communication medium in anticipation of, or in return for,
14 professional publicity unless the fact of compensation is made
15 known in that publicity.

16 (e) Any person so licensed may not use any professional card,
17 professional announcement card, office sign, letterhead, telephone
18 directory listing, medical list, medical directory listing, or a similar
19 professional notice or device if it includes a statement or claim
20 that is false, fraudulent, misleading, or deceptive within the
21 meaning of subdivision (b).

22 (f) Any person so licensed who violates this section is guilty of
23 a misdemeanor. A bona fide mistake of fact shall be a defense to
24 this subdivision, but only to this subdivision.

25 (g) Any violation of this section by a person so licensed shall
26 constitute good cause for revocation or suspension of his or her
27 license or other disciplinary action.

28 (h) Advertising by any person so licensed may include the
29 following:

- 30 (1) A statement of the name of the practitioner.
- 31 (2) A statement of addresses and telephone numbers of the
32 offices maintained by the practitioner.
- 33 (3) A statement of office hours regularly maintained by the
34 practitioner.
- 35 (4) A statement of languages, other than English, fluently spoken
36 by the practitioner or a person in the practitioner's office.
- 37 (5) (A) A statement that the practitioner is certified by a private
38 or public board or agency or a statement that the practitioner limits
39 his or her practice to specific fields.

1 (B) A statement of certification by a practitioner licensed under
2 Chapter 7 (commencing with Section 3000) shall only include a
3 statement that he or she is certified or eligible for certification by
4 a private or public board or parent association recognized by that
5 practitioner’s licensing board.

6 (C) A physician and surgeon licensed under Chapter 5
7 (commencing with Section 2000) by the Medical Board of
8 California may include a statement that he or she limits his or her
9 practice to specific fields, but shall not include a statement that he
10 or she is certified or eligible for certification by a private or public
11 board or parent association, ~~including, but not limited to, a~~
12 ~~multidisciplinary board or association,~~ unless that board or
13 association is (i) an American Board of Medical Specialties
14 member board, (ii) a board or association with equivalent
15 requirements approved by that physician and surgeon’s licensing
16 ~~board,~~ *board prior to January 1, 2014,* or (iii) a board or
17 association with an Accreditation Council for Graduate Medical
18 Education approved postgraduate training program that provides
19 complete training in that specialty or subspecialty. A physician
20 and surgeon licensed under Chapter 5 (commencing with Section
21 2000) by the Medical Board of California who is certified by an
22 organization other than a board or association referred to in clause
23 (i), (ii), or (iii) shall not use the term “board certified” in reference
24 to that certification, unless the physician and surgeon is also
25 licensed under Chapter 4 (commencing with Section 1600) and
26 the use of the term “board certified” in reference to that certification
27 is in accordance with subparagraph (A). A physician and surgeon
28 licensed under Chapter 5 (commencing with Section 2000) by the
29 Medical Board of California who is certified by a board or
30 association referred to in clause (i), (ii), or (iii) shall not use the
31 term “board certified” unless the full name of the certifying board
32 is also used and given comparable prominence with the term “board
33 certified” in the statement.

34 ~~For purposes of this subparagraph, a “multidisciplinary board~~
35 ~~or association” means an educational certifying body that has a~~
36 ~~psychometrically valid testing process, as determined by the~~
37 ~~Medical Board of California, for certifying medical doctors and~~
38 ~~other health care professionals that is based on the applicant’s~~
39 ~~education, training, and experience.~~

1 *A multidisciplinary board or association approved by the*
2 *Medical Board of California prior to January 1, 2014, shall retain*
3 *that approval.*

4 For purposes of the term “board certified,” as used in this
5 subparagraph, the terms “board” and “association” mean an
6 organization that is an American Board of Medical Specialties
7 member board, an organization with equivalent requirements
8 approved by a physician and surgeon’s licensing board, board
9 prior to January 1, 2014, or an organization with an Accreditation
10 Council for Graduate Medical Education approved postgraduate
11 training program that provides complete training in a specialty or
12 subspecialty.

13 ~~The Medical Board of California shall adopt regulations to~~
14 ~~establish and collect a reasonable fee from each board or~~
15 ~~association applying for recognition pursuant to this subparagraph.~~
16 ~~The fee shall not exceed the cost of administering this~~
17 ~~subparagraph. Notwithstanding Section 2 of Chapter 1660 of the~~
18 ~~Statutes of 1990, this subparagraph shall become operative July~~
19 ~~1, 1993. However, an administrative agency or accrediting~~
20 ~~organization may take any action contemplated by this~~
21 ~~subparagraph relating to the establishment or approval of specialist~~
22 ~~requirements on and after January 1, 1991.~~

23 (D) A doctor of podiatric medicine licensed under Chapter 5
24 (commencing with Section 2000) by the Medical Board of
25 California may include a statement that he or she is certified or
26 eligible or qualified for certification by a private or public board
27 or parent association, including, but not limited to, a
28 multidisciplinary board or association, if that board or association
29 meets one of the following requirements: (i) is approved by the
30 Council on Podiatric Medical Education, (ii) is a board or
31 association with equivalent requirements approved by the
32 California Board of Podiatric Medicine, or (iii) is a board or
33 association with the Council on Podiatric Medical Education
34 approved postgraduate training programs that provide training in
35 podiatric medicine and podiatric surgery. A doctor of podiatric
36 medicine licensed under Chapter 5 (commencing with Section
37 2000) by the Medical Board of California who is certified by a
38 board or association referred to in clause (i), (ii), or (iii) shall not
39 use the term “board certified” unless the full name of the certifying
40 board is also used and given comparable prominence with the term

1 “board certified” in the statement. A doctor of podiatric medicine
2 licensed under Chapter 5 (commencing with Section 2000) by the
3 Medical Board of California who is certified by an organization
4 other than a board or association referred to in clause (i), (ii), or
5 (iii) shall not use the term “board certified” in reference to that
6 certification.

7 For purposes of this subparagraph, a “multidisciplinary board
8 or association” means an educational certifying body that has a
9 psychometrically valid testing process, as determined by the
10 California Board of Podiatric Medicine, for certifying doctors of
11 podiatric medicine that is based on the applicant’s education,
12 training, and experience. For purposes of the term “board certified,”
13 as used in this subparagraph, the terms “board” and “association”
14 mean an organization that is a Council on Podiatric Medical
15 Education approved board, an organization with equivalent
16 requirements approved by the California Board of Podiatric
17 Medicine, or an organization with a Council on Podiatric Medical
18 Education approved postgraduate training program that provides
19 training in podiatric medicine and podiatric surgery.

20 The California Board of Podiatric Medicine shall adopt
21 regulations to establish and collect a reasonable fee from each
22 board or association applying for recognition pursuant to this
23 subparagraph, to be deposited in the State Treasury in the Podiatry
24 Fund, pursuant to Section 2499. The fee shall not exceed the cost
25 of administering this subparagraph.

26 (6) A statement that the practitioner provides services under a
27 specified private or public insurance plan or health care plan.

28 (7) A statement of names of schools and postgraduate clinical
29 training programs from which the practitioner has graduated,
30 together with the degrees received.

31 (8) A statement of publications authored by the practitioner.

32 (9) A statement of teaching positions currently or formerly held
33 by the practitioner, together with pertinent dates.

34 (10) A statement of his or her affiliations with hospitals or
35 clinics.

36 (11) A statement of the charges or fees for services or
37 commodities offered by the practitioner.

38 (12) A statement that the practitioner regularly accepts
39 installment payments of fees.

1 (13) Otherwise lawful images of a practitioner, his or her
2 physical facilities, or of a commodity to be advertised.

3 (14) A statement of the manufacturer, designer, style, make,
4 trade name, brand name, color, size, or type of commodities
5 advertised.

6 (15) An advertisement of a registered dispensing optician may
7 include statements in addition to those specified in paragraphs (1)
8 to (14), inclusive, provided that any statement shall not violate
9 subdivision (a), (b), (c), or (e) or any other section of this code.

10 (16) A statement, or statements, providing public health
11 information encouraging preventative or corrective care.

12 (17) Any other item of factual information that is not false,
13 fraudulent, misleading, or likely to deceive.

14 (i) Each of the healing arts boards and examining committees
15 within Division 2 shall adopt appropriate regulations to enforce
16 this section in accordance with Chapter 3.5 (commencing with
17 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
18 Code.

19 Each of the healing arts boards and committees and examining
20 committees within Division 2 shall, by regulation, define those
21 efficacious services to be advertised by businesses or professions
22 under their jurisdiction for the purpose of determining whether
23 advertisements are false or misleading. Until a definition for that
24 service has been issued, no advertisement for that service shall be
25 disseminated. However, if a definition of a service has not been
26 issued by a board or committee within 120 days of receipt of a
27 request from a licensee, all those holding the license may advertise
28 the service. Those boards and committees shall adopt or modify
29 regulations defining what services may be advertised, the manner
30 in which defined services may be advertised, and restricting
31 advertising that would promote the inappropriate or excessive use
32 of health services or commodities. A board or committee shall not,
33 by regulation, unreasonably prevent truthful, nondeceptive price
34 or otherwise lawful forms of advertising of services or
35 commodities, by either outright prohibition or imposition of
36 onerous disclosure requirements. However, any member of a board
37 or committee acting in good faith in the adoption or enforcement
38 of any regulation shall be deemed to be acting as an agent of the
39 state.

1 (j) The Attorney General shall commence legal proceedings in
2 the appropriate forum to enjoin advertisements disseminated or
3 about to be disseminated in violation of this section and seek other
4 appropriate relief to enforce this section. Notwithstanding any
5 other provision of law, the costs of enforcing this section to the
6 respective licensing boards or committees may be awarded against
7 any licensee found to be in violation of any provision of this
8 section. This shall not diminish the power of district attorneys,
9 county counsels, or city attorneys pursuant to existing law to seek
10 appropriate relief.

11 (k) A physician and surgeon or doctor of podiatric medicine
12 licensed pursuant to Chapter 5 (commencing with Section 2000)
13 by the Medical Board of California who knowingly and
14 intentionally violates this section may be cited and assessed an
15 administrative fine not to exceed ten thousand dollars (\$10,000)
16 per event. Section 125.9 shall govern the issuance of this citation
17 and fine except that the fine limitations prescribed in paragraph
18 (3) of subdivision (b) of Section 125.9 shall not apply to a fine
19 under this subdivision.

20 *SEC. 2. Section 2021 of the Business and Professions Code is*
21 *amended to read:*

22 2021. (a) If the board publishes a directory pursuant to Section
23 112, it may require persons licensed pursuant to this chapter to
24 furnish any information as it may deem necessary to enable it to
25 compile the directory.

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

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

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

40 (d)

1 (e) The board shall annually send an electronic notice to each
 2 applicant and licensee ~~who has chosen to receive correspondence~~
 3 ~~via electronic mail~~ that requests confirmation from the applicant
 4 or licensee that his or her electronic mail address is current. ~~An~~
 5 ~~applicant or licensee that does not confirm his or her electronic~~
 6 ~~mail address shall receive correspondence at a mailing address~~
 7 ~~provided pursuant to subdivision (b).~~

8 *SEC. 3. Section 2177 of the Business and Professions Code is*
 9 *amended to read:*

10 2177. (a) A passing score is required for an entire examination
 11 or for each part of an examination, as established by resolution of
 12 the board.

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

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

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

24 *SEC. 4. Section 2220.08 of the Business and Professions Code*
 25 *is amended to read:*

26 2220.08. (a) Except for reports received by the board pursuant
 27 to Section 801.01 or 805 that may be treated as complaints by the
 28 board and new complaints relating to a physician and surgeon who
 29 is the subject of a pending accusation or investigation or who is
 30 on probation, any complaint determined to involve quality of care,
 31 before referral to a field office for further investigation, shall meet
 32 the following criteria:

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

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

39 (A) Relevant patient records.

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

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

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

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

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

16 *SEC. 5. Section 2225.5 of the Business and Professions Code*
17 *is amended to read:*

18 2225.5. (a) (1) A licensee who fails or refuses to comply with
19 a request for the certified medical records of a patient, that is
20 accompanied by that patient's written authorization for release of
21 records to the board, within 15 days of receiving the request and
22 authorization, shall pay to the board a civil penalty of one thousand
23 dollars (\$1,000) per day for each day that the documents have not
24 been produced after the 15th day, up to ten thousand dollars
25 (\$10,000), unless the licensee is unable to provide the documents
26 within this time period for good cause.

27 (2) A health care facility shall comply with a request for the
28 certified medical records of a patient that is accompanied by that
29 patient's written authorization for release of records to the board
30 together with a notice citing this section and describing the
31 penalties for failure to comply with this section. Failure to provide
32 the authorizing patient's certified medical records to the board
33 within 30 days of receiving the request, authorization, and notice
34 shall subject the health care facility to a civil penalty, payable to
35 the board, of up to one thousand dollars (\$1,000) per day for each
36 day that the documents have not been produced after the 30th day,
37 up to ten thousand dollars (\$10,000), unless the health care facility
38 is unable to provide the documents within this time period for good
39 cause. *For health care facilities that have electronic health records,*
40 *failure to provide the authorizing patient's certified medical*

1 *records to the board within 15 days of receiving the request,*
2 *authorization, and notice shall subject the health care facility to*
3 *a civil penalty, payable to the board, of up to one thousand dollars*
4 *(\$1,000) per day for each day that the documents have not been*
5 *produced after the 15th day, up to ten thousand dollars (\$10,000),*
6 *unless the health care facility is unable to provide the documents*
7 *within this time period for good cause. This paragraph shall not*
8 *require health care facilities to assist the board in obtaining the*
9 *patient's authorization. The board shall pay the reasonable costs*
10 *of copying the certified medical records.*

11 (b) (1) A licensee who fails or refuses to comply with a court
12 order, issued in the enforcement of a subpoena, mandating the
13 release of records to the board shall pay to the board a civil penalty
14 of one thousand dollars (\$1,000) per day for each day that the
15 documents have not been produced after the date by which the
16 court order requires the documents to be produced, up to ten
17 thousand dollars (\$10,000), unless it is determined that the order
18 is unlawful or invalid. Any statute of limitations applicable to the
19 filing of an accusation by the board shall be tolled during the period
20 the licensee is out of compliance with the court order and during
21 any related appeals.

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

31 (3) A health care facility that fails or refuses to comply with a
32 court order, issued in the enforcement of a subpoena, mandating
33 the release of patient records to the board, that is accompanied by
34 a notice citing this section and describing the penalties for failure
35 to comply with this section, shall pay to the board a civil penalty
36 of up to one thousand dollars (\$1,000) per day for each day that
37 the documents have not been produced, up to ten thousand dollars
38 (\$10,000), after the date by which the court order requires the
39 documents to be produced, unless it is determined that the order
40 is unlawful or invalid. Any statute of limitations applicable to the

1 filing of an accusation by the board against a licensee shall be
2 tolled during the period the health care facility is out of compliance
3 with the court order and during any related appeals.

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

12 (c) Multiple acts by a licensee in violation of subdivision (b)
13 shall be punishable by a fine not to exceed five thousand dollars
14 (\$5,000) or by imprisonment in a county jail not exceeding six
15 months, or by both that fine and imprisonment. Multiple acts by
16 a health care facility in violation of subdivision (b) shall be
17 punishable by a fine not to exceed five thousand dollars (\$5,000)
18 and shall be reported to the State Department of Public Health and
19 shall be considered as grounds for disciplinary action with respect
20 to licensure, including suspension or revocation of the license or
21 certificate.

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

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

30 (f) For purposes of this section, “certified medical records”
31 means a copy of the patient’s medical records authenticated by the
32 licensee or health care facility, as appropriate, on a form prescribed
33 by the board.

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

38 *SEC. 6. Section 2291.5 is added to the Business and Professions*
39 *Code, to read:*

1 2291.5. A physician and surgeon's failure to comply with an
2 order issued under Section 820 shall result in the issuance of
3 notification from the board to cease the practice of medicine
4 immediately upon the receipt of that notification. The physician
5 and surgeon shall cease the practice of medicine until the ordered
6 examinations have been completed. A physician and surgeon's
7 continued failure to comply with an order issued under Section
8 820 shall constitute grounds for suspension or revocation of his
9 or her certificate.

10 SEC. 7. Section 2334 of the Business and Professions Code is
11 amended to read:

12 2334. (a) Notwithstanding any other provision of law, with
13 respect to the use of expert testimony in matters brought by the
14 Medical Board of California, no expert testimony shall be permitted
15 by any party unless the following information is exchanged in
16 written form with counsel for the other party, as ordered by the
17 Office of Administrative Hearings: party within 90 days from the
18 filing of a notice of defense:

19 (1) A curriculum vitae setting forth the qualifications of the
20 expert.

21 (2) ~~A brief narrative statement of the general substance of the~~
22 ~~testimony that the expert is expected to give, including any opinion~~
23 ~~testimony and its basis. A complete expert witness report.~~

24 (3) A representation that the expert has agreed to testify at the
25 hearing.

26 (4) A statement of the expert's hourly and daily fee for providing
27 testimony and for consulting with the party who retained his or
28 her services.

29 ~~(b) The exchange of the information described in subdivision~~
30 ~~(a) shall be completed at least 30 calendar days prior to the~~
31 ~~commencement date of the hearing.~~

32 (e)

33 (b) The Office of Administrative Hearings may adopt regulations
34 governing the required exchange of the information described in
35 this section.

36 SEC. 8. Section 2403 is added to the Business and Professions
37 Code, to read:

38 2403. The provisions of Section 2400 do not apply to physicians
39 and surgeons enrolled in approved residency postgraduate training
40 programs or fellowship programs.

1 *SEC. 9. Section 2514 of the Business and Professions Code is*
2 *amended to read:*

3 2514. (a) Nothing in this chapter shall be construed to prevent
4 a bona fide student ~~who is enrolled or participating in a midwifery~~
5 ~~education program or who is enrolled in a program of supervised~~
6 ~~clinical training~~ from engaging in the practice of midwifery in this
7 state, as part of his or her course of study, if both of the following
8 conditions are met:

9 (a)

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

15 ~~(b)~~

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

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

23 ~~SEC. 3.~~

24 *SEC. 10. Section 2569 of the Business and Professions Code*
25 *is amended to read:*

26 2569. Notwithstanding any other law, the powers and duties
27 of the board, as set forth in this chapter, shall be subject to review
28 by the appropriate policy committees of the Legislature. The review
29 shall be performed as if this chapter were scheduled to be repealed
30 as of January 1, 2018.

31 *SEC. 11. Section 11529 of the Government Code is amended*
32 *to read:*

33 11529. (a) The administrative law judge of the Medical Quality
34 Hearing Panel established pursuant to Section 11371 may issue
35 an interim order suspending a license, or imposing drug testing,
36 continuing education, supervision of procedures, or other license
37 restrictions. Interim orders may be issued only if the affidavits in
38 support of the petition show that the licensee has engaged in, or
39 is about to engage in, acts or omissions constituting a violation of
40 the Medical Practice Act or the appropriate practice act governing

1 each allied health profession, or is unable to practice safely due to
2 a mental or physical condition, and that permitting the licensee to
3 continue to engage in the profession for which the license was
4 issued will endanger the public health, safety, or welfare.

5 (b) All orders authorized by this section shall be issued only
6 after a hearing conducted pursuant to subdivision (d), unless it
7 appears from the facts shown by affidavit that serious injury would
8 result to the public before the matter can be heard on notice. Except
9 as provided in subdivision (c), the licensee shall receive at least
10 15 days' prior notice of the hearing, which notice shall include
11 affidavits and all other information in support of the order.

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

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

- 24 (1) To be represented by counsel.
- 25 (2) To have a record made of the proceedings, copies of which
26 may be obtained by the licentiate upon payment of any reasonable
27 charges associated with the record.
- 28 (3) To present written evidence in the form of relevant
29 declarations, affidavits, and documents.

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

- 35 (4) To present oral argument.

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

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

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

6 (f) In all cases where an interim order is issued, and an
7 accusation is not filed and served pursuant to Sections 11503 and
8 11505 within ~~15~~ 30 days of the date in which the parties to the
9 hearing on the interim order have submitted the matter, the order
10 shall be dissolved.

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

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

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

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

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

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

1 *SEC. 12. Section 12529 of the Government Code, as amended*
2 *by Section 112 of Chapter 332 of the Statutes of 2012, is amended*
3 *to read:*

4 12529. (a) There is in the Department of Justice the Health
5 Quality Enforcement Section. The primary responsibility of the
6 section is to investigate and prosecute proceedings against licensees
7 and applicants within the jurisdiction of the Medical Board of
8 California, the California Board of Podiatric Medicine, the Board
9 of Psychology, or any committee under the jurisdiction of the
10 Medical Board of California.

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

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

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

31 ~~(e) This section shall remain in effect only until January 1, 2014,~~
32 ~~and as of that date is repealed, unless a later enacted statute, that~~
33 ~~is enacted before January 1, 2014, deletes or extends that date.~~

34 *SEC. 13. Section 12529 of the Government Code, as amended*
35 *by Section 113 of Chapter 332 of the Statutes of 2012, is repealed.*

36 ~~12529. (a) There is in the Department of Justice the Health~~
37 ~~Quality Enforcement Section. The primary responsibility of the~~
38 ~~section is to prosecute proceedings against licensees and applicants~~
39 ~~within the jurisdiction of the Medical Board of California, the~~
40 ~~California Board of Podiatric Medicine, the Board of Psychology,~~

1 ~~or any committee under the jurisdiction of the Medical Board of~~
2 ~~California, and to provide ongoing review of the investigative~~
3 ~~activities conducted in support of those prosecutions, as provided~~
4 ~~in subdivision (b) of Section 12529.5.~~

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

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

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

25 ~~(e) This section shall become operative January 1, 2014.~~

26 *SEC. 14. Section 12529.5 of the Government Code, as amended*
27 *by Section 114 of Chapter 332 of the Statutes of 2012, is amended*
28 *to read:*

29 12529.5. (a) All complaints or relevant information concerning
30 licensees that are within the jurisdiction of the Medical Board of
31 California, the California Board of Podiatric Medicine, or the
32 Board of Psychology shall be made available to the Health Quality
33 Enforcement Section.

34 (b) The Senior Assistant Attorney General of the Health Quality
35 Enforcement Section shall assign attorneys to work on location at
36 the intake unit of the boards described in subdivision (d) of Section
37 12529 to assist in evaluating and screening complaints and to assist
38 in developing uniform standards and procedures for processing
39 complaints.

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

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

10 ~~(e) This section shall remain in effect only until January 1, 2014,~~
11 ~~and as of that date is repealed, unless a later enacted statute, that~~
12 ~~is enacted before January 1, 2014, deletes or extends that date.~~

13 *SEC. 15. Section 12529.5 of the Government Code, as amended*
14 *by Section 115 of Chapter 332 of the Statutes of 2012, is repealed.*

15 ~~12529.5. (a) All complaints or relevant information concerning~~
16 ~~licensees that are within the jurisdiction of the Medical Board of~~
17 ~~California, the California Board of Podiatric Medicine, or the~~
18 ~~Board of Psychology shall be made available to the Health Quality~~
19 ~~Enforcement Section.~~

20 ~~(b) The Senior Assistant Attorney General of the Health Quality~~
21 ~~Enforcement Section shall assign attorneys to assist the boards in~~
22 ~~intake and investigations and to direct discipline-related~~
23 ~~prosecutions. Attorneys shall be assigned to work closely with~~
24 ~~each major intake and investigatory unit of the boards, to assist in~~
25 ~~the evaluation and screening of complaints from receipt through~~
26 ~~disposition and to assist in developing uniform standards and~~
27 ~~procedures for the handling of complaints and investigations.~~

28 ~~A deputy attorney general of the Health Quality Enforcement~~
29 ~~Section shall frequently be available on location at each of the~~
30 ~~working offices at the major investigation centers of the boards,~~
31 ~~to provide consultation and related services and engage in case~~
32 ~~review with the boards' investigative, medical advisory, and intake~~
33 ~~staff. The Senior Assistant Attorney General and deputy attorneys~~
34 ~~general working at his or her direction shall consult as appropriate~~
35 ~~with the investigators of the boards, medical advisors, and~~
36 ~~executive staff in the investigation and prosecution of disciplinary~~
37 ~~cases.~~

38 ~~(e) The Senior Assistant Attorney General or his or her deputy~~
39 ~~attorneys general shall assist the boards or committees in designing~~
40 ~~and providing initial and in-service training programs for staff of~~

1 the boards or committees, including, but not limited to, information
2 collection and investigation.

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

7 ~~(e) This section shall become operative January 1, 2014.~~

8 *SEC. 16. Section 12529.6 of the Government Code is amended*
9 *to read:*

10 12529.6. (a) The Legislature finds and declares that the
11 Medical Board of California, by ensuring the quality and safety
12 of medical care, performs one of the most critical functions of state
13 government. Because of the critical importance of the board's
14 public health and safety function, the complexity of cases involving
15 alleged misconduct by physicians and surgeons, and the evidentiary
16 burden in the board's disciplinary cases, the Legislature finds and
17 declares that using a vertical enforcement and prosecution model
18 for those investigations is in the best interests of the people of
19 California.

20 (b) Notwithstanding any other provision of law, as of January
21 1, 2006, each complaint that is referred to a district office of the
22 board for investigation shall be simultaneously and jointly assigned
23 to an investigator and to the deputy attorney general in the Health
24 Quality Enforcement Section responsible for prosecuting the case
25 if the investigation results in the filing of an accusation. The joint
26 assignment of the investigator and the deputy attorney general
27 shall exist for the duration of the disciplinary matter. During the
28 assignment, the investigator so assigned shall, under the direction
29 but not the supervision of the deputy attorney general, be
30 responsible for obtaining the evidence required to permit the
31 Attorney General to advise the board on legal matters such as
32 whether the board should file a formal accusation, dismiss the
33 complaint for a lack of evidence required to meet the applicable
34 burden of proof, or take other appropriate legal action.

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

39 (d) This section does not affect the requirements of Section
40 12529.5 as applied to the Medical Board of California where

1 complaints that have not been assigned to a field office for
2 investigation are concerned.

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

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

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

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

17 ~~(f) This section shall remain in effect only until January 1, 2014,~~
18 ~~and as of that date is repealed, unless a later enacted statute, that~~
19 ~~is enacted before January 1, 2014, deletes or extends that date.~~

20 *SEC. 17. Section 12529.7 of the Government Code is amended*
21 *to read:*

22 12529.7. By March 1, ~~2012, 2015~~, the Medical Board of
23 California, in consultation with the Department of Justice and the
24 Department of Consumer Affairs, shall report and make
25 recommendations to the Governor and the Legislature on the
26 vertical enforcement and prosecution model created under Section
27 12529.6.

28 *SEC. 18. No reimbursement is required by this act pursuant*
29 *to Section 6 of Article XIII B of the California Constitution because*
30 *the only costs that may be incurred by a local agency or school*
31 *district will be incurred because this act creates a new crime or*
32 *infraction, eliminates a crime or infraction, or changes the penalty*
33 *for a crime or infraction, within the meaning of Section 17556 of*
34 *the Government Code, or changes the definition of a crime within*
35 *the meaning of Section 6 of Article XIII B of the California*
36 *Constitution.*

37 ~~SEC. 4. Section 3010.5 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~3010.5. (a) There is in the Department of Consumer Affairs~~
40 ~~a State Board of Optometry in which the enforcement of this~~

1 chapter is vested. The board consists of 11 members, five of whom
2 shall be public members.

3 Six members of the board shall constitute a quorum.

4 (b) ~~The board shall, with respect to conducting investigations,~~
5 ~~inquiries, and disciplinary actions and proceedings, have the~~
6 ~~authority previously vested in the board as created pursuant to~~
7 ~~Section 3010. The board may enforce any disciplinary actions~~
8 ~~undertaken by that board.~~

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

15 ~~SEC. 5. Section 3014.6 of the Business and Professions Code~~
16 ~~is amended to read:~~

17 ~~3014.6. (a) The board may appoint a person exempt from civil~~
18 ~~service who shall be designated as an executive officer and who~~
19 ~~shall exercise the powers and perform the duties delegated by the~~
20 ~~board and vested in him or her by this chapter.~~

21 (b) ~~This section shall remain in effect only until January 1,~~
22 ~~2018, and as of that date is repealed, unless a later enacted statute,~~
23 ~~that is enacted before January 1, 2018, deletes or extends that date.~~