

Exhibit

A

BPM MISSION

The mission of the Board of Podiatric Medicine is to ensure protection of consumers under the laws of California through the setting and enforcement of contemporary standards and the provision of accurate and timely information that promotes sound consumer decision-making.

Approved March 3, 2006

Exhibit

B



NEIL B. MANSDORF, D.P.M., *President*
KRISTINA M. DIXON, M.B.A., *Vice President*

EDWARD E. BARNES
MELODI MASANIAI KAREN L. WRUBEL, D.P.M.

JOHN Y. CHA, D.P.M.
MICHAEL A. ZAPF, D.P.M.

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California Board of Podiatric Medicine Public Board Meeting Minutes Sacramento, California May 10, 2013

A public meeting of the California Board of Podiatric Medicine (BPM) was held May 10, 2013 in the Hearing Room, suite 1150, 2005 Evergreen Street, Sacramento, CA.

Due notice had been sent to all known interested parties.

1. Call to order and roll call

Before Dr. Mansdorf's calling the meeting to order at 10:07 AM., new Gubernatorial-appointee Melodi Masaniai was sworn into office by Senior Assistant Attorney General Gloria Castro.

A quorum was established with the following Members present:

- Edward E. Barnes
- John Y. Cha, DPM
- Neil B. Mansdorf, DPM
- Melodi Masaniai
- Karen L. Wrubel, DPM
- Michael A. Zapf, DPM

Ms. Dixon arrived at 10:20 AM.

Dr. Mansdorf welcomed Ms. Masaniai to the Board and the following attendees to the public meeting:

- Gloria Castro, Senior Assistant Attorney General
- Renee Threadgill, Chief of Enforcement, Medical Board
- Susan Cady, Manager, Medical Board Central Complaints and Discipline Coordination
- Ian McGlone, Analyst, Medical Board Central Complaints and Discipline Coordination
- Michael Gomez, DCA Deputy Director, Enforcement
- Jonathan Uy, DPM, California Podiatric Medical Association (CPMA) Board of Directors

Also present were Counsel Claire Yazigi, JD and BPM staff members Bethany DeAngelis, Mischa Matsunami, Jim Rathlesberger, Christine Raymond, and Kia-Maria Zamora.

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3 **2. President's Report**

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5 Mr. Barnes moved to accept the February 22, 2013 minutes, and Dr. Zapf seconded this motion,
6 which was passed 5-0. Ms. Masaniai abstained.
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9 **3. DCA Legal Office Presentation**

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11 Ms. Yazigi presented a briefing on laws related to the privacy of Board consultants and experts.
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14 **4. Vertical Enforcement**

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16 Ms. Castro and Ms. Threadgill, respectively the chiefs of the Attorney General's Health Quality
17 Enforcement Section (HQE) and Medical Board Enforcement, briefed the Board on their operations.
18 They discussed how investigators and deputy attorneys general work in cooperation on all cases sent
19 to investigation, a system known as "Vertical Enforcement." Ms. Castro mentioned that she was
20 assigning a new "Liaison Deputy" for BPM, Deputy Attorney General John Rittmayer.
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23 **5. Financial Report**

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25 Vice President Dixon presented the Financial Report, indicating the need for BPM's proposed
26 renewal fee increase from \$900 to \$990.
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29 **6. Legislative Committee Report**

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31 Dr. Wrubel gave the Legislative Report noting that in consultation with BPM, the CPMA's legislative
32 representatives are consulting with persons in the Capitol regarding the need for a renewal fee
33 increase. She also reported they and the BPM Legislative Committee have liaised with Legislative
34 staff on the need to include BPM's licensees in SB 304, SB 381 and other bills intended to include all
35 doctors. Mr. Gomez briefed the Board on SB 809 for CURES funding, noting that DCA had not
36 taken a position.
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39 **7. Licensing & Medical Education Committee**

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41 Dr. Zapf presented the report as indicated in the Agenda Book, and introduced a discussion of the
42 shortage of residency program positions for DPM graduates nationally and in California. The Council
43 on Podiatric Medical Education (CPME) is working to resolve a shortage of 100 positions nationally.
44 In California, it was reported there are 62 graduates for 43 positions.
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47 **8. Enforcement Committee**

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49 Mr. Barnes presented his Committee's report and indicated he planned to attend the Enforcement
50 Coordinator's June 21 training session for consultants, which is open to all Board Members during the

Western Foot and Ankle Conference (WFAC).

9. Executive Officer Recruitment

Mr. Barnes moved that BPM should proceed with recruitment planning and endorse the draft Announcement's selection criteria as edited by the Board, for final review at the October 4 meeting. Ms. Masaniai seconded the motion and it passed 7-0.

Dr. Mansdorf indicated he and Dr. Wrubel would serve as a screening committee to select the most qualified candidates for the first round of interviews by the full Board at its first meeting in 2014. It was discussed that following these interviews, the Board could select finalists for reference checking and second interviews at the Board's next 2014 meeting, following which it could make its selection for the Executive Officer position offer, with a start date to be determined.

10. Adjournment

Having completed its agenda and all action items, and there being no further business or public comment, the Board adjourned at 12:51 PM.

Submitted to the Board for approval September 13, 2013.

APPROVED:

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President
Board of Podiatric Medicine

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Exhibit C



STRATEGIC PLAN

2011-2014

Updated November 16, 2012

OUR MISSION

The mission of the Board of Podiatric Medicine is to ensure protection of consumers under the laws of California through the setting and enforcement of contemporary standards and the provision of accurate and timely information that promotes sound consumer decision-making.

OUR VISION

The Board's public policy leadership will enhance continuing competence standards, informed consumer choice, and open access to high-quality foot and ankle care.

OUR VALUES

BPM values . . .

- representing the public
- responsiveness to consumers and licensees
- public access to information, assistance and service
- integrity and competence in serving the public
- collaboration with other organizations
- proactive approaches that prevent patient harm

GOALS AND OBJECTIVES

GOAL 1. *Maintain excellence of service within current resources.*

Objectives:

1.1 Continue operations without backlogs.

Major activities:

- Manage licensing and enforcement programs to stay current daily without additional staff
- Support licensing and enforcement coordinators as chief program officers of Board
- Keep focused on core functions of licensing and enforcement

1.2 Maintain the issuance of licenses the same day all requirements met.

Major activities:

- Maintain close communication with applicants
- Maintain primary source verification and enforce it

1.3 Keep expediting investigation of consumer complaints and prosecution of open cases.

Major activities:

- Support Enforcement Coordinator
- Achieve Staff Manager promotion recognizing breadth of responsibility
- Continue monitoring enforcement matrix reports on case processing timeframes

1.4 Maintain quality probation monitoring.

Major activities:

- Continue retired annuitant program
- Ensure Board's final orders are effectively enforced

1.5 Support Continuing Competence initiatives.

Major activities:

- Support the Licensing Coordinator, recognizing the importance of good licensing in Licensing Board effectiveness in consumer protection and efficient use of public resources
- Monitor the longitudinal decline in consumer complaints and respond appropriately to opportunities to serve as ambassadors for preventing patient harm rather than responding to it once harm has been done
- Urge Federation of Podiatric Medical Boards (FPMB) to encourage other State licensing agencies to implement its *Model Law* Continuing Competence provisions
- Support Department of Consumer Affairs (DCA) and other boards in Continuing Competence as appropriate

1.6 Continue licensure of all residents and annual review and approval of graduate medical education programs.

Major activities:

- Maintain the Residency License requirement
- Seek sunseting of the eight-year cap on graduate medical training
- Consider whether residency approvals should be nationalized now or in the future, or if California's program should be maintained

GOAL 2. *Maintain credibility and respect of BPM's integrity.*

Objectives:

- 2.1 Continue the public-service ethic so many have contributed to over succeeding decades, realizing BPM as an institution is of great importance to patients and the profession.

Major activities:

- Emphasize the statutory mission
- Support Board development and the Members' importance as a Board
- Promote the goals and objectives of the Board

- 2.2 Remain open, candid and responsive.

Major activities:

- Maintain unspotted positive press coverage
- Build on confidence from profession to enhance consumer outreach
- Support Departmental programs

- 2.3 Represent the public

Major activities:

- Maintain BPM culture that licensee and lay Board Members are equal
- Maintain BPM culture that licensee and lay Board Members have same statutory role
- Maintain BPM culture that licensee and lay Board Members all represent the public at large

- 2.4 Maintain good government values

Major activities:

- Reflect well on California State government
- Focus on the positive aspects and developments
- Take opportunities as they present themselves to advance public policy

GOAL 3. *Work collaboratively with other organizations.*

Objectives:

3.1 Utilize Departmental services and follow its lead.

Major activities:

- Implement BreEZe in 2012-13 for online credit card transactions
- Distribute *You and Your DPM* brochure
- Pursue Spanish language *You and Your DPM*
- Participate in DCA Board and Bureau Conferences

3.2 Maintain liaison with California Podiatric Medical Association.

Major activities:

- Maintain good liaison with CPMA Board
- Continue participation at House of Delegates
- Continue exhibiting at Western Foot and Ankle Conference

3.3 Continue involvement with Federation of Podiatric Medical Boards.

Major activities:

- Seek election of a California representative on FPMB Board
- Support updates to *Model Law* as indicated, e.g., equivalent exams

GOAL 4. *Remove barriers to podiatric medical care.*

Objectives:

4.1 Support Legislative consideration of full FPMB *Model Law* scope of practice for benefit of Californians.

Major activities:

- Coordinate with CPMA in five-year follow-up to AB 932 of 2004
- Support efficient delivery of high quality care in all California health facilities
- Work with the profession as it develops its evolution, standards and direction for the future

4.2 Support inclusion in State's publicly-supported health science teaching centers.

Major activities:

- Support complementary CPMA and podiatric medical school initiatives
- Keep focus on obtaining UC-sponsored podiatric medical residency programs

OUR STAKEHOLDERS -- THEIR NEEDS AND WANTS

BPM's success depends on a clear understanding of our statutory mission and the needs of the public. Our public stakeholders include:

- ❑ Consumers, who seek accurate and timely information about providers.
- ❑ Licensees, who seek expeditious and accurate services, fair administration of the law, and timely and accurate communication on issues of interest to them.
- ❑ Applicants, who seek expeditious and accurate services, fair administration of the application process, and timely and accurate communication on issues of concern.
- ❑ Health facilities, which seek clear licensing information.
- ❑ Staff, who seek clear direction, recognition by management, and training programs to better serve our stakeholders and grow professionally.
- ❑ Other state agencies, which seek accurate and timely information.
- ❑ The Legislature, exercising its lawmaking, authorization, budgeting and oversight roles.

ENVIRONMENTAL SCAN

External environment factors include:

- ❑ Fiscal Challenges -- BPM must do the best job possible with the resources available.
- ❑ Accountability -- BPM seeks to follow the soundest possible administrative procedures.
- ❑ Advancing Technology -- BPM attempts to stay current to the fullest extent practicable.
- ❑ Business and the Economy -- As an agency that licenses doctors treating millions of Californians annually, the health care community expects BPM to operate efficiently and partner to protect podiatric medical patients.
- ❑ Changing Demographics -- California's population is increasing, aging and growing more diverse every day.

Exhibit

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POSTION DESCRIPTION FOR BOARD MEMBERS

As a **Board of Directors**, the Board is responsible for good governance of the agency. Appointed as representatives of the **public**, the Board presses for realization of opportunities for service and fulfillment of its obligations to all constituencies. The Board meets fiduciary responsibility, guards against the taking of undue risks, determines priorities, and generally directs organizational activity. It delegates administration to its executive officer, but remains involved through oversight and policy making. The board members are ultimately accountable for all agency actions.

As a **judicial body**, the Board serves as a jury. The members must be careful to avoid *ex parte* communications with licensees, attorneys, and staff regarding upcoming proposed decisions from administrative law judges that the Board must review based only on the legal record.

Specific Contributions

1. Articulate agency mission, values, and policies.
2. Review and assure executive officer's performance in faithfully managing implementation of Board policies through achievement of staff goals and objectives.
3. Ensure that staff implementation is prudent, ethical, effective, and timely.
4. Assure that management succession is properly being provided.
5. Punctuate ongoing review of executive officer performance with annual evaluation against written Board policies at a noticed public meeting.
6. Ascertain that management effectively administers appropriate staff policies including a code of ethics and conflict of interest statements.
7. Ensure staff compliance with all laws applicable to the Board.
8. Maximize accountability to the public.

Adopted by the Board of Podiatric Medicine 12/6/91



POSITION DESCRIPTION FOR BOARD PRESIDENT

The President is responsible for the effective functioning of the Board, the integrity of Board process, and assuring that the Board fulfills its responsibilities for governance. The President instills vision, values, and strategic thinking in Board policy making. She/he sets an example reflecting the Board's mission as a state licensing and law enforcement agency. She/he optimizes the Board's relationship with its executive officer and the public.

Specific Contributions

1. Chair meetings to ensure fairness, public input, and due process.
2. Appoint Board committees.
3. Support the development and assist performance of Board colleagues.
4. Obtain the best thinking and involvement of each Board member. Stimulate each one to give their best.
5. Coordinate evaluation of the executive officer.
6. Continually focus the Board's attention on policy making, governance, and monitoring of staff adherence to and implementation of written Board policies.
7. Facilitate the Board's development and monitoring of sound policies that are sufficiently discussed and considered and that have majority Board support.
8. Serve as a spokesperson.
9. Be open and available to all, remaining careful to support and uphold proper management and administrative procedure.

Adopted by the Board of Podiatric Medicine 12/6/91



POSITION DESCRIPTION FOR EXECUTIVE OFFICER

The chief executive officer reports and is accountable to the full Board. He/she accepts responsibility for the success or failure of all Board operations.

Specific Contributions

1. Lead staff planning to achieve Board goals and ensure that implementation adheres to Board policies, and is effective, prudent, ethical, and timely.
2. Ensure that the Board is properly informed on the condition of the agency and major factors influencing it, without bogging it down in detailed staff work or with unorganized information.
3. Annually evaluate the agency's performance.
4. Make certain there is adequate funding to achieve the Board's policies.
5. Manage agency's enforcement program so as to ensure both (a) vigorous prosecution of Medical Practice Act violations and (b) fairness, due process, and proper administrative procedures as required under the Administrative Procedure Act.
6. See that there is adequate, effective staffing. Motivate staff. Develop training, professional development, and career ladder opportunities. Build teamwork. Delegate responsibilities without abdicating accountability.
7. Develop an office climate and organizational culture that attracts and keeps quality people.
8. Provide for management succession.
9. Develop annual goals and objectives and other appropriate staff policies.
10. Serve as the agency's chief spokesperson and see that the Board is properly presented to its various publics.

Adopted by the Board of Podiatric Medicine 12/6/91



POLICY DECISION: Delegation of Authority Concerning Stay Orders

The authority to approve or deny a Petition for Stay Order is delegated to the board's executive officer.

Method of Adoption: Board Vote

Date of Adoption: May 5, 1995



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Medical Board of California
BOARD OF PODIATRIC MEDICINE
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POLICY DECISION: Promotional Reference to the Board of Podiatric Medicine (BPM) by Consultants, Expert Reviewers/Witnesses, Practice Monitors and Examination Commissioners

Licenseses acting as medical consultants, expert reviewers/witnesses, practice monitors and/or examination commissioners shall not reference their affiliation with the BPM in any promotional activity or advertisement.

Method of Adoption: Board Vote

Date of Adoption: February 28, 1986

Revision Date: May 3, 2002
October 15, 2010



POLICY DECISION: Minimum Requirements for New Medical Consultants, Experts, and Examiners

1. Hold a current, valid and unrestricted California license to practice podiatric medicine.
2. Be active in the practice of podiatric medicine in the subject area being reviewed.
3. Have completed a postgraduate medical education program approved by the Council on Podiatric Medical Education.
4. Be certified by the American Board of Podiatric Surgery and must maintain a current certificate.
5. Have surgical staff privileges in at least one general acute care hospital facility.
6. Must not have been subject to disciplinary action by the BPM, i.e., the filing of an Accusation or Statement of Issues that was not withdrawn or dismissed.
7. Must not be under BPM investigation for a violation of any laws relating to the practice of medicine at the time of appointment or be the subject of such a case pending in the Attorney General's office.
8. Must not have been the subject of a field investigation by the BPM within the last five (5) years that was not closed and deleted from Medical Board records.
9. In the event of a conflict of interest, must recuse themselves from the review or examination.
10. Must not misrepresent his or her credentials, qualifications, experience or background.

Method of Adoption: Board Vote
Date of Adoption: June 5, 1987
Revision Date(s): December 7, 1990
January 25, 1994
November 6, 1998
May 5, 2000
November 3, 2000
June 6, 2003
October 15, 2010
February 11, 2011



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POLICY DECISION: Selection, Training and Evaluation of Board of Podiatric Medicine (BPM) Medical Consultants

1. Potential DPM Medical Consultants shall be reviewed and nominated to the Consultant pool by the Board's Enforcement Committee.
2. New candidates must be approved by unanimous vote of the Board Members present at a noticed public meeting.
3. Following approval by the Board, Consultants shall certify in writing prior to beginning work that they have received and read the current *BPM Enforcement Manual*.
4. Likewise, all consultants shall so certify receipt and reading of each revision to the *BPM Enforcement Manual*.
5. Consultants shall be evaluated at least on an annual basis.
6. Staff shall organize training sessions for consultants every two years as practicable, and each working consultant must have participated in a BPM training session before beginning work and within the past four years at all times.
7. Consultants may serve for eight consecutive years, and have at least a two-year break in service before being eligible for re-nomination by the Enforcement Committee.

Method of Adoption: Board Vote

Date of Adoption: February 11, 2011

Exhibit

E



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Medical Board of California
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BreEZe Update

- **Proposed “Go Live” date: October 8, 2013**

- **Online transactions:**
 - BPM will not be offering online transactions until 12 weeks after Go Live. This will allow BPM staff to become fully acquainted with the internal BreEZe component while processing routine licensing transactions in-house, as is currently done via the CAS system.

 - The following online transactions will be made available 12 weeks after Go Live:
 - Initial license Application (Resident License and Permanent License)*
 - Address Change
 - Name Change*
 - Duplicate License Request
 - License Verification Request

**will require supplemental documentation prior to approval*

- **BreEZe testing:**
 - User Acceptance Testing – Staff continues to work with the DCA BreEZe team on a daily basis to address and resolve system configuration issues affecting BPM transactions.

 - Data Verification – Staff continues to perform daily data verification exercises to verify the accuracy and completeness of data that is being converted from the existing CAS system into BreEZe.

 - Regression Testing – Staff will be performing extensive tests of the BreEZe system configuration to ensure that all previously identified issues have been resolved, and that no new concerns have been identified.
 - Scheduled to commence September 4, 2013

 - BreEZe Cutover “Dress Rehearsal” – Staff will be performing final data verification activities and production acceptance testing to ensure that the BreEZe system is production-ready.
 - Scheduled to occur September 19 – 23

Submitted by:
Mischa Matsunami
September 13, 2013

Exhibit

F



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Financial Report Fiscal Year 12/13 (ended 6/30)

● **Overview**.....F

- BPM fund has stabilized somewhat due to a recent decline in enforcement and personnel costs, despite continued increases in fixed costs such as Central Administrative Services and Facilities Operations.
- Statewide *pro rata* and IT system costs will continue to rise. BPM staff will continue closely monitor its expenditures.

● **Budget**.....G

- Total Expenditures (FY 12/13): \$865,000
Average among preceding eight years: \$938,000.
- Total Revenue (FY 12/13): \$895,000
Average among preceding eight years: \$916,000
- Staff will continue to closely monitor these figures.

FY 2012/13:

- Twenty-one percent (21%) of the Board's total expenditures were for Departmental / Central Administrative Services (maintenance of licensing and enforcement systems, website maintenance, telecommunications, HR services, pc support, internet services, other administrative support services).
- Twenty-five percent (25%) of the Board's total expenditures were for enforcement-related services (Office of the Attorney General, the Office of Administrative Hearings, Medical Board Investigations staff, podiatric medical experts and consultants).

Exhibit G Attachments:

- § Expenditure Trends [FY 04/05 through FY 12/13]
- § Breakdown of Actual General Office Expenses [FY 04/05 through FY 12/13]
- § Breakdown of Medical Board Shared Services costs [FY 08/09 through FY 12/13]

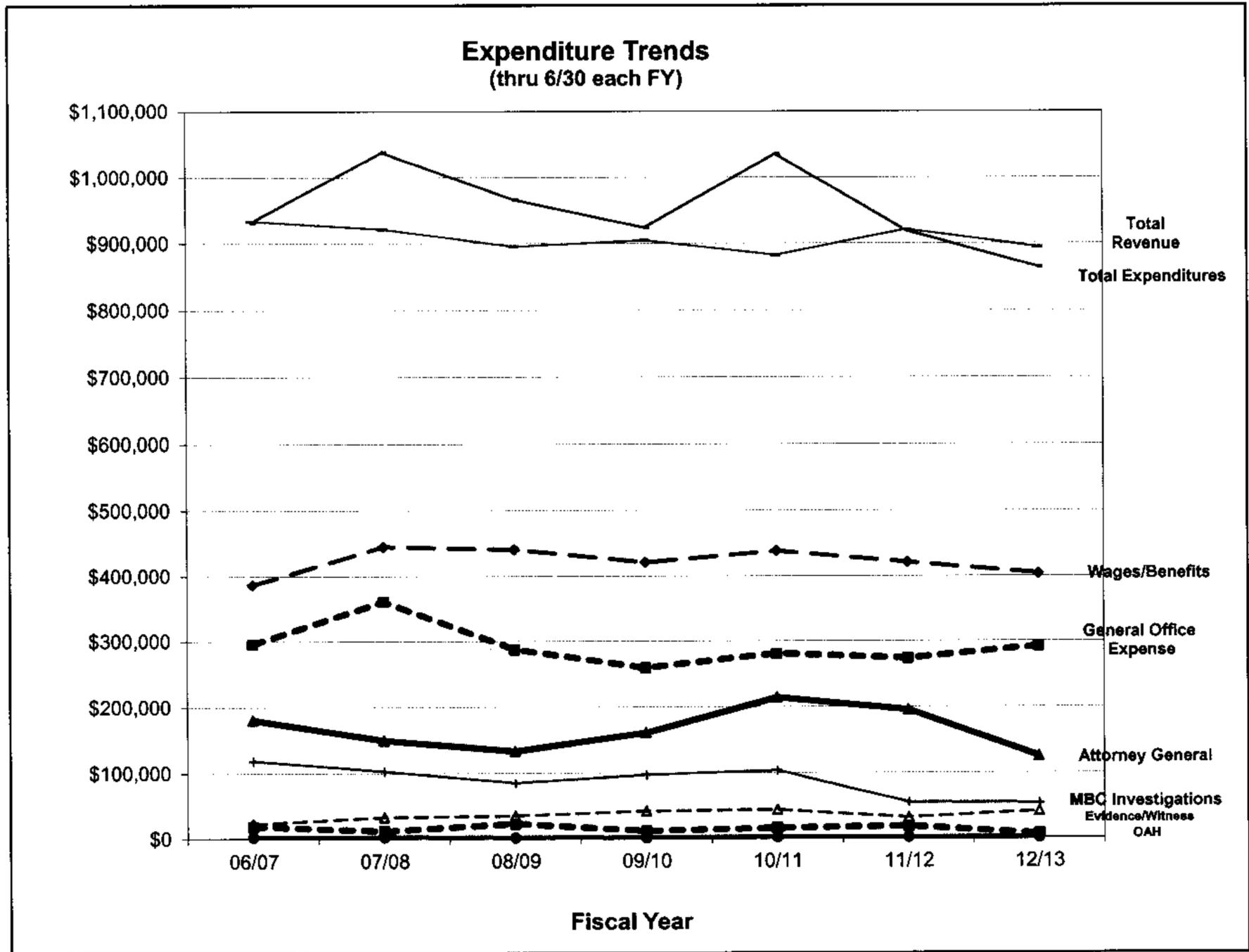
● **Fund Condition**.....H

- Fund conditions show projections based on:
 - Full budget expenditure (DCA projection)
 - Estimated savings (BPM projection)
- Potentially declining reserve balance indicates a need to continue monitoring revenues and expenditures and identify potential solutions to ensure future fund stability.
- BPM Budget History table and chart reflect budget, revenue, expenditure, and reserve figures for FYs 1997/98 through 2012/13.
 - Revenues have remained stable over the past several years.
 - Expenditures have typically fluctuated in a manner consistent with budget changes, which are largely determined by *pro rata* and other nondiscretionary disbursements.

Exhibit H Attachments:

- § BPM Fund Condition [DCA Projection through 6/30/16 – assumes full budget expenditure]
- § BPM Fund Condition [BPM Projection through 6/30/16 – assumes estimated savings]
- § BPM Budget History [FY 97/98 through FY 12/13]

Exhibit G



	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13
EXPENDITURES:									
Wages/Benefits	\$373,203	\$381,377	\$386,159	\$445,043	\$440,442	\$420,695	\$438,123	\$420,720	\$403,916
General Office Expense ¹	\$238,971	\$253,435	\$295,625	\$360,290	\$287,077	\$259,343	\$280,620	\$273,386	\$291,812
Attorney General	\$145,368	\$95,350	\$181,102	\$149,872	\$133,332	\$160,945	\$214,127	\$195,370	\$124,999
Office of Admin Hearings	\$26,013	\$5,631	\$18,575	\$11,242	\$22,116	\$10,692	\$15,030	\$17,674	\$6,404
Evidence/Witness	\$30,129	\$26,137	\$22,312	\$32,660	\$34,298	\$41,236	\$43,191	\$31,211	\$40,686
Court Reporter	\$1,610	\$1,000	\$2,312	\$2,229	\$1,096	\$587	\$1,128	\$670	\$500
MBC Investigations	\$109,209	\$118,849	\$119,738	\$103,747	\$85,576	\$97,886	\$104,400	\$55,078	\$53,912
State Operations (rounded)	\$0	\$0	\$0	\$0	\$1,000	\$1,000	\$3,000	\$6,000	\$0
TOTAL EXPENDITURES ²	\$868,000	\$821,000	\$932,000	\$1,038,000	\$966,000	\$924,000	\$1,035,000	\$919,000	\$865,000
TOTAL REVENUE	\$937,000	\$932,000	\$934,000	\$922,000	\$896,000	\$905,000	\$883,000	\$921,000	\$895,000
Δ in Fund Balance (↑ ↓)	\$69,000	\$111,000	\$2,000	(\$116,000)	(\$70,000)	(\$19,000)	(\$152,000)	\$2,000	\$30,000
Renewals (E)	886	905	875	898	898	917	898	938	903

¹ See the following page for a breakdown of General Office Expenses.

² TOTAL EXPENDITURES - Adjusted per Fund Condition (enforcement reimbursements and other year-end adjustments). Rounded.

Breakdown of Actual General Office Expenses

Through 6/30 each Fiscal Year

	FY								
	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13
Expenses include amount encumbered.									
Fingerprints	\$3,056	\$3,368	\$4,288	\$3,607	\$3,644	\$4,297	\$3,515	\$3,459	\$3,984
General Expense	\$11,690	\$14,375	\$12,643	\$17,206	\$9,080	\$10,369	\$8,052	\$6,461	\$6,259
Dues & Memberships	\$1,800	\$1,800	\$2,200	\$2,200	\$2,325	\$2,325	\$2,325	\$2,325	\$2,328
Misc Office Supplies	\$5,690	\$6,257	\$4,777	\$4,553	\$1,646	\$3,773	\$3,240	\$2,350	\$2,553
Gen Expense - Film/Transcription Services	\$0	\$0	\$0	\$1,800	\$0	\$0	\$0	\$515	\$0
Freight & Drayage	\$2,027	\$1,570	\$1,194	\$3,311	\$1,261	\$1,306	\$582	\$172	\$407
Admin Overhead - Other	\$900	\$2,211	\$2,988	\$1,714	\$2,827	\$2,015	\$1,307	\$881	\$971
Mtg/Conf/Exhibit/Sho 217.00	\$723	\$1,427	\$0	\$1,586	\$754	\$600	\$564	\$0	\$0
Library Purch/Subscrip	\$550	\$1,110	\$1,484	\$1,971	\$200	\$332	\$34	\$218	\$0
Other	\$0	\$0	\$0	\$71	\$67	\$18	\$0	\$0	\$0
Printing/Copier expense ¹	\$2,758	\$5,241	\$6,566	\$13,708	\$11,308	\$5,575	\$6,452	\$3,191	\$2,886
Communications	\$6,646	\$6,986	\$6,248	\$8,708	\$16,337	\$8,133	\$6,640	\$4,928	\$6,493
Postage	\$3,809	\$4,790	\$5,030	\$3,880	\$3,953	\$8,552	\$3,726	\$4,261	\$4,228
Travel: In-State	\$9,719	\$12,363	\$17,976	\$21,710	\$19,153	\$15,440	\$14,747	\$7,185	\$10,726
Travel: Out-of-State	\$355	\$2,342	\$1,792	\$1,111	\$0	\$0	\$0	\$0	\$0
Training	\$0	\$695	\$1,070	\$123	\$23	\$0	\$375	\$50	\$0
Facilities Operations ²	\$21,337	\$25,104	\$54,062	\$31,189	\$39,395	\$42,685	\$43,888	\$44,253	\$45,988
C/P Services - Interdepartmental	\$574	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
C/P Services - External ³	\$0	\$0	\$0	\$0	\$0	\$500	\$2,000	\$0	\$14,104
Departmental Services ⁴	\$123,787	\$128,085	\$131,952	\$187,640	\$123,684	\$115,367	\$139,005	\$135,128	\$127,316
Office of Information Systems (OIS) - Pro Rata					\$31,640	\$27,962	\$42,678	\$41,010	\$42,877
Indirect Distrib Cost (DCA Administrative Pro Rata)					\$45,765	\$43,675	\$46,355	\$42,417	\$42,321
Interagency Svcs					\$0	\$0	\$0	\$0	\$0
Shared Svcs - MBC Only ⁵	\$47,746	\$48,739	\$37,572	\$36,506	\$40,694	\$37,983	\$43,036	\$44,469	\$35,226
Division of Investigation (DOI) - Pro Rata					\$1,515	\$1,624	\$1,539	\$1,427	\$1,776
Public Affairs - Pro Rata					\$1,883	\$1,999	\$3,272	\$2,850	\$2,199
Consumer Education (CCED) Pro Rata					\$2,187	\$2,124	\$2,125	\$2,955	\$2,917
Consolidated Data Centers	\$2,995	\$3,000	\$475	\$297	\$300	\$1,465	\$2,547	\$1,397	\$758
Data Processing	\$3,068	\$0	\$3,812	\$1,926	\$410	\$39	\$3,464	\$3,649	\$3,438
Central Administrative Services ⁶	\$32,709	\$36,616	\$35,723	\$47,473	\$54,490	\$42,269	\$45,061	\$54,139	\$63,349
Examinations	\$9,500	\$7,026	\$5,290	\$10,704	\$1,000	\$1,377	\$0	\$0	\$0
Major Equipment	\$133	\$0	\$0	\$2,465	\$0	\$0	\$0	\$0	\$0
Minor Equipment	\$7,214	\$3,445	\$8,697	\$7,182	\$4,301	\$3,278	\$1,149	\$5,285	\$2,283
Special Adjustments	-\$379	\$0	\$0	\$1,362	\$0	\$0	\$0	\$0	\$0
SUBTOTAL	\$238,971	\$253,436	\$295,624	\$360,291	\$287,078	\$259,346	\$280,621	\$273,386	\$291,812
ADJUSTMENTS	\$0	-\$1	+\$1	-\$1	-1	-3	-1	0	0

¹ 07/08 - phone system for Evergreen Street location.

² 06/07 - \$30,000 added for move to Evergreen Street .

³ 12/13 - BreEZe costs

⁴ 07/08 - \$65,000 Added for Applicant Tracking System (ATS).

⁵ Costs associated with Licensing, Enforcement and Consumer services provided by the Medical Board.

(see next page for breakdown of MBC svcs)

⁶ Charges for support of Personnel Board, Dept. of Finance, State Controller, State Treasurer, Legislature, Governor's Office, etc.

TOTAL	\$238,971	\$253,435	\$295,625	\$360,290	\$287,077	\$259,343	\$280,620	\$273,386	\$291,812
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Breakdown of Medical Board Shared Services

FY	FY	FY	FY	FY
08/09	09/10	10/11	11/12	12/13

Medical Board Shared Services	Description	Cost	Cost	Cost	Cost	Cost
Discipline Coordination Unit (DCU)	Charges are prorated based on the total number of cases tracked during the prior fiscal year in relation to the cost of maintaining staff for the purposes of performing a wide range of duties associated with the coordination of disciplinary actions.	\$15,404	\$9,370	\$9,319	\$10,383	\$9,088
Consumer Services: Central Complaint Unit (CCU)	Charges are prorated based on the actual number of complaints received during the prior fiscal year in relation to the cost of maintaining staff for the purposes of performing a wide range of duties associated with the management of complaints.	\$23,187	\$26,518	\$30,476	\$32,224	\$23,748
Consumer Information Unit (CIU)	Charges are prorated based on actual verification activity in relation to the cost of maintaining staff support to verify licensure of DPMs for interested parties.	\$206	\$0	\$680	\$0	\$98
Podiatric Fictitious Name Permit Registrations	Charges are based on the actual number of permits processed during the prior fiscal year in relation to the cost of maintaining clerical support to perform duties associated with the issuance and maintenance of FNPs.	\$1,897	\$2,095	\$2,561	\$1,862	\$2,292

TOTAL \$40,694 \$37,983 \$43,036 \$44,469 \$35,226

Exhibit

H

0295 - Podiatric Medicine Analysis of Fund Condition

Prepared 08/27/2013

(Dollars in Thousands)

FY 2013-14 Budget Act

	Actual 2010-11	ACTUAL 2011-12	ACTUAL 2012-13	BUDGET ACT CY 2013-14	BY 2014-15	BY+1 2015-16
BEGINNING BALANCE	\$ 1,011	\$ 856	\$ 859	\$ 893	\$ 382	\$ -152
Prior Year Adjustment	\$ (3)	\$ 1	\$ 4	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,008	\$ 857	\$ 863	\$ 893	\$ 382	\$ -152
REVENUES AND TRANSFERS						
Revenues:						
125600 Other regulatory fees	\$ 7	\$ 6	\$ 5	\$ 5	\$ 5	\$ 5
125700 Other regulatory licenses and permits	\$ 53	\$ 58	\$ 61	\$ 61	\$ 61	\$ 61
125800 Renewal fees	\$ 815	\$ 851	\$ 819	\$ 819	\$ 819	\$ 819
125900 Delinquent fees	\$ 3	\$ 3	\$ 5	\$ 5	\$ 5	\$ 5
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 5	\$ 3	\$ 3	\$ 1	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 883	\$ 921	\$ 895	\$ 893	\$ 892	\$ 892
Totals, Resources	\$ 1,891	\$ 1,778	\$ 1,758	\$ 1,786	\$ 1,274	\$ 740
EXPENDITURES						
Disbursements:						
8880 FSCU (State Operations)	\$ 1	\$ 3	\$ 6	\$ 6	\$ -	\$ -
0840 State Controller (State Operations)	\$ 2	\$ 1	\$ -	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 1,032	\$ 915	\$ 859	\$ 1,398	\$ 1,426	\$ 1,455
Total Disbursements	\$ 1,035	\$ 919	\$ 865	\$ 1,404	\$ 1,426	\$ 1,455
FUND BALANCE						
Reserve for economic uncertainties	\$ 856	\$ 859	\$ 893	\$ 382	\$ -152	\$ -715
Months in Reserve	11.2	11.9	7.6	3.2	-1.3	-5.8

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY+1 AND ON-GOING.
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING BY+1 AND ONGOING.
- C. ASSUMES INTEREST RATE AT 0.3%.

0295 - Podiatric Medicine
Analysis of Fund Condition
****BPM PROJECTION** (assumes estimated savings)**

Prepared 08/27/2013

(Dollars in Thousands)

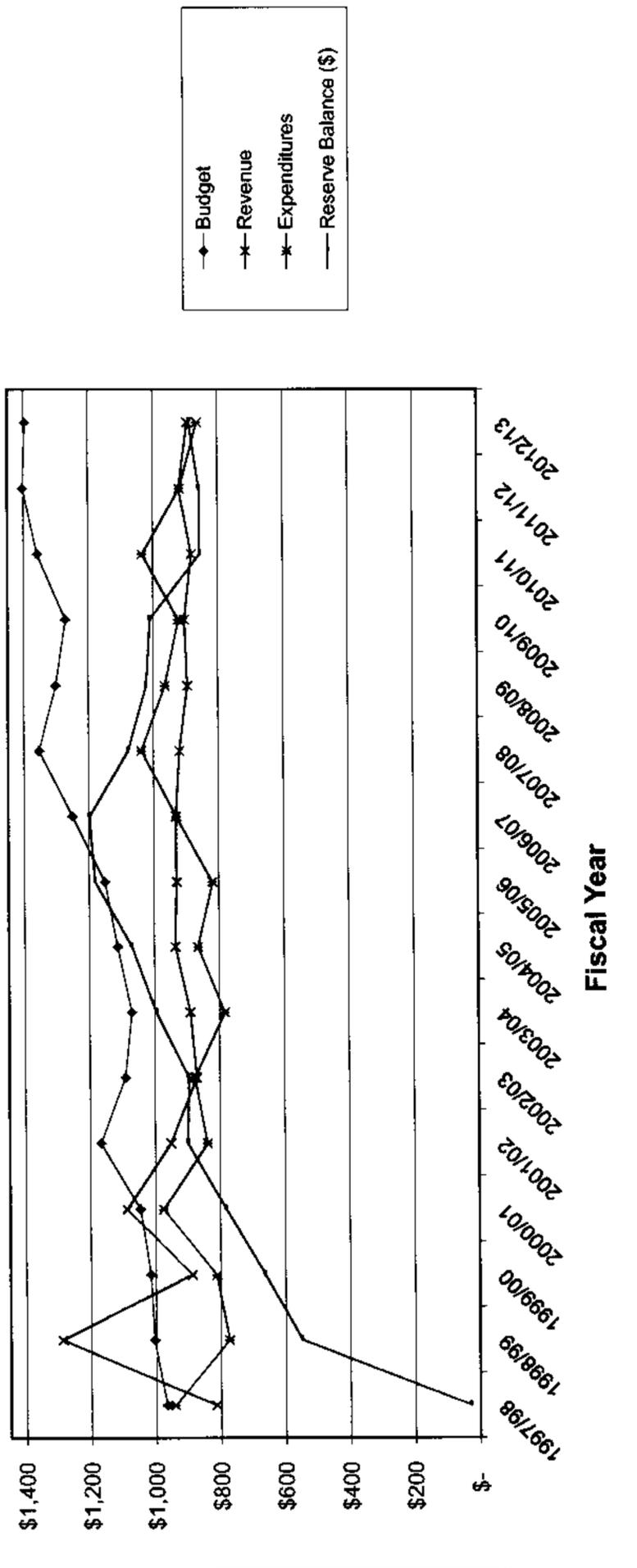
FY 2013-14 Budget Act

	Actual 2010-11	ACTUAL 2011-12	ACTUAL 2012-13	BUDGET ACT CY 2013-14	BY 2014-15	BY+1 2015-16
BEGINNING BALANCE	\$ 1,011	\$ 856	\$ 859	\$ 893	\$ 761	\$ 615
Prior Year Adjustment	\$ (3)	\$ 1	\$ 4	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,008	\$ 857	\$ 863	\$ 893	\$ 761	\$ 615
REVENUES AND TRANSFERS						
Revenues:						
125600 Other regulatory fees	\$ 7	\$ 6	\$ 5	\$ 5	\$ 5	\$ 5
125700 Other regulatory licenses and permits	\$ 53	\$ 58	\$ 61	\$ 61	\$ 61	\$ 61
125800 Renewal fees	\$ 815	\$ 851	\$ 819	\$ 819	\$ 819	\$ 819
125900 Delinquent fees	\$ 3	\$ 3	\$ 5	\$ 5	\$ 5	\$ 5
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 5	\$ 3	\$ 3	\$ 2	\$ 2	\$ 1
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 883	\$ 921	\$ 895	\$ 894	\$ 894	\$ 893
Totals, Resources	\$ 1,891	\$ 1,778	\$ 1,758	\$ 1,787	\$ 1,655	\$ 1,508
EXPENDITURES						
Disbursements:						
8880 FSCU (State Operations)	\$ 1	\$ 3	\$ 6	\$ 6	\$ -	\$ -
0840 State Controller (State Operations)	\$ 2	\$ 1	\$ -	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 1,032	\$ 915	\$ 859	\$ 1,398	\$ 1,426	\$ 1,455
Estimated Savings				\$ (378)	\$ (386)	\$ (394)
Total Disbursements	\$ 1,035	\$ 919	\$ 865	\$ 1,026	\$ 1,040	\$ 1,061
FUND BALANCE						
Reserve for economic uncertainties	\$ 856	\$ 859	\$ 893	\$ 761	\$ 615	\$ 447
Months in Reserve	11.2	11.9	10.4	8.8	7.0	5.0

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY+1 AND ON-GOING.
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING BY+1 AND ONGOING.
- C. ASSUMES INTEREST RATE AT 0.3%.

Board of Podiatric Medicine Budget History 1997 - Current



	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Budget	\$ 969	\$ 1,007	\$ 1,017	\$ 1,048	\$ 1,170	\$ 1,093	\$ 1,073	\$ 1,115	\$ 1,153	\$ 1,252	\$ 1,303	\$ 1,272	\$ 1,359	\$ 1,403	\$ 1,397	\$ 1,397
% Change from Previous FY	0.0%	3.9%	1.0%	3.0%	11.6%	-6.6%	-1.8%	3.9%	3.4%	8.6%	-3.8%	-2.4%	6.8%	3.2%	-0.4%	-0.4%
Revenue	\$ 816	\$ 1,290	\$ 889	\$ 1,089	\$ 953	\$ 873	\$ 892	\$ 937	\$ 932	\$ 934	\$ 922	\$ 896	\$ 905	\$ 883	\$ 921	\$ 895
% Change from Previous FY	0.0%	90.8%	-65.1%	142.0%	-25.3%	7.4%	2.2%	5.0%	-0.5%	0.2%	-1.3%	-2.8%	1.0%	-2.4%	4.3%	-2.8%
Expenditures	\$ 944	\$ 776	\$ 814	\$ 977	\$ 841	\$ 879	\$ 786	\$ 868	\$ 821	\$ 932	\$ 1,038	\$ 966	\$ 924	\$ 1,035	\$ 919	\$ 865
% Change from Previous FY	0.0%	-17.8%	4.9%	20.0%	-13.9%	4.5%	-10.6%	10.4%	-5.4%	13.5%	11.4%	-6.9%	-4.3%	12.0%	-11.2%	-5.9%
Budget Reversion ¹	\$ 25	\$ 231	\$ 203	\$ 71	\$ 329	\$ 214	\$ 287	\$ 247	\$ 332	\$ 320	\$ 317	\$ 337	\$ 348	\$ 324	\$ 484	\$ 532
Fund Reversion (+/- reserve) ²	\$ (128)	\$ 514	\$ 75	\$ 112	\$ 112	\$ (6)	\$ 106	\$ 69	\$ 111	\$ 2	\$ (116)	\$ (70)	\$ (19)	\$ (152)	\$ 2	\$ 30
Adjustments	\$ 15	\$ 6	\$ 39	\$ 7	\$ 5	\$ 3	\$ (7)	\$ 5	\$ 2	\$ 14	\$ (4)	\$ 14	\$ 7	\$ (3)	\$ 1	\$ 1
Reserve Balance (\$)	\$ 30	\$ 550	\$ 664	\$ 783	\$ 900	\$ 897	\$ 986	\$ 1,070	\$ 1,183	\$ 1,199	\$ 1,023	\$ 1,011	\$ 856	\$ 859	\$ 889	\$ 889
Reserve Balance (mos)	0.5	8.1	8.2	11.2	12.3	13.7	13.8	15.6	15.2	13.9	13.3	11.7	11.2	11.9	10.4	10.4

NOTES:

¹ Budget reversion = (total budget authority) - (total expenditures)
² Fund reversion = (total revenues) - (total expenditures)

Revenue
 Malibu Transfer from General Fund
 (funds previously loaned to GF)
 1996/97 - \$139,564
 1998/99 - \$438,550
 2000/01 - \$140,115

Expenditures
 Office move (Howe Ave to Evergreen St)
 2006/07 - Facility moving services - \$30,000
 2007/08 - Applicant Tracking System - \$65,000

Exhibit

I



NEIL B. MANSDORF, D.P.M., *President*
KRISTINA M. DIXON, M.B.A., *Vice President*

EDWARD E. BARNES
MELODI MASANIAI
KAREN L. WRUBEL, D.P.M.

JOHN Y. CHA, D.P.M.
MICHAEL A. ZAPF, D.P.M.

4. Legislative Committee

Ms. Dixon, *Chair*

Dr. Wrubel, *Vice*

a. Overview I

- Of the bills our committee and staff have been monitoring, the two most significant to BPM at this time are SB 304 and SB 809
- This overview highlights the status as we prepared this Agenda Book
- We will update with the latest information at the Board Meeting

b. SB 304 (Lieu) J

- The Medical Board Sunset bill was substantially amended August 12
- But the August 21 Assembly Appropriations Committee hearing was postponed
- Possibly signaling that further amendments may be coming
- The August 12 amendments put MBC's 4-year extension back in the bill
- They included BPM's requested amendment to protect DPM residency programs
- They switched the transfer of MBC's investigators from the AG's Office to move them to DCA's Division of Investigation (DofI) instead

c. SB 809 (DeSaulnier and Steinberg) K

- As amended, SB 809 assesses licensing fee surcharges to support the Controlled Substance and Utilization Review and Evaluation System (CURES)
- SB 809 appears headed towards enactment
- It is now on the Assembly Appropriations Suspense File
- "Suspense File bills are then considered at one hearing after the state budget has been prepared and the committee has a better sense of available revenue. No testimony is presented – author or witness – at the Suspense File hearing."
- It assesses a \$6 annual fee on doctors and other prescribing health professionals to be collected at license renewal (\$12 per renewal)

August 26, 2013

Exhibit J

BILL ANALYSIS

SB 304
Page 1

Date of Hearing: August 13, 2013

ASSEMBLY COMMITTEE ON BUSINESS, PROFESSIONS AND CONSUMER
PROTECTION

Susan A. Bonilla, Chair

SB 304 (Lieu) - As Amended: August 13, 2013

SENATE VOTE : 35-2

SUBJECT : Healing arts: boards.

SUMMARY : Makes various revisions developed as a result of the joint Sunset Review process, including amending the Medical Practice Act (Act) to transfer inspectors from the Medical Board of California (MBC) to the Division of Investigation (DOI) within the Department of Consumer Affairs (DCA) and extend the sunset date of MBC by four years, and amending the Veterinary Practice Act to extend its sunset date by two years. Specifically, this bill :

- 1) Transfers the Health Quality Investigation Unit (Unit) from MBC to DOI within DCA, and states that the primary responsibility of the Unit is to investigate violations of law or regulation by licensees and applicants within the jurisdiction of MBC, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of MBC.
- 2) Clarifies that all civil service employees whose functions are transferred to DOI as a result of this bill and who are currently employed by MBC shall retain their positions, status, and rights, as specified.
- 3) Requires the transfer of the Unit to DOI to occur by January 1, 2014.
- 4) Requires that the transfer of employees shall include all peace officer positions and staff support positions that are identified by DCA as positions whose functions are primarily enforcement related.
- 5) Extends MBC's sunset date until January 1, 2018 and makes MBC subject to review by the appropriate policy committees of the Legislature.

SB 304
Page 2

- 6) Requires that MBC's executive director be approved by the director of DCA.

- 7) Requires each physician and surgeon applicant and licensee who has an electronic mail address to report it to MBC by July 1, 2014. The electronic mail address shall be considered confidential and not subject to public disclosure.
- 8) Removes language requiring MBC to send regular mail to those physician and surgeons who do not confirm his or her electronic mail address.
- 9) Revises provisions relating to qualifications for an applicant from a foreign medical school previously disapproved by MBC to be eligible for California licensure to state that:
 - a) The applicant may have an unrestricted license from a Canadian province, and that a minimum of 10 years, not 20, is required for eligibility for a California physician and surgeon license; and,
 - b) The applicant must have a minimum of five, not two, years' continuous licensure in a single state, federal territory, or Canadian province.
- 10) Clarifies that a physician and surgeon applicant shall have obtained a passing score on all parts of Step 3 of the United States Medical Licensing Examination (USMLE) within not more than four attempts in order to be eligible for a physician's and surgeon's certificate.
- 11) Clarifies that an applicant who obtains a passing score on all parts of Step 3 of the USMLE in more than four attempts and who meets specified requirements shall be eligible to be considered for issuance of a physician's and surgeon's certificate.
- 12) Requires an accredited outpatient setting to report an adverse event to MBC no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. States that disclosure of individually identifiable patient information shall be consistent with applicable law.

- 13) Permits MBC to fine an accredited outpatient setting an amount not to exceed one hundred dollars (\$100) for each day that the adverse event is not reported, as specified. If the accredited outpatient setting disputes a determination by MBC regarding alleged failure to report an adverse event, the accredited outpatient setting may, within 10 days of notification of MBC's determination, request a hearing, as specified. Requires that penalties be paid when appeals have been exhausted.

- 14) Declares that civil settlements are treated as complaints by the board, as specified.
- 15) States that a health care facility with electronic health records' failure to provide an authorizing patient's certified medical records to MBC within 15 days of receiving the request, authorization, and notice will subject the health care facility to a civil penalty, payable to MBC, of up to \$1,000 per day for each day that the documents have not been produced, and after the 15th day, up to ten thousand dollars \$10,000, unless the health care facility is unable to provide the documents within this time period for good cause.
- 16) Strikes provisions of law related to expert testimony before MBC.
- 17) Permits corporations to employ physicians and surgeons or doctors of podiatric medicine enrolled in approved residency postgraduate training programs or fellowship programs.
- 18) Permits a bona fide student to engage in the practice of midwifery if the student is under the supervision of a certified nurse-midwife, as specified.
- 19) Defines a "bona fide student" to mean an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year postsecondary midwifery education program approved by MBC.
- 20) States that the failure of a physician and surgeon to comply with an order to be examined by one or more physicians and surgeons or psychologists designated by DCA for evaluation of competency to practice may constitute grounds to issue an

interim suspension order (ISO).

- 21) Extends the time period from 15 to 30 days between the issuance of an ISO and the filing of an accusation.
- 22) Deletes the sunset date on the Health Quality Enforcement Section in the Department of Justice (DOJ) and vertical enforcement (VE).
- 23) Requires MBC, in consultation with DOJ and DCA, to report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model.
- 24) Extends until January 1, 2016, the provisions establishing the VMB and subjects the VMB to a review by the appropriate policy committees of the Legislature and clarifies that the review of the VMB shall be limited to those issues identified by the appropriate policy committees and does not involve the preparation or submission of a sunset review document or questionnaire.

- 25) Clarifies that the VMB's inspection authority does not extend to premises that are not required to be registered with the VMB and specifies that this provision does not affect the VMB's ability to investigate alleged unlicensed activity.
- 26) Requires the VMB to make every effort to inspect at least 20 percent of veterinary premises on an annual basis.
- 27) Requires the Multidisciplinary Committee (MDC) to only serve in an advisory capacity to the VMB and specifies that the objectives, duties and actions of the MDC shall not be a substitute for or conflict with any of the powers, duties and responsibilities of the VMB.
- 28) Increases the membership of the MDC from seven to nine by adding a veterinarian member of the VMB, who is to be appointed by the VMB president, and the Registered Veterinary Technician (RVT) member of the VMB and specifies that VMB members on the MDC serve concurrently with their term of office.
- 29) States the intent of the Legislature that the MDC give appropriate consideration to issues pertaining to the practice of RVTs.

- 30) Requires prior to authorizing a veterinary assistant (VA) to obtain or administer a controlled substance by the order of a supervising veterinarian, the licensee manager in a veterinary practice to conduct a background check on that VA and specifies that a veterinary assistant who has a drug or alcohol-related felony conviction, as indicated in the background check, shall be prohibited from obtaining or administering controlled substances.
- 31) Authorizes a RVT or a VA to administer a drug, including but not limited to, a drug that is a controlled substance under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian and further specifies that no person other than a licensed veterinarian may induce anesthesia unless authorized by regulation of the VMB.
- 32) Authorizes a VA to obtain or administer a controlled substance pursuant to the order, control, and full professional responsibility of a licensed veterinarian if he or she meets both of the following conditions:
- a) Is designated by a licensed veterinarian to obtain or administer controlled substances; and,
 - b) Holds a veterinary assistant controlled substance permit (VACSP) as specified.

- 33)Permits the VMB to restrict access to a drug that the VMB in consultation with the Board of Pharmacy (BOP) identifies as a dangerous drug that has an established pattern of being diverted, as specified.
- 34)Provides a definition for "controlled substance," "direct supervision," "drug," and "indirect supervision" as specified.
- 35)Specifies that the provision pertaining to an RVT or VA administering a drug, as specified, becomes operative on January 1, 2015 or the effective date of the statute in which the Legislature makes a determination that the VMB has sufficient staffing to implement.
- 36)Requires applications for a VACSP to be on a form furnished

SB 304
Page 6

by the VMB.

- 37)Specifies that the application fee for a VACSP is set by the VMB in an amount it determines is reasonably necessary, not to exceed \$100.
- 38)Authorizes the VMB to deny, suspend or revoke the controlled substance permit of a VA after notice and hearing for any cause, as specified, and specifies that proceedings shall be conducted in accordance with the provisions of administrative adjudication as specified.
- 39)Specifies that the VMB may revoke or suspend a VACSP for any of the following reasons:
- a) The employment of fraud, misrepresentation or deception in obtaining a VACSP;
 - b) Chronic inebriety or habitual use of controlled substances; and,
 - c) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any specified provision or adopted regulations.
- 40)Specifies that the VMB shall not issue a VACSP to any applicant with state or federal felony controlled substance convictions.
- 41)Authorizes the VMB to revoke a VACSP upon notification that the VA has been convicted of a state or federal felony controlled substance violation.
- 42)Requires the applicant for a VACSP, as part of the application process, to submit to the DOJ fingerprint images and related information as required by DOJ for the purposes of obtaining information as to the existence and content of a

record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the DOJ establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

43) Requires the DOJ to forward to the Federal Bureau of

SB 304
Page 7

Investigation (FBI) requests for federal summary criminal history information that it receives, as specified, and requires the DOJ to review any information returned from the FBI and compile and disseminate a response to the VMB summarizing that information.

44) Requires the DOJ to provide a state or federal level response to the VMB as specified.

45) Requires the DOJ to charge a reasonable fee sufficient to cover the cost of processing the requests.

46) Requires the VMB to request from the DOJ subsequent notification service, as specified, for VACSP applicants.

47) Requires each person who has been issued a VACSP by the VMB, to biennially apply for renewal of his or her permit on or before the last day of the applicant's birthday month and requires the application to be made on a form provided by the VMB.

48) Requires the application for a VACSP to contain a statement that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions pertaining to the VACSP, and specifies that if the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

49) Permits the VMB, as part of the renewal process, to make the necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

50) Authorizes the VMB to establish the fee for filing a renewal application for a VACSP in an amount the VMB determines is reasonable necessary not to exceed \$50.

51) Requires every person who has been issued a VACSP, who changes his or her mailing or employer address to notify the VMB of his or her new mailing or employer address within 30 days of that change and specifies that the VMB may not renew the permit of any person who fails to comply with address

change notification requirements unless the person pays a specified penalty fee.

52) Requires an applicant for a renewal permit to specify in his or her application whether he or she has changed his or her mailing or employer address and the VMB may accept that statement as evidence of the fact.

53) Specifies that the provisions pertaining to the VACSP and the renewal application for the VACSP becomes operative on January 1, 2015 or the effective date of the statute in which the Legislature makes a determination that the VMB has sufficient staffing to implement.

54) Makes clarifying and technical changes.

EXISTING LAW :

- 1) Licenses and regulates physicians and surgeons under the Medical Practice Act (Act) by MBC within DCA and states that the protection of the public is the highest priority of MBC in exercising its functions. (Business and Professions Code (BPC) 2000 et seq.)
- 2) Requires MBC to annually send an electronic notice to each applicant and licensee who has chosen to receive correspondence by electronic mail that requests confirmation that the electronic mail address is current. (BPC 2021)
- 3) Requires an applicant for a physician and surgeon's certificate to obtain a passing score on Step 3 of the USMLE with not more than 4 attempts, subject to an exception. (BPC 2177)
- 4) Requires a health care facility to comply with a request of MBC for certified medical records of a patient, authorized by the patient in writing within 30 days, and provides for a civil penalty of up to \$1,000 per day, as specified, imposed on a health care facility that fails to comply with that request. (BPC 2225.5)
- 5) Provides that whenever it appears that a healing arts practitioner may be unable to practice his or her profession safely because of an impaired ability due to mental illness or physical illness affecting competency, the licensing board may

order the licensee to be examined by a physician and surgeon or psychologist; and, provides that if the board determines that the licensee's ability to practice is impaired because of mental or physical illness affecting competency, that board may, revoke the license, suspend the right to practice, place the licensee on probation, or take any other action deemed proper by the board.
(BPC 820 and 822)

6) Prohibits a party from bringing expert testimony in a matter brought by MBC unless certain information regarding the expert witness and a brief summary of the testimony is exchanged in written form with counsel for the other party, within 30 calendar days prior to the hearing. (BPC 2334)

7) Prohibits corporations and other artificial legal entities from having any medical professional rights, privileges, or powers. (BPC 2400 et seq.)

8) Provides for the licensing and regulation of licensed midwives under the Licensed Midwifery Practice Act of 1993, by MBC, and specifies under that law that a midwife student meeting certain conditions is not precluded from engaging in the practice of midwifery as part of the course of study, if certain conditions are met, including, that the student is under the supervision of a licensed midwife. (BPC 2514)

9) Provides for the regulation of registered dispensing opticians by MBC and requires that the powers and duties of the MBC 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. (BPC 2569)

10) Under the Administrative Procedure Act (APA), establishes within the Office of Administrative Hearings (OAH) a Medical Quality Hearing Panel to conduct adjudicative hearings and proceedings relative to licensees of the MBC under the terms and conditions set forth in the APA, except as provided in the Medical Practice Act. (Government Code (GC) Section 11371, 11373)

11) Authorizes the administrative law judge of the Medical Quality Hearing Panel to issue an ISO suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other licensee restrictions. Requires that an

accusation must be filed within 15 days of the date the ISO is granted or else the order will be dissolved. (GC 11529)

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

- a) Provides for the appointment of a Senior Assistant Attorney General to the section to carry out specified duties, and provides that the section to be staffed by a sufficient number of employees capable of handling the most complex and varied types of disciplinary actions; and,
 - b) Provides for the funding for the section, from the special funds financing the MBC and other specified health-care boards.
- 13) Requires that all complaints or relevant information concerning licensees that are within the jurisdiction of MBC, the California Board of Podiatric Medicine, or the Board of Psychology be made available to the Health Quality Enforcement Section. (GC 12529.5)
- a) 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.
 - b) Provides for the repeal of those provisions on January 1, 2014.
- 14) Establishes a VE prosecution model for cases before MBC. (GC 12529.6)
- a) Requires that a complaint referred to a district office of the MBC 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.
 - b) Provides for the repeal of those provisions on January 1, 2014.
-
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- 15) Requires MBC in consultation with the DOJ to report to the Governor and Legislature on the VE model by March 1, 2012. (BPC 12529.7)
- 16) Provides for the licensing and regulation of veterinarians registered veterinary technicians (RVTs) by the Veterinary Medical Board (VMB) within DCA. (BPC 4800 et seq.)
- 17) Specifies that the VMB shall consist of 8 members, 4 of whom are licensed veterinarians, 1 of whom is a registered veterinary technician (RVT) and 3 of whom are public members, and that VMB shall remain in effect until January 1, 2014, and that the VMB is subject to review by the Legislature. (BPC 4800)
- 18) Authorizes the VMB to appoint a person exempt from civil service who shall be designated as an executive officer and

who shall exercise the powers and perform the duties delegated by the Board; provides that this authority shall remain in effect only until January 1, 2014.
(BPC 4804.5)

19) Provides that the VMB may at any time inspect the premises in which veterinary medicine surgery is being practiced. (BPC 4809.5)

20) Requires the VMB to establish a regular inspection program which will provide for random, unannounced inspections. (BPC 4809.7)

21) Provides that the VMB shall establish an advisory committee to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of the Veterinary Practice Act and to assist the VMB in its examination, licensure, and registration programs. This committee shall be known as the Veterinary Medicine Multidisciplinary Advisory Committee (MDC). (BPC 4809.8)

22) Provides that members of the MDC shall be appointed by the VMB and shall consist of 7 members; 4 licensed veterinarians, 2 RVTs, and 1 public member. Members shall represent a sufficient cross section of the interests in veterinary medicine in order to address the

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issues before it, as determined by the VMB, including veterinarians, RVTs and members of the public. (BPC 4809.8.)

23) Provides the terms of the membership of the MDC. (BPC 4809.8 (b))

24) Authorizes a RVT or a veterinary assistant to administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. (BPC 4836.1)

25) Limits access to controlled substances to persons who have undergone a background check and who, to the best of the licensee manager's knowledge, do not have any drug or alcohol related felony convictions. (BPC 4836.1)

FISCAL EFFECT : Unknown

COMMENTS :

1) Purpose of this bill . This bill represents the combined provisions drafted to address many of the issues raised in the 2013 Sunset Review Reports for the MBC and VMB. In addition to extending the sunset dates for the MBC by four years and the VMB by two years, SB 304 includes a number of reforms designed

to better protect consumers and make boards more efficient and accountable. This measure is author-sponsored.

2) Author's statement . According to the author, "This bill is one of several sunset review bills authored by Senator Lieu. Unless legislation is carried this year to extend the sunset dates for MBC and VMB, they will be repealed on January 1, 2014. In 2013, the Senate and Assembly Business and Professions Committees conducted joint oversight hearings to review 14 regulatory boards within the DCA. The Committees began their review of these licensing agencies in March and conducted three days of hearings. This bill is intended to implement legislative changes as recommended in the Committee's Background/Issue Papers for all of the agencies reviewed by the Committees this year."

3) MBC . MBC was established in 1876 and is a special-funded state entity responsible for regulating physicians and

surgeons and a number of other allied health professionals. There are currently 126,483 active physicians and surgeons and 270 licensed midwives in California. This bill makes a number of improvements to streamline enforcement mechanisms and enhance penalties to encourage compliance. Below are several major issues addressed by SB 304:

a) Vertical enforcement and prosecution (VE) . Under current law, VE requires the AG's Office to be involved in MBC's investigation activities as well as its prosecution activities. VE was established in 2006 as a result of an in-depth review of the MBC's Enforcement and Diversion Programs, and included significant recommendations for improvement.

VE requires that each complaint referred to MBC district office for investigation be simultaneously and jointly assigned to a MBC investigator and HQES deputy. The legislative goal of VE was to bring MBC investigators and HQES Deputies Attorney together, so that each complaint referred to a MBC's district office for investigation is simultaneously and jointly assigned to a MBC investigator and a DAG from the AG's Office. This team approach encourages early coordination and faster decisions, filings, and results. Subsequent legislation extended the sunset date several times. VE has been successful in integrating investigations and prosecutions and has resulted in faster resolutions. This bill deletes the sunset date on VE, extending the program indefinitely.

b) Transfer of MBC investigators to DOI . As initially drafted in VE's enabling legislation, investigators would have been transferred to HQES in the AG's office. This would have placed the investigator and prosecutor in the same office under the same agency, a practice, as is done in numerous other law enforcement departments throughout

the country. Very late in the legislative process the transfer of investigators was removed, but not before receiving support from MBC.

The impetus to revisit the issue of transferring investigators from MBC comes from the need to improve the enforcement activities and results in MBC enforcement cases. The 2012 Los Angeles Times series "Dying For Relief" illustrated that MBC has failed to aggressively

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investigate and pursue actions against dangerous doctors.

This bill transfers MBC investigators to DCA, rather than DOJ, allowing the Legislature to retain oversight authority over the investigatory process.

c) Failure to comply with a mental or physical examination .

MBC may order a physical or mental health examination of a licensee whenever it appears that a licensee's ability to practice may be impaired by physical or mental illness. The examination order is part of the investigation phase, and allows the MBC to make a substantive determination that the licentiate's ability to practice his or her profession actually has become impaired because of mental or physical illness.

Failure to comply with an examination order constitutes grounds for suspension or revocation of the individual's certificate or license. However, the process for suspension or revocation for refusal to submit to a duly-ordered examination can be lengthy, as demonstrated by a recent court case in which a licentiate of the Board of Registered Nursing refused a psychiatric examination yet continued to practice for months thereafter.

This bill states that the failure of a licensee to comply with an order to be examined by a physician or psychologist for evaluation of competency to practice may constitute grounds to issue an ISO.

d) Midwives . This bill defines a bona fide midwife student

to resolve confusion between the medical and midwifery community. "Bona fide student" means an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year postsecondary midwifery education program approved by MBC. This bill also clarifies that a bona fide student may engage in the practice of midwifery if the student is under the supervision of a certified nurse-midwife, as specified.

4) Veterinary Medical Board . The VMB licenses and regulates veterinarians, RVTs, schools/programs and veterinary premises/hospitals through the enforcement of the California Veterinary Medicine Practice Act. The VMB develops and

enforces the standards for examinations, licensing, and hospital and school inspections. The veterinary medical profession provides health care to a variety of animals including livestock, poultry, and pets from birds, fish, rabbits, hamsters, and snakes to dogs, cats, goats, pigs, horses, and llamas. Currently there are 36 recognized specialties in veterinary medicine such as surgery, internal medicine, pathology, and ophthalmology. The VMB was last reviewed by the former Joint Legislative Sunset Review Committee (JLSRC) in 2004.

The VMB licenses approximately 10,998 Veterinarians and 5,811 RVTs. The VMB also requires registration of all premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof, is being practiced, which totals approximately 3,100 veterinary premises. This bill would extend the provisions establishing the VMB and the term of the executive officer until 2016, where a follow up review of the VMB's outstanding issues from the 2013 sunset review process will be addressed. The VMB will not be required to produce a full report, but will be instructed to address issues as designated by the appropriate policy committees of the Legislature.

a) Veterinary Premise and Facility Inspections . During the 2004 sunset review of the VMB the JLSRC raised the issue that only 13 percent of veterinary premises/facilities were inspected by the VMB, and that once a facility has been inspected, it is generally not inspected again until other facilities have been inspected - perhaps as long as six or more years later. The JLSRC recommended that the VMB should attempt to increase the number of veterinary facilities inspected. In the current 2012 sunset review, limited follow up information was provided pertaining to the VMB's inspection program of veterinary premises. The VMB noted that it hired additional inspectors to help with its goal to increase the number of its inspections of veterinary premise. To address concerns raised during the 2013 sunset review process about VMB's premises and facility inspections, this bill requires the VMB to make every effort to inspect at least 20 percent of veterinary premises on an annual basis. The increased inspections will help the VMB enforce and review safety and compliance issues with premises and facilities that care for animals.

In addition to increasing premises and facility inspections, another issue raised during the 2013 sunset review process that the VMB may have been inspecting non-veterinarian premises, including 501(c)(3) animal rescue groups, providing an "inspection report" and possibly issuing citations and fines. The Senate Business, Professions and Economic Development Committee raised the issue that this may not be a reasonable use of resources for the VMB.

In order to better define the inspection authority of the VMB, this bill clarifies existing law so that the VMB is not inspecting non-veterinarian premises so that it can better target their use of scarce enforcement resources.

b) Addressing Registered Veterinarian Technician (RVT) Issues . In 2010, AB 1980 (Hayashi) (Chapter 538, Statutes of 2010) changed the composition of the VMB to include an RVT member on the VMB, made the "multidisciplinary committee" (MDC) permanent, and provided for additional duties to be added to the committee. Among other changes, the bill also eliminated the RVT Committee. According to those representing the RVT profession, there have been RVT issues which either the MDC or the VMB have not addressed or delayed. The MDC was intended to be inclusive of all issues regarding the veterinarian profession. To assure the VMB has direct input and oversight of matters related to the MDC, this bill requires that there be one veterinarian member of the VMB that sits on the MDC, and the RVT member of the VMB also sit on the MDC. This will help ensure that issues pertaining to RVTs are addressed in a more timely and efficient manner.

c) Veterinarian Assistants Access to Controlled Substances . For many years, it had been common practice for RVTs and VAs who assisted veterinarians in practice to administer drugs under indirect supervision of a veterinarian, by the veterinarian's order, control, and full professional responsibility. However, in 2007, the VMB's legal counsel questioned existing law regarding who can administer drugs to animals in a veterinary practice setting. SB 969 (Aanestad), (Chapter 83, Statutes of 2007) made a statutory change to clarify those persons who could provide controlled substances in a veterinary office or clinic and under what level of supervision and also contained a sunset

provision. The purpose for the sunset provision was to assure that there were no problems or complaints received by the VMB regarding the access to controlled substances by VAs. The sunset provision was extended to January 1, 2013, pursuant to SB 943 (Committee on Business, Professions and Economic Development) (Chapter 350, Statutes of 2011).

There have been stakeholder discussions pertaining to changes in law to assure that VAs who have access to controlled substances have appropriate oversight and no criminal history. Discussions focused on a fingerprinting requirement for VAs who would have access to controlled substances within the veterinary facility. DOJ indicated that they would be unable to provide criminal background information on VAs to the VMB unless they were under the authority of the VMB. Therefore, the VMB would have to at least require VAs to obtain a permit from the VMB to be allowed access to controlled substances, so that the VMB could request fingerprints of the VAs that would be provided to DOJ. The VMB could then be provided with the criminal background information from DOJ before they grant a permit. During the 2013 sunset review process, it was recommended that the VMB establish a permitting process for VAs who will have access to controlled substances, both under direct and indirect supervision of a veterinarian, so that the VMB can require a fingerprint check and obtain criminal history information from DOJ for VAs.

— This bill establishes the guidelines for the VACSP and the appropriate fingerprinting and background checks necessary for the permitting of VAs in order to ensure the safety of animals receiving medical care, and protect the public from any inappropriate dispensing of controlled substances. Further, this bill specifies that the process should begin by January 1, 2015, unless the legislature determines that sufficient staffing is available prior to the specified implementation date.

REGISTERED SUPPORT / OPPOSITION :

Support

Center for Public Interest Law
California Veterinary Medical Association
Veterinary Medical Board

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— Opposition

None on file

Analysis Prepared by : Sarah Huchel and Elissa Silva / B.,P. &
C.P. / (916) 319-3301

Exhibit

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BILL ANALYSIS

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Date of Hearing: August 21, 2013

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mike Gatto, Chair

SB 809 (DeSaulnier) - As Amended: August 5, 2013

Policy Committee:	Business and
Professions Vote:	14-0
Public Safety	7-0

Urgency: Yes State Mandated Local Program:
No Reimbursable:

SUMMARY

This bill creates a funding mechanism to update and maintain the Department of Justice (DOJ) Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program (PDMP). Specifically, this bill:

- 1)Assesses an annual \$6 fee on the following licensees to pay the reasonable costs associated with operating and maintaining CURES for the purpose of regulating these licensees:

Physicians, dentists, podiatrists, veterinarians, naturopathic doctors, pharmacists, registered nurse, certified nurse-midwives, nurse practitioners, physician assistants, and optometrists, as specified; wholesalers and nonresident wholesalers of dangerous drugs, as specified; nongovernmental clinics, nonprofit clinics, and free clinics, as specified; and nongovernmental pharmacies, as specified.

- 2)Requires the fee to be collected at the time of the licensee's license renewal and be deposited into the CURES Fund, created by this bill, to be available, upon appropriation, to the Department of Consumer Affairs (DCA) to reimburse DOJ.

- 3)Permits DOJ to seek voluntarily contributed private funds from insurers, health care service plans, and qualified manufacturers for the purpose of supporting CURES, as specified. Requires DOJ to annually report to the Legislature, and make public the amount and source of funds it receives for support of CURES.

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- 4)Requires DOJ, in conjunction with DCA and the appropriate boards and committees, to implement a streamlined application

and approval process to provide access to the CURES PDMP database for licensed health care practitioners.

- 5) Requires the Medical Board to "periodically develop and disseminate" information and educational material regarding the risk of abusing controlled substances, as well as information relating to CURES, to licensed physicians, surgeons and acute care hospitals.

FISCAL EFFECT

Ongoing special fund costs in the \$1.5 million range, fully covered by the proposed fee structure, to staff and maintain the upgraded PDMP. The related costs to upgrade the PDMP database - almost \$3 million - received funding in the 2013-14 budget bill.

COMMENTS

1) Rationale . Sponsored by DOJ, this bill provides a funding scheme for the ongoing operations of the CURES PDMP. According to the author, "SB 809 provides essential funding to continue and strengthen the CURES PDMP, a vital resource for medical professionals and law enforcement to detect and prevent prescription drug abuse and addiction, and save lives. Without dedicated funding, the CURES program will be suspended and California will join Missouri as the only state in the nation without a PDMP.

"Prescription drug abuse is the Nation's fastest-growing drug problem and has been classified as a public health epidemic by the Centers for Disease Control and Prevention. One hundred people die from drug overdoses every day in the United States and prescription painkillers are responsible for 75% of these deaths, claiming more lives than heroin and cocaine combined, and fueling a doubling of drug-related deaths in the United States over the last decade."

2) CURES/PDMP Background. To combat prescription drug abuse, the California Triplicate Prescription Program (TPP) was created in 1939. It was replaced by CURES in 1997, and in 2009, the PDMP system was implemented as a searchable database component of CURES. The database contains more than 100 million entries of controlled substance drugs dispensed in California. In

2012, the program responded to more than 800,000 requests.

Pharmacists are required to report dispensations of Schedules II, III and IV controlled substances at least weekly; PDMP by prescribers and dispensers for prescription abuse prevention/intervention is voluntary.

The 2011-12 budget bill eliminated GF support of CURES/PDMP. DOJ struggled to keep the program operative, cobbling together temporary staff and student interns. This bill is the result of a lengthy and collaborative effort to establish a stable

and ongoing funding scheme.

3)Support includes a lengthy and varied list of organizations, including the Attorney General, the American and CA Medical Associations, Association of CA Insurance Companies, CA Department of Insurance, CA Hospital Association, CA Labor Federation, CA Police Chiefs Association, CA Retailers Association, CA State Sheriffs Association, MBC, and UC.

According to the Attorney General's (AG's) Office, The majority of the CURES funding was cut during the Fiscal Year 2011-12 budget and CURES and the PDMP have since been staffed by a single AG employee. Additionally, the current PDMP is a dated, unstable program that has needed an upgrade to meet the needs of prescribers and pharmacists.

4)"The current budget funds the upgrade of the PDMP, and this legislation is necessary to provide the ongoing funding to operate and maintain the program."

5)There is no confirmed opposition .

Analysis Prepared by : Geoff Long / APPR. / (916) 319-2081

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY JUNE 26, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 1, 2013

SENATE BILL

No. 809

**Introduced by Senators DeSaulnier and Steinberg
(Coauthors: Senators Hancock, Lieu, Pavley, and Price)
(Coauthor: Assembly Member Blumenfield)**

February 22, 2013

An act to add Sections ~~805.8~~ 208, 209, and 2196.8 to the Business and Professions Code, and to amend Sections 11164.1, 11165, and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled ~~substances, and declaring the urgency thereof, to take effect immediately.~~ *substances.*

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as amended, DeSaulnier. Controlled substances: reporting.

(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would ~~require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to charge practitioners under their supervision who are authorized to prescribe, order, administer, furnish, or dispense controlled substances a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, an annual fee of \$6 to be assessed on specified licensees, including licensees authorized to prescribe, order, administer, furnish, or dispense controlled substances, and require the regulating agency of each of those licensees to bill and collect that fee at the time of license renewal. The bill would authorize the Department of Consumer Affairs to reduce, by regulation, that fee to the reasonable cost of operating and maintaining CURES for the purpose of regulating those licensees, if the reasonable regulatory cost is less than \$6 per licensee. The bill would require the~~

~~proceeds of which would the fee to be deposited into the CURES Fund for the support of CURES, as specified. This bill would also require the California State Board of Pharmacy to charge wholesalers, nonresident wholesalers, and veterinary food animal drug retailers under their supervision a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. The bill would require each of these fees to be due and payable at the time the license is renewed and require the fee to be submitted with the renewal fee. The bill would also permit specified insurers, health care service plans, and qualified manufacturers, and other donors to voluntarily contribute to the CURES Fund, as described.~~

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient's risk of abusing or diverting controlled substances and information relating to CURES.

(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

~~This bill would require licensed health care practitioners, require, by January 1, 2016, or upon receipt of a federal Drug Enforcement Administration registration, whichever occurs later, health care practitioners authorized to prescribe, order, administer, furnish, or dispense controlled substances, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to be strongly encouraged to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances. their care. The bill would require the Department of Justice, in conjunction with the Department of Consumer Affairs and certain licensing boards, to, among other things, develop a streamlined application and approval process to provide access to the CURES database for licensed health care practitioners and pharmacists. The bill would make other related and conforming changes.~~

~~(4) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- P4 1 SECTION 1.
 2 The Legislature finds and declares all of the
 3 following:
 4 (a) The Controlled Substance Utilization Review and Evaluation
 5 System (CURES) is a valuable preventive, investigative, and
 6 educational tool for health care providers, ~~regulatory boards,~~
 7 *regulatory agencies*, educational researchers, and law enforcement.
 8 Recent budget cuts to the Attorney General's Division of Law
 9 Enforcement have resulted in insufficient funding to support the
 10 CURES and its Prescription Drug Monitoring Program (PDMP).
 11 The CURES PDMP is necessary to ensure health care professionals
 12 have the necessary data to make informed treatment decisions and
 to allow law enforcement to investigate diversion of prescription

13 drugs. Without a dedicated funding source, the CURES PDMP is
14 not sustainable.

15 (b) Each year CURES responds to more than 800,000 requests
16 from practitioners and pharmacists regarding all of the following:

17 (1) Helping identify and deter drug abuse and diversion of
18 prescription drugs through accurate and rapid tracking of Schedule
19 II, Schedule III, and Schedule IV controlled substances.

20 (2) Helping practitioners make ~~better~~ prescribing decisions.

21 (3) Helping reduce misuse, abuse, and trafficking of those drugs.

22 (c) Schedule II, Schedule III, and Schedule IV controlled
23 substances have had deleterious effects on private and public
24 interests, including the misuse, abuse, and trafficking in dangerous
25 prescription medications resulting in injury and death. It is the
26 intent of the Legislature to work with stakeholders to fully fund
27 the operation of CURES which seeks to mitigate those deleterious
28 effects and serve as a tool for ensuring safe patient care, and which
29 has proven to be a cost-effective tool to help reduce the misuse,
30 abuse, and trafficking of those drugs.

31 (d) The following goals are critical to increase the effectiveness
32 and functionality of CURES:

33 (1) Upgrading the *CURES* PDMP so that it is capable of
34 accepting real-time updates and is accessible in real-time, 24 hours
35 a day, seven days a week.

36 (2) ~~Upgrading all prescription drug monitoring programs the~~
37 *CURES PDMP* in California so that ~~they are~~ *it is* capable of
operating in conjunction with all national prescription drug
monitoring programs.

3 (3) Providing subscribers to prescription drug monitoring
4 programs access to information relating to controlled substances
5 dispensed in California, including those dispensed through the
6 United States Department of Veterans Affairs, the Indian Health
7 Service, the Department of Defense, and any other entity with
8 authority to dispense controlled substances in California.

9 (4) Upgrading the *CURES* PDMP so that it is capable of
10 accepting ~~the reporting of~~ electronic prescriptions, *prescription*
11 *data*, thereby enabling more reliable, complete, and timely
12 prescription monitoring.

13 ~~SEC. 2.~~

14 ~~Section 805.8 is added to the Business and Professions~~
Code, to read:

15 ~~805.8.~~

16 ~~(a) (1) In addition to the fees charged for licensure,~~
17 ~~certification, and renewal, at the time those fees are charged, the~~
18 ~~Medical Board of California, the Dental Board of California, the~~
19 ~~California State Board of Pharmacy, the Veterinary Medical Board,~~
20 ~~the Board of Registered Nursing, the Physician Assistant~~
21 ~~Committee of the Medical Board of California, the Osteopathic~~
22 ~~Medical Board of California, the Naturopathic Medicine Committee~~
23 ~~of the Osteopathic Medical Board of California, the State Board~~
24 ~~of Optometry, and the California Board of Podiatric Medicine shall~~
25 ~~charge each licensee authorized pursuant to Section 11150 of the~~
26 ~~Health and Safety Code to prescribe, order, administer, furnish,~~
27 ~~or dispense Schedule II, Schedule III, or Schedule IV controlled~~
28 ~~substances a fee of up to 1.16 percent of the renewal fee that the~~
29 ~~licensee was subject to as of July 1, 2013, to be assessed annually.~~
30 ~~This fee shall be due and payable at the time the licensee renews~~
~~his or her license and shall be submitted with the licensee's renewal~~

31 ~~fee. In no case shall this fee exceed the reasonable costs associated~~
 32 ~~with operating and maintaining CURES for the purpose of~~
 33 ~~regulating prescribers and dispensers of controlled substances~~
 34 ~~licensed or certificated by these boards.~~

35 ~~(2) In addition to the fees charged for licensure, certification,~~
 36 ~~and renewal, at the time those fees are charged, the California State~~
 37 ~~Board of Pharmacy shall charge wholesalers and nonresident~~
 38 ~~wholesalers of dangerous drugs, licensed pursuant to Article 11~~
 39 ~~(commencing with Section 4160) of Chapter 9, a fee of up to 1.16~~
 40 ~~percent of the renewal fee that the wholesaler or nonresident~~
 P6 1 ~~wholesaler was subject to as of July 1, 2013, to be assessed~~
 2 ~~annually. This fee shall be due and payable at the time the~~
 3 ~~wholesaler or nonresident wholesaler renews its license and shall~~
 4 ~~be submitted with the wholesaler's or nonresident wholesaler's~~
 5 ~~renewal fee. In no case shall this fee exceed the reasonable costs~~
 6 ~~associated with operating and maintaining CURES for the purpose~~
 7 ~~of regulating wholesalers and nonresident wholesalers of dangerous~~
 8 ~~drugs licensed or certificated by that board.~~

9 ~~(3) In addition to the fees charged for licensure, certification,~~
 10 ~~and renewal, at the time those fees are charged, the California State~~
 11 ~~Board of Pharmacy shall charge veterinary food animal drug~~
 12 ~~retailers, licensed pursuant to Article 15 (commencing with Section~~
 13 ~~4196) of Chapter 9, a fee of up to 1.16 percent of the renewal fee~~
 14 ~~that the drug retailer was subject to as of July 1, 2013, to be~~
 15 ~~assessed annually. This fee shall be due and payable at the time~~
 16 ~~the drug retailer renews its license and shall be submitted with the~~
 17 ~~drug retailers' renewal fee. In no case shall this fee exceed the~~
 18 ~~reasonable costs associated with operating and maintaining CURES~~
 19 ~~for the purpose of regulating veterinary food animal drug retailers~~
 20 ~~licensed or certificated by that board.~~

21 ~~(b) The funds collected pursuant to subdivision (a) shall be~~
 22 ~~deposited in the CURES accounts, which are hereby created, within~~
 23 ~~the Contingent Fund of the Medical Board of California, the State~~
 24 ~~Dentistry Fund, the Pharmacy Board Contingent Fund, the~~
 25 ~~Veterinary Medical Board Contingent Fund, the Board of~~
 26 ~~Registered Nursing Fund, the Naturopathic Doctor's Fund, the~~
 27 ~~Osteopathic Medical Board of California Contingent Fund, the~~
 28 ~~Optometry Fund, and the Board of Podiatric Medicine Fund.~~
 29 ~~Moneys in the CURES accounts of each of those funds shall, upon~~
 30 ~~appropriation by the Legislature, be available to the Department~~
 31 ~~of Justice solely for operating and maintaining CURES for the~~
 32 ~~purposes of regulating prescribers and dispensers of controlled~~
 33 ~~substances. All moneys received by the Department of Justice~~
 34 ~~pursuant to this section shall be deposited in the CURES Fund~~
 35 ~~described in Section 11165 of the Health and Safety Code.~~

36 *SEC. 2.*

37 *Section 208 is added to the Business and Professions*
 38 *Code, to read:*

39 *208.*

40 *(a) A CURES fee of six dollars (\$6) shall be assessed*
 39 *annually on each of the licensees specified in subdivision (b) to*
 40 *pay the reasonable costs associated with operating and maintaining*
 P7 1 *CURES for the purpose of regulating those licensees. The fee*
 2 *assessed pursuant to this subdivision shall be billed and collected*
 3 *by the regulating agency of each licensee at the time of the*
 4 *licensee's license renewal. If the reasonable regulatory cost of*
 5 *operating and maintaining CURES is less than six dollars (\$6)*

6 per licensee, the Department of Consumer Affairs may, by
7 regulation, reduce the fee established by this section to the
8 reasonable regulatory cost.

9 (b) (1) Licensees authorized pursuant to Section 11150 of the
10 Health and Safety Code to prescribe, order, administer, furnish,
11 or dispense Schedule II, Schedule III, or Schedule IV controlled
12 substances or pharmacists licensed pursuant to Chapter 9
13 (commencing with Section 4000) of Division 2.

14 (2) Wholesalers and nonresident wholesalers of dangerous
15 drugs licensed pursuant to Article 11 (commencing with Section
16 4160) of Chapter 9 of Division 2.

17 (3) Nongovernmental clinics licensed pursuant to Article 13
18 (commencing with Section 4180) and Article 14 (commencing with
19 Section 4190) of Chapter 9 of Division 2.

20 (4) Nongovernmental pharmacies licensed pursuant to Article
21 7 (commencing with Section 4110) of Chapter 9 of Division 2.

22 (c) The funds collected pursuant to subdivision (a) shall be
23 deposited in the CURES Fund, which is hereby created within the
24 State Treasury. Moneys in the CURES Fund shall, upon
25 appropriation by the Legislature, be available to the Department
26 of Consumer Affairs to reimburse the Department of Justice for
27 costs to operate and maintain CURES for the purposes of
28 regulating the licensees specified in subdivision (b).

29 (d) The Department of Consumer Affairs shall contract with
30 the Department of Justice on behalf of the Medical Board of
31 California, the Dental Board of California, the California State
32 Board of Pharmacy, the Veterinary Medical Board, the Board of
33 Registered Nursing, the Physician Assistant Board of the Medical
34 Board of California, the Osteopathic Medical Board of California,
35 the Naturopathic Medicine Committee of the Osteopathic Medical
36 Board, the State Board of Optometry, and the California Board
37 of Podiatric Medicine to operate and maintain CURES for the
38 purposes of regulating the licensees specified in subdivision (b).

39 SEC. 3.

Section 209 is added to the Business and Professions
40 Code, to read:

P8 1 209.

The Department of Justice, in conjunction with the
2 Department of Consumer Affairs and the boards and committees
3 identified in subdivision (d) of Section 208, shall do all of the
4 following:

5 (a) Identify and implement a streamlined application and
6 approval process to provide access to the CURES Prescription
7 Drug Monitoring Program (PDMP) database for licensed health
8 care practitioners eligible to prescribe Schedule II, Schedule III,
9 or Schedule IV controlled substances and for pharmacists. Every
10 reasonable effort shall be made to implement a streamlined
11 application and approval process that a licensed health care
12 practitioner or pharmacist can complete at the time that he or she
13 is applying for licensure or renewing his or her license.

14 (b) Identify necessary procedures to enable licensed health care
15 practitioners and pharmacists with access to the CURES PDMP
16 to delegate their authority to order reports from the CURES
17 PDMP.

18 (c) Develop a procedure to enable health care practitioners
19 who do not have a federal Drug Enforcement Administration (DEA)
20 number to opt out of applying for access to the CURES PDMP.

21 ~~SEC. 3.~~

22 SEC. 4.

Section 2196.8 is added to the Business and Professions

23 Code, to read:

24 2196.8.

The board shall periodically develop and disseminate
25 information and educational material regarding assessing a patient's
26 risk of abusing or diverting controlled substances and information
27 relating to the Controlled Substance Utilization Review and
28 Evaluation System (CURES), described in Section 11165 of the
29 Health and Safety Code, to each licensed physician and surgeon
30 and to each general acute care hospital in this state. The board
31 shall consult with the State Department of ~~Health Care Services~~
32 *Public Health, the boards and committees specified in subdivision*
33 *(d) of Section 208,* and the Department of Justice in developing
34 the materials to be distributed pursuant to this section.

35 ~~SEC. 4.~~

36 SEC. 5.

Section 11164.1 of the Health and Safety Code is
37 amended to read:

38 11164.1.

(a) ~~(1)~~ Notwithstanding any other provision of law,
39 a prescription for a controlled substance issued by a prescriber in
40 another state for delivery to a patient in another state may be
P9 1 dispensed by a California pharmacy, if the prescription conforms
2 with the requirements for controlled substance prescriptions in the
3 state in which the controlled substance was prescribed.

4 ~~(2)~~

5 (b) All prescriptions for Schedule ~~II and II~~, Schedule ~~III III~~, and
6 Schedule IV controlled substances dispensed pursuant to this
7 subdivision shall be reported by the dispensing pharmacy to the
8 Department of Justice in the manner prescribed by subdivision ~~(e)~~
9 (d) of Section 11165.

10 ~~(b) Pharmacies may dispense prescriptions for Schedule III,~~
11 ~~Schedule IV, and Schedule V controlled substances from~~
12 ~~out-of-state prescribers pursuant to Section 4005 of the Business~~
13 ~~and Professions Code and Section 1717 of Title 16 of the California~~
14 ~~Code of Regulations.~~

15 ~~(c) This section shall become operative on January 1, 2005.~~

16 ~~SEC. 5.~~

17 SEC. 6.

Section 11165 of the Health and Safety Code is
18 amended to read:

19 11165.

(a) To assist health care practitioners in their efforts
20 to ensure appropriate prescribing, ordering, administering,
21 furnishing, and dispensing of controlled substances, law
22 enforcement and regulatory agencies in their efforts to control the
23 diversion and resultant abuse of Schedule II, Schedule III, and
24 Schedule IV controlled substances, and for statistical analysis,
25 education, and research, the Department of Justice shall, contingent
26 upon the availability of adequate funds in the ~~CURES accounts~~
27 ~~within the Contingent Fund of the Medical Board of California,~~
28 ~~the Pharmacy Board Contingent Fund, the State Dentistry Fund,~~
29 ~~the Board of Registered Nursing Fund, the Naturopathic Doctor's~~
30 ~~Fund, the Osteopathic Medical Board of California Contingent~~
31 ~~Fund, the Veterinary Medical Board Contingent Fund, the~~

32 ~~Optometry Fund, the Board of Podiatric Medicine Fund, and the~~
 33 ~~CURES Fund, maintain the Controlled Substance Utilization~~
 34 ~~Review and Evaluation System (CURES) for the electronic~~
 35 ~~monitoring of, and Internet access to information regarding, the~~
 36 ~~prescribing and dispensing of Schedule II, Schedule III, and~~
 37 ~~Schedule IV controlled substances by all practitioners authorized~~
 38 ~~to prescribe, order, administer, furnish, or dispense these controlled~~
 39 ~~substances.~~

P10 1 ~~(b) The reporting of Schedule III and Schedule IV controlled~~
 2 ~~substance prescriptions to CURES shall be contingent upon the~~
 3 ~~availability of adequate funds for the Department of Justice for~~
 4 ~~the purpose of funding CURES.~~

5 ~~(c)~~

6 (b) The Department of Justice may seek and use grant funds to
 7 pay the costs incurred by the operation and maintenance of
 8 CURES. The department shall annually report to the Legislature
 9 and make available to the public the amount and source of funds
 10 it receives for support of CURES. ~~Grant funds shall not be~~
 11 ~~appropriated from the Contingent Fund of the Medical Board of~~
 12 ~~California, the Pharmacy Board Contingent Fund, the State~~
 13 ~~Dentistry Fund, the Board of Registered Nursing Fund, the~~
 14 ~~Naturopathic Doctor’s Fund, the Osteopathic Medical Board of~~
 15 ~~California Contingent Fund, the Veterinary Medical Board~~
 16 ~~Contingent Fund, the Optometry Fund, or the Board of Podiatric~~
 17 ~~Medicine Fund, for the purpose of funding CURES.~~

18 ~~(d)~~

19 (c) (1) The operation of CURES shall comply with all
 20 applicable federal and state privacy and security laws and
 21 regulations.

22 (2) CURES shall operate under existing provisions of law to
 23 safeguard the privacy and confidentiality of patients. Data obtained
 24 from CURES shall only be provided to appropriate state, local,
 25 and federal public agencies for disciplinary, civil, or criminal
 26 purposes and to other agencies or entities, as determined by the
 27 Department of Justice, for the purpose of educating practitioners
 28 and others in lieu of disciplinary, civil, or criminal actions. Data
 29 may be provided to public or private entities, as approved by the
 30 Department of Justice, for educational, peer review, statistical, or
 31 research purposes, provided that patient information, including
 32 any information that may identify the patient, is not compromised.
 33 Further, data disclosed to any individual or agency as described
 34 in this subdivision shall not be disclosed, sold, or transferred to
 35 any third party. The Department of Justice ~~may~~ shall establish
 36 policies, procedures, and regulations regarding the use, access,
 37 evaluation, management, implementation, operation, storage,
 38 *disclosure*, and security of the information within CURES,
 39 consistent with this subdivision.

40 ~~(e)~~

P11 1 (d) For each prescription for a Schedule II, Schedule III, or
 2 Schedule IV controlled substance, as defined in the controlled
 3 substances schedules in federal law and regulations, specifically
 4 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
 5 of the Code of Federal Regulations, the dispensing pharmacy,
 6 clinic, or other dispenser shall report the following information to
 7 the Department of Justice as soon as reasonably possible, but not
 8 more than seven days after the date a controlled substance is
 9 dispensed, ~~unless monthly reporting is permitted pursuant to~~

10 ~~subdivision (f) of Section 11190, and in a format specified by the~~
 11 Department of Justice:

12 (1) Full name, address, and telephone number of the ultimate
 13 user or research subject, or contact information as determined by
 14 the Secretary of the United States Department of Health and Human
 15 Services, and the gender, and date of birth of the ultimate user.

16 (2) The prescriber's category of ~~licensure and license number,~~
 17 *licensure, national provider identifier (NPI) number,* the federal
 18 controlled substance registration number, and the state medical
 19 license number of any prescriber using the federal controlled
 20 substance registration number of a government-exempt facility.

21 (3) Pharmacy prescription number, license number, *NPI number,*
 22 and federal controlled substance registration number.

23 (4) National Drug Code (NDC) number of the controlled
 24 substance dispensed.

25 (5) Quantity of the controlled substance dispensed.

26 (6) International Statistical Classification of Diseases, 9th
 27 revision (ICD-9) or 10th revision (ICD-10) Code, if available.

28 (7) Number of refills ordered.

29 (8) Whether the drug was dispensed as a refill of a prescription
 30 or as a first-time request.

31 (9) Date of origin of the prescription.

32 (10) Date of dispensing of the prescription.

33 ~~(f)~~

34 (e) The Department of Justice may invite stakeholders to assist,
 35 advise, and make recommendations on the establishment of rules
 36 and regulations necessary to ensure the proper administration and
 37 enforcement of the CURES database. All prescriber *and dispenser*
 38 invitees shall be licensed by one of the boards or committees
 39 identified in ~~subdivision (a) of Section 805.8 (d) of Section 208~~ of
 P12 1 the Business and Professions Code, in active practice in California,
 2 and a regular user of CURES.

3 ~~(g)~~

4 (f) The Department of Justice shall, prior to upgrading CURES,
 5 consult with prescribers licensed by one of the boards or
 6 committees identified in ~~subdivision (a) of Section 805.8 (d) of~~
 7 *Section 208* of the Business and Professions Code, one or more of
 8 the regulatory boards or committees identified in ~~subdivision (a)~~
 9 ~~of Section 805.8 (d) of Section 208~~ of the Business and Professions
 10 Code, and any other stakeholder identified by the department, for
 11 the purpose of identifying desirable capabilities and upgrades to
 12 the CURES Prescription Drug Monitoring Program (*PDMP*).

13 ~~(h)~~

14 (g) The Department of Justice may establish a process to educate
 15 authorized subscribers of *the CURES PDMP* on how to access
 16 and use *the CURES PDMP*.

17 ~~(i) The CURES Fund is hereby established within the State~~
 18 ~~Treasury. The CURES Fund shall consist of all funds made~~
 19 ~~available to the Department of Justice for the purpose of funding~~
 20 ~~CURES. Money in the CURES Fund shall, upon appropriation by~~
 21 ~~the Legislature, be available for allocation to the Department of~~
 22 ~~Justice for the purpose of funding CURES.~~

23 ~~SEC. 6.~~

24 ~~SEC. 7.~~

25 Section 11165.1 of the Health and Safety Code is
 amended to read:

26 11165.1.

(a) (1) ~~A licensed health care practitioner-eligible to prescribe~~ *authorized to prescribe, order, administer, furnish, or dispense* Schedule II, Schedule III, or Schedule IV controlled substances ~~pursuant to Section 11150 or a pharmacist shall shall, before January 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later,~~ submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner or pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

P13 1 (A) An application may be denied, or a subscriber may be
2 suspended, for reasons which include, but are not limited to, the
3 following:

4 (i) Materially falsifying an application for a subscriber.

5 (ii) Failure to maintain effective controls for access to the patient
6 activity report.

7 (iii) ~~Suspended or revoked federal Drug Enforcement~~
8 ~~Administration (DEA) DEA~~ registration.

9 (iv) Any subscriber who is arrested for a violation of law
10 governing controlled substances or any other law for which the
11 possession or use of a controlled substance is an element of the
12 crime.

13 (v) Any subscriber accessing information for any other reason
14 than caring for his or her patients.

15 (B) Any authorized subscriber shall notify the Department of
16 Justice within 30 days of any changes to the subscriber account.

17 ~~(2) To allow sufficient time for licensed health care practitioners~~
18 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
19 ~~controlled substances and a pharmacist to apply and receive access~~
20 ~~to PDMP, a written request may be made, until July 1, 2012, and~~
21 ~~the Department of Justice may release to that practitioner or~~
22 ~~pharmacist the history of controlled substances dispensed to an~~
23 ~~individual under his or her care based on data contained in CURES.~~

24 (2) *A health care practitioner authorized to prescribe Schedule*
25 *II, Schedule III, or Schedule IV controlled substances pursuant to*
26 *Section 11150 or a pharmacist shall be deemed to have complied*
27 *with paragraph (1) if the licensed health care practitioner or*
28 *pharmacist has been approved to access the CURES database*
29 *through the process developed pursuant to subdivision (a) of*
30 *Section 209 of the Business and Professions Code.*

31 (b) Any request for, or release of, a controlled substance history
32 pursuant to this section shall be made in accordance with guidelines
33 developed by the Department of Justice.

34 (c) ~~(1) Until the Department of Justice has issued the~~
35 ~~notification described in paragraph (3), in~~ *In* order to prevent the
36 inappropriate, improper, or illegal use of Schedule II, Schedule
37 III, or Schedule IV controlled substances, the Department of Justice
38 may initiate the referral of the history of controlled substances
39 dispensed to an individual based on data contained in CURES to

P14 1 licensed health care practitioners, pharmacists, or both, providing
2 care or services to the individual.

3 ~~(2) Upon the Department of Justice issuing the notification~~
4 ~~described in paragraph (3), licensed health care practitioners~~

5 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
 6 ~~controlled substances and pharmacists shall be strongly encouraged~~
 7 ~~to access and consult the electronic history of controlled substances~~
 8 ~~dispensed to an individual under his or her care prior to prescribing~~
 9 ~~or dispensing a Schedule II, Schedule III, or Schedule IV controlled~~
 10 ~~substance.~~

11 ~~(3) The Department of Justice shall notify licensed health care~~
 12 ~~practitioners and pharmacists who have submitted the application~~
 13 ~~required pursuant to subdivision (a) when the department~~
 14 ~~determines that CURES is capable of accommodating all users,~~
 15 ~~but not before June 1, 2015. The department shall provide a copy~~
 16 ~~of the notification to the Secretary of State, the Secretary of the~~
 17 ~~Senate, the Chief Clerk of the Assembly, and the Legislative~~
 18 ~~Counsel, and shall post the notification on the department's Internet~~
 19 ~~Web site.~~

20 (d) The history of controlled substances dispensed to an
 21 individual based on data contained in CURES that is received by
 22 a practitioner or pharmacist from the Department of Justice
 23 pursuant to this section shall be considered medical information
 24 subject to the provisions of the Confidentiality of Medical
 25 Information Act contained in Part 2.6 (commencing with Section
 26 56) of Division 1 of the Civil Code.

27 (e) Information concerning a patient's controlled substance
 28 history provided to a prescriber or pharmacist pursuant to this
 29 section shall include prescriptions for controlled substances listed
 30 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
 31 of Federal Regulations.

32 ~~SEC. 7.~~

33 ~~SEC. 8.~~

Section 11165.4 is added to the Health and Safety
 34 Code, to read:

35 11165.4.

(a) The Department of Justice may seek *voluntarily*
 36 *contributed* private funds from insurers, health care service plans,
 37 ~~and qualified manufacturers~~ *manufacturers, and other donors* for
 38 the purpose of supporting CURES. Insurers, health care service
 39 plans, ~~and qualified manufacturers~~ *manufacturers, and other*
 40 *donors* may contribute by submitting their payment to the
 P15 1 Controller for deposit into the CURES Fund established pursuant
 2 to subdivision ~~(e) of Section 11165:~~ *(c) of Section 208 of the*
 3 *Business and Professions Code*. The department shall make
 4 information about the amount and the source of all private funds
 5 it receives for support of CURES available to the public.
 6 Contributions to the CURES Fund pursuant to this subdivision
 7 shall be nondeductible for state tax purposes.

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

9 (1) "Controlled substance" means a drug, substance, or
 10 immediate precursor listed in any schedule in Section 11055,
 11 11056, or 11057 of the Health and Safety Code.

12 (2) "Health care service plan" means an entity licensed pursuant
 13 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
 14 2.2 (commencing with Section 1340) of Division 2 of the Health
 15 and Safety Code).

16 (3) "Insurer" means an admitted insurer writing health insurance,
 17 as defined in Section 106 of the Insurance Code, and an admitted
 18 insurer writing workers' compensation insurance, as defined in
 19 Section 109 of the Insurance Code.

20 (4) "Qualified manufacturer" means a manufacturer of a
21 controlled substance, but does not mean a wholesaler or nonresident
22 wholesaler of dangerous drugs, regulated pursuant to Article 11
23 (commencing with Section 4160) of Chapter 9 of Division 2 of
24 the Business and Professions Code, a veterinary food-animal drug
25 retailer, regulated pursuant to Article 15 (commencing with Section
26 4196) of Chapter 9 of Division 2 of the Business and Professions
27 Code, or an individual regulated by the Medical Board of
28 California, the Dental Board of California, the California State
29 Board of Pharmacy, the Veterinary Medical Board, the Board of
30 Registered Nursing, the Physician Assistant Committee of the
31 Medical Board of California, the Osteopathic Medical Board of
32 California, the State Board of Optometry, or the California Board
33 of Podiatric Medicine.

34 ~~SEC. 8.~~

~~This act is an urgency statute necessary for the
35 immediate preservation of the public peace, health, or safety within
36 the meaning of Article IV of the Constitution and shall go into
37 immediate effect. The facts constituting the necessity are:~~

~~In order to protect the public from the continuing threat of
38 prescription drug abuse at the earliest possible time, it is necessary
39 that this act take effect immediately.
40~~