



**CALIFORNIA BOARD OF PODIATRIC MEDICINE
JUNE 7, 2019**

SUBJECT: LEGISLATIVE PROGRAM REPORT

ACTION: RECEIVE AND FILE

VC

Committee Members:
Michael Zapf, DPM, Chair
Carolyn McAloon, DPM

RECOMMENDATION

Discussion and possible action regarding matters in the Legislative Program Report.

ISSUES

This report summarizes recent activities of the Board as to legislative and regulatory matters.

LEGISLATION PROGRAM UPDATE – 2019

1. Legislation

This report has incorporated information from a legislative tracking service. The goal is to assist the Board with its review and discussion of current legislation. After review and discussion, the Board may decide to take support, oppose, or neutral positions on the following legislation:

- a. **AB 407** (Santiago, 2019) Fluoroscopy Permit or Certification and Continuing Education: Exceptions

AB (Santiago D) 407 Fluoroscopy permit or certification and continuing education: exceptions.

Current Text: Amended: 4/11/2019

Last Amend: 4/11/2019

Status: 5/20/2019-Read third time. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS. for assignment.

Location: 5/20/2019-S. DESK

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would authorize a physician and surgeon, or a doctor of podiatric medicine, who works in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation safety, to provide fluoroscopy services without a fluoroscopy permit or certification. The bill would require the

department to provide that working in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation safety satisfies a requirement for fluoroscopy continuing education set forth in a specific regulation.

- b. **AB 678** (Flora, 2019) Medi-Cal: Podiatric Services (See Attachment B)

AB (Flora R) Medi-Cal: podiatric services. 678

Current Text: Amended: 4/9/2019

Last Amend: 4/9/2019

Status: 5/23/2019-Read third time. Passed. Ordered to the Senate.

Location: 5/23/2019-S. DESK

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Current law excludes certain optional Medi-Cal benefits, including, among others, podiatric services and chiropractic services, from coverage under the Medi-Cal program, except for specified beneficiaries. This bill would provide that the exclusion of podiatric services is effective only through December 31, 2019, and would restore podiatric services as a covered benefit of the Medi-Cal program as of January 1, 2020, or the effective date of federal approvals as specified.

- c. **SB 697** (Caballero, 2019) Physician Assistants: Practice Agreement: Supervision (See Attachment C)

SB (Caballero D) Physician assistants: practice agreement: supervision. 697

Current Text: Amended: 4/24/2019

Last Amend: 4/24/2019

Status: 5/23/2019-Read third time. Passed. (Ayes 37. Noes 0.) Ordered to the Assembly.

Location: 5/23/2019-A. DESK

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Would remove the requirement that the Physician Assistant Board make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians and surgeons to supervise physician assistants. The bill, except as specified, would remove the limit on the number of physician assistants that a physician and surgeon may supervise.

- d. **AB 1490** (Carrillo, 2019) Medical Assistants (See Attachment D)

AB (Carrillo D) Medical assistants. 1490

Current Text: Introduced: 2/22/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was B.&P. on 3/14/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law defines the term “technical supportive services” to mean simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife. This bill would define “technical supportive services” to also include drawing up a local anesthetic provided specified conditions are met.

e. **SB 53** (Wilk, 2019) Open Meetings (See Attachment E)

SB 53 (Wilk R) Open meetings.

Current Text: Amended: 3/5/2019

Last Amend: 3/5/2019

Status: 5/6/2019-Referred to Com. on G.O.

Location: 5/6/2019-A. G.O.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would specify that the definition of “state body” includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in their official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

2. Regulations:

a. Title 16, Professional and Vocational Regulations, Division 13.9, Section 1399.659: Probation and Reinstatement of Suspended or Revoked Certificates.

This regulation has been submitted to the legal department at the Department of Consumer Affairs and we are awaiting their review and response.

b. Regulations to Reflect Board's Name Change:

The proposed text to change the title of the Board from “Board of Podiatric Medicine” to “Podiatric Medical Board of California” is included for review. The language will

likely be accepted by the Office of Administrative Law as the included changes are non-substantive. (See Attachment F)

Prepared by: Kathleen Cooper



Kathleen Cooper, Legislative Analyst



Brian Naslund, Executive Officer

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE—2019—20 REGULAR SESSION

ASSEMBLY BILL

No. 407

Introduced by Assembly Member Santiago

February 7, 2019

An act to amend Sections 107110 and 114870 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 407, as amended, Santiago. Fluoroscopy permit or certification and continuing education: exceptions.

The Radiologic Technology Act makes it unlawful for any licentiate of the healing arts to administer or use diagnostic, mammographic, or therapeutic X-ray on human beings in this state, unless that person is certified by the State Department of Public Health and acting within the scope of that certification. The act requires the department to prescribe minimum qualifications for granting a fluoroscopy permit and continuing education requirements for the holders of that permit. A person who violates a provision of the Radiologic Technology Act or regulation of the department adopted pursuant to that act is guilty of a misdemeanor.

This bill ~~would, notwithstanding any other law, would~~ authorize a physician and surgeon, or a doctor of podiatric medicine, ~~to provide fluoroscopy services who works~~ in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation ~~safety safety~~, *to provide fluoroscopy services* without a fluoroscopy permit or certification. The bill would

AB 407

— 2 —

require the department to provide that working in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation safety satisfies a requirement for fluoroscopy continuing education set forth in a specific regulation.

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

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

1 SECTION 1. Section 107110 of the Health and Safety Code
2 is amended to read:

3 107110. (a) It shall be unlawful for any licentiate of the healing
4 arts to administer or use diagnostic, mammographic, or therapeutic
5 X-ray on human beings in this state after January 1, 1972, unless
6 that person is certified pursuant to subdivision (e) of Section
7 114870, Section 114872, or Section 114885, and is acting within
8 the scope of that certification.

9 (b) Notwithstanding ~~any other law, including~~ subdivision (a),
10 a physician and surgeon, or a doctor of podiatric medicine, ~~may~~
11 ~~provide fluoroscopy services who works~~ in a setting that is in
12 compliance with the Centers for Medicare and Medicaid Services'
13 Conditions for Coverage relating to radiation ~~safety safety~~, ~~may~~
14 ~~provide fluoroscopy services~~ without a fluoroscopy permit or
15 certification.

16 SEC. 2. Section 114870 of the Health and Safety Code is
17 amended to read:

18 114870. The department shall do all of the following:

19 (a) Upon recommendation of the committee, adopt regulations
20 as may be necessary to accomplish the purposes of this chapter.

21 (b) (1) Provide for certification of radiologic technologists,
22 without limitation as to procedures or areas of application, except
23 as provided in Section 106980. Separate certificates shall be
24 provided for diagnostic radiologic technology, for mammographic
25 radiologic technology, and for therapeutic radiologic technology.
26 If a person has received accreditation to perform mammography
27 from a private accreditation organization, the department shall
28 consider this accreditation when deciding to issue a mammographic
29 radiologic technology certificate.

1 (2) Provide, upon recommendation of the committee, that a
2 radiologic technologist who operates digital radiography equipment
3 devote a portion of their continuing education credit hours to
4 continuing education in digital radiologic technology.

5 (c) (1) (A) Provide, as may be deemed appropriate, for granting
6 limited permits to persons to conduct radiologic technology limited
7 to the performance of certain procedures or the application of
8 X-rays to specific areas of the human body, except for
9 mammography, prescribe minimum standards of training and
10 experience for these persons, and prescribe procedures for
11 examining applicants for limited permits. The minimum standards
12 shall include a requirement that persons granted limited permits
13 under this subdivision shall meet those fundamental requirements
14 in basic radiological health training and knowledge similar to those
15 required for persons certified under subdivision (b) as the
16 department determines are reasonably necessary for the protection
17 of the health and safety of the public.

18 (B) Provide that an applicant for approval as a limited permit
19 X-ray technician in the categories of chest radiography, extremities
20 radiography, gastrointestinal radiography, genitourinary
21 radiography, leg-podiatric radiography, skull radiography, and
22 torso-skeletal radiography, as these categories are defined in
23 Section 30443 of Title 17 of the California Code of Regulations,
24 shall have at least 50 hours of education in radiological protection
25 and safety. The department may allocate these hours as it deems
26 appropriate.

27 (2) Provide that a limited permit X-ray technician in the
28 categories of chest radiography, extremities radiography,
29 gastrointestinal radiography, genitourinary radiography,
30 leg-podiatric radiography, skull radiography, and torso-skeletal
31 radiography, as these categories are defined in Section 30443 of
32 Title 17 of the California Code of Regulations, may perform digital
33 radiography within their respective scopes of practice after
34 completion of 20 hours or more of instruction in digital radiologic
35 technology approved by the department. This requirement ~~shall~~
36 ~~not be construed to~~ *does not* preclude limited permit X-ray
37 technicians in the categories of dental laboratory radiography and
38 X-ray bone densitometry from performing digital radiography
39 upon meeting the educational requirements determined by the
40 department.

1 (3) Provide, upon recommendation of the committee, that a
2 limited permit X-ray technician who has completed the initial
3 instruction described in paragraph (2) devote a portion of their
4 required continuing education credit hours to additional continuing
5 instruction in digital radiologic technology.

6 (d) Provide for the approval of schools for radiologic
7 technologists. Schools for radiologic technologists shall include
8 20 hours of approved instruction in digital radiography. The
9 department may exempt a school from this requirement as it deems
10 appropriate.

11 (e) Provide, upon recommendation of the committee, for
12 certification of licentiates of the healing arts to supervise the
13 operation of X-ray machines or to operate X-ray machines, or both,
14 prescribe minimum standards of training and experience for these
15 licentiates of the healing arts, and prescribe procedures for
16 examining applicants for certification. This certification may limit
17 the use of X-rays to certain X-ray procedures and the application
18 of X-rays to specific areas of the human body.

19 (f) (1) Provide for certification of any physician and surgeon
20 to operate, and supervise the operation of, a bone densitometer, if
21 that physician and surgeon provides the department a certificate
22 that evidences training in the use of a bone densitometer by a
23 representative of a bone densitometer machine manufacturer, or
24 through any radiologic technology school. The certification shall
25 be valid for the particular bone densitometer the physician and
26 surgeon was trained to use, and for any other bone densitometer
27 that meets all of the criteria specified in subparagraphs (A) to (C),
28 inclusive, if the physician and surgeon has completed training, as
29 specified in subparagraph (A) of paragraph (2), for the use of that
30 bone densitometer. The physician and surgeon shall, upon request
31 of the department, provide evidence of training, pursuant to
32 subparagraph (A) of paragraph (2), for the use of any bone
33 densitometer used by the physician and surgeon. The activity
34 covered by the certificate shall be limited to the use of an X-ray
35 bone densitometer to which all of the following is applicable:

36 (A) The bone densitometer does not require user intervention
37 for calibration.

38 (B) The bone densitometer does not provide an image for
39 diagnosis.

1 (C) The bone densitometer is used only to estimate bone density
2 of the heel, wrist, or finger of the patient.

3 (2) The certificate shall be accompanied by a copy of the
4 curriculum covered by the manufacturer's representative or
5 radiologic technology school. The curriculum shall include, at a
6 minimum, instruction in all of the following areas:

7 (A) Procedures for operation of the bone densitometer by the
8 physician and surgeon, and for the supervision of the operation of
9 the bone densitometer by other persons, including procedures for
10 quality assurance of the bone densitometer.

11 (B) Proper radiation protection of the operator, the patient, and
12 third parties in proximity to the bone densitometer.

13 (C) Provisions of Article 5 (commencing with Section 106955)
14 of Chapter 4 of Part 1 of Division 104.

15 (D) Provisions of Chapter 6 (commencing with Section 114840)
16 of Part 9 of Division 104.

17 (E) Provisions of Group 1 (commencing with Section 30100)
18 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the
19 California Code of Regulations.

20 (F) Provisions of Group 1.5 (commencing with Section 30108)
21 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the
22 California Code of Regulations.

23 (G) Provisions of Article 1 (commencing with Section 30252)
24 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
25 of the California Code of Regulations.

26 (H) Provisions of Article 2 (commencing with Section 30254)
27 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
28 of the California Code of Regulations.

29 (I) Provisions of Article 3 (commencing with Section 30275)
30 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
31 of the California Code of Regulations.

32 (J) Provisions of Article 4 (commencing with Section 30305)
33 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
34 of the California Code of Regulations.

35 (K) Provisions of Subchapter 4.5 (commencing with Section
36 30400) of Chapter 5 of Division 1 of Title 17 of the California
37 Code of Regulations.

38 (3) (A) Notwithstanding any other ~~provision~~ of law, this
39 subdivision shall constitute all the requirements that must be met
40 by a physician and surgeon in order to operate, and supervise the

1 operation of, a bone densitometer. The department may adopt
2 regulations consistent with this section in order to administer the
3 certification requirements.

4 (B) No person may be supervised by a physician and surgeon
5 in the use of a bone densitometer unless that person possesses the
6 necessary license or permit required by the department.

7 (C) Nothing in this subdivision shall affect the requirements
8 imposed by the committee or the department for the registration
9 of a bone densitometer machine, or for the inspection of facilities
10 in which any bone densitometer machine is operated.

11 (D) This subdivision shall not apply to a licentiate of the healing
12 arts who is certified pursuant to subdivision (e) or pursuant to
13 Section 107111.

14 (E) The department shall charge a fee for a certificate issued
15 pursuant to this subdivision to the extent necessary to administer
16 certification. The fee shall be in an amount sufficient to cover the
17 department's costs of implementing this subdivision and shall not
18 exceed the fee for certification to operate or supervise the operation
19 of an X-ray machine pursuant to subdivision (e). The fees collected
20 pursuant to this subparagraph shall be deposited into the Radiation
21 Control Fund established pursuant to Section 114980.

22 (g) Upon recommendation of the committee, exempt from
23 certification requirements those licentiates of the healing arts who
24 have successfully completed formal courses in schools certified
25 by the department and who have successfully passed a
26 roentgenology technology and radiation protection examination
27 approved by the department and administered by the board that
28 issued their license.

29 (h) (1) No later than July 1, 2019, the department shall require
30 an applicant to provide either the individual taxpayer identification
31 number or social security number for purposes of applying for or
32 the renewal of a certificate, license, or permit issued under this
33 section or regulations promulgated pursuant thereto.

34 (2) The individual taxpayer identification or the social security
35 number shall serve to establish the identification of persons affected
36 by state tax laws and for purposes of establishing compliance with
37 subsection (a) of Section 666 of Title 42 of the United States Code,
38 Section 60.15 of Title 45 of the Code of Federal Regulations,
39 Section 17520 of the Family Code, and Section 11105 of the Penal

1 Code, and to that end, the information furnished pursuant to this
2 section shall be used exclusively for those purposes.

3 (3) The department shall not do either of the following:

4 (A) Require an applicant to disclose citizenship status or
5 immigration status for purposes of the application or renewal of a
6 certificate, license, or permit issued under this section or
7 regulations promulgated pursuant thereto.

8 (B) Deny certification to an otherwise qualified and eligible
9 applicant based solely on citizenship status or immigration status.

10 (4) If the department utilizes a national examination to issue a
11 certificate, and if a reciprocity agreement or comity exists between
12 the State of California and the state requesting release of the
13 individual taxpayer identification number or social security number,
14 any deputy, agent, clerk, officer, or employee of the department
15 may release an individual's taxpayer identification number or
16 social security number to an examination or certifying entity, only
17 for the purpose of verification of certification or examination status.

18 (i) ~~Provide that working~~ *A physician and surgeon, or a doctor*
19 *of podiatric medicine, who works in a setting that is in compliance*
20 *with the Centers for Medicare and Medicaid Services' Conditions*
21 *for Coverage relating to radiation—safety safety, satisfies the*
22 *requirement for fluoroscopy continuing education as set forth in*
23 *subdivision (b) of Section 30403 of Title 17 of the California Code*
24 *of Regulations.*

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AMENDED IN ASSEMBLY APRIL 9, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL**No. 678****Introduced by Assembly Member Flora**

February 15, 2019

An act to amend Section 14131.10 of, and to repeal and add Section 14133.07 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as amended, Flora. Medi-Cal: podiatric services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law excludes certain optional Medi-Cal benefits, including, among others, podiatric services and chiropractic services, from coverage under the Medi-Cal program, except for specified beneficiaries.

This bill would provide that the exclusion of podiatric services is effective only through December 31, 2019, and would restore podiatric services as a covered benefit of the Medi-Cal program as of January 1, 2020, or the effective date of federal approvals as specified.

Existing law provides that prior authorization for podiatric services provided on an outpatient or inpatient basis is not required if specified conditions are met, including an urgent or emergency need for services at the time of service.

This bill would repeal these provisions, and would instead prohibit the requirement of prior authorization for podiatric services provided by a doctor of podiatric medicine if a physician and surgeon rendering

the same services would not be required to provide prior authorization. The bill would clarify that a doctor of podiatric medicine acting within their scope of practice and providing specified services is subject to the same Medi-Cal billing and services policies as required for a physician and ~~surgeon~~: *surgeon, including a maximum numerical service limitation in any one calendar month.*

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

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

- 1 SECTION 1. Section 14131.10 of the Welfare and Institutions
2 Code is amended to read:
3 14131.10. (a) Notwithstanding any other provision of this
4 chapter, Chapter 8 (commencing with Section 14200), or Chapter
5 8.75 (commencing with Section 14591), in order to implement
6 changes in the level of funding for health care services, specific
7 optional benefits are excluded from coverage under the Medi-Cal
8 program.
9 (b) (1) The following optional benefits are excluded from
10 coverage under the Medi-Cal program:
11 (A) Adult dental services, except as specified in paragraph (2).
12 (i) The exclusion identified in this subparagraph shall be in
13 effect only through December 31, 2017, and adult dental services
14 shall be covered under the Medi-Cal program as of January 1,
15 2018, or the effective date of any necessary federal approvals,
16 whichever is later.
17 (ii) The restoration of adult dental services pursuant to clause
18 (i) shall be effective only to the extent any necessary federal
19 approvals are obtained as required by subdivision (f).
20 (B) Audiology services and speech therapy services.
21 (C) Chiropractic services.
22 (D) Optometric and optician services, including services
23 provided by a fabricating optical laboratory, except as provided
24 in subdivision (g).
25 (E) Podiatric services.
26 (i) The exclusion identified in this subparagraph shall be in
27 effect only through December 31, 2019, and podiatric services
28 shall be covered under the Medi-Cal program as of January 1,

1 2020, or the effective date of any necessary federal approvals,
2 whichever is later.

3 (ii) The restoration of podiatric services pursuant to clause (i)
4 shall be effective only to the extent any necessary federal approvals
5 are obtained as required by subdivision (f).

6 (F) Psychology services.

7 (G) Incontinence creams and washes.

8 (2) (A) Medical and surgical services provided by a doctor of
9 dental medicine or dental surgery, which, if provided by a
10 physician, would be considered physician services, and which
11 services may be provided by either a physician or a dentist in this
12 state, are covered.

13 (B) Emergency procedures are also covered in the categories
14 of service specified in subparagraph (A). The director may adopt
15 regulations for any of the services specified in subparagraph (A).

16 (C) Effective May 1, 2014, or the effective date of any necessary
17 federal approvals as required by subdivision (f), whichever is later,
18 for persons 21 years of age or older, adult dental benefits, subject
19 to utilization controls, are limited to all the following medically
20 necessary services:

21 (i) Examinations, radiographs/photographic images, prophylaxis,
22 and fluoride treatments.

23 (ii) Amalgam and composite restorations.

24 (iii) Stainless steel, resin, and resin window crowns.

25 (iv) Anterior root canal therapy.

26 (v) Complete dentures, including immediate dentures.

27 (vi) Complete denture adjustments, repairs, and relines.

28 (D) Services specified in this paragraph shall be included as a
29 covered medical benefit under the Medi-Cal program pursuant to
30 Section 14132.89.

31 (3) Pregnancy-related services and services for the treatment of
32 other conditions that might complicate the pregnancy are not
33 excluded from coverage under this section.

34 (c) The optional benefit exclusions do not apply to either of the
35 following:

36 (1) Beneficiaries under the Early and Periodic Screening
37 Diagnosis and Treatment Program.

38 (2) Beneficiaries receiving long-term care in a nursing facility
39 that is both:

1 (A) A skilled nursing facility or intermediate care facility as
2 defined in subdivisions (c) and (d) of Section 1250 of the Health
3 and Safety Code.

4 (B) Licensed pursuant to subdivision (k) of Section 1250 of the
5 Health and Safety Code.

6 (d) This section shall only be implemented to the extent
7 permitted by federal law.

8 (e) Notwithstanding Chapter 3.5 (commencing with Section
9 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
10 the department may implement the provisions of this section by
11 means of all-county letters, provider bulletins, or similar
12 instructions, without taking further regulatory action.

13 (f) This section shall be implemented only to the extent that
14 federal financial participation is available and any necessary federal
15 approvals have been obtained.

16 (g) (1) Effective no sooner than January 1, 2020, or January 1
17 of the subsequent calendar year following the legislative action
18 pursuant to paragraph (2), whichever is later, and subject to
19 paragraph (2) and subdivision (f), optometric and optician services,
20 including services provided by a fabricating optical laboratory,
21 shall be covered benefits under the Medi-Cal program.

22 (2) The restoration of optometric and optician services pursuant
23 to this subdivision is contingent upon the Legislature including
24 funding for these services in the state budget process.

25 SEC. 2. Section 14133.07 of the Welfare and Institutions Code
26 is repealed.

27 SEC. 3. Section 14133.07 is added to the Welfare and
28 Institutions Code, to read:

29 14133.07. (a) A doctor of podiatric medicine shall not be
30 required to submit prior authorization for podiatric services
31 rendered in either an outpatient or inpatient basis if a physician
32 and surgeon providing the same services would not be required to
33 submit prior authorization to the department.

34 (b) A doctor of podiatric medicine acting within their scope of
35 practice and providing services pursuant to subdivision (a) is
36 subject to the same Medi-Cal billing and services policies as
37 required for a physician and ~~surgeon~~. *surgeon, including, but not*

- 1 *limited to, a maximum numerical service limitation in any one*
- 2 *calendar month.*

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AMENDED IN SENATE APRIL 24, 2019

AMENDED IN SENATE APRIL 10, 2019

SENATE BILL

No. 697

Introduced by Senator Caballero
(Coauthor: Assembly Member Friedman)

February 22, 2019

An act to amend Sections 3500, 3501, 3502, 3502.1, 3502.3, 3509, 3516, 3518, 3527, and 3528, of, and to repeal Sections 3516.5, 3521, and 3522 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 697, as amended, Caballero. Physician assistants: practice agreement: supervision.

The Physician Assistant Practice Act provides for licensure and regulation of physician assistants by the Physician Assistant Board, which is within the jurisdiction of the Medical Board of California. The act authorizes a physician assistant to perform medical services as set forth by regulations and the act and when those services are rendered under the supervision of a licensed physician and surgeon. *The act requires the Physician Assistant Board to, among other things, make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians to supervise physician assistants.* The act prohibits a physician and surgeon from supervising more than 4 physician assistants at any one time. The act requires the medical record to identify the physician and surgeon who is responsible for the supervision of the physician assistant. The act requires the supervising physician and surgeon to be physically available to the physician

assistant for consultation when that assistance is rendered. The act requires the physician assistant and the supervising physician and surgeon to establish written guidelines for adequate supervision, and authorizes the supervising physician and surgeon to satisfy this requirement by adopting protocols for some or all of the tasks performed by the physician assistant, as provided. The act additionally authorizes a delegation of services agreement to authorize a physician assistant to order durable medical equipment, to approve, sign, modify, or add to a plan of treatment or plan of care for individuals receiving home health services or personal care services, or to certify disability, as provided.

This bill *would remove the requirement that the Physician Assistant Board make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians and surgeons to supervise physician assistants.* The bill, except as described below, would remove the limit on the number of physician assistants that a physician and surgeon may supervise. The bill would remove the requirements that the medical record identify the responsible supervising physician and surgeon and that those written guidelines for adequate supervision be established. The bill would instead authorize a physician assistant to perform various medical services if certain requirements are met including that the medical services are rendered pursuant to ~~a signed delegation of services agreement or a practice agreement~~, as defined, and the physician assistant is competent to perform the medical services. The bill would also require a practice agreement between a physician assistant and a physician and surgeon to meet specified requirements.

The act authorizes a physician assistant, under the supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device.

This bill would instead authorize a physician assistant to furnish or order a drug or device subject to specified supervision. Specifically, the bill would prohibit a physician and surgeon from supervising more than 6 physician assistants for purposes of the provisions relating to physician assistants furnishing or ordering drugs or devices.

The act defines various terms for its purposes.

This bill would revise and change the definitions as applicable to carry out the bill's provisions. The bill would provide that any reference

to “delegation of services agreement” in any other law means “practice agreement,” as defined by the bill, and that “supervision” does not require the supervising physician and surgeon to be physically present. The bill would also make various conforming changes.

The act makes a violation of specified provisions punishable as a misdemeanor.

By revising and recasting the provisions of the act, the bill would change the definition of that crime and would, therefore, result in a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 3500 of the Business and Professions
2 Code is amended to read:

3 3500. In its concern with the growing shortage and geographic
4 maldistribution of health care services in California, the Legislature
5 intends to establish in this chapter a framework for another category
6 of health manpower—the physician assistant.

7 The purpose of this chapter is to encourage the effective
8 utilization of the skills of physicians and surgeons, and physicians
9 and surgeons and podiatrists practicing in the same medical group
10 practice, by enabling them to work with qualified physician
11 assistants to provide quality care.

12 This chapter is established to encourage the coordinated care
13 between physician assistants, physicians and surgeons, podiatrists,
14 and other qualified health care providers practicing in the same
15 medical group, and to provide health care services. It is also the
16 purpose of this chapter to allow for innovative development of
17 programs for the education, training, and utilization of physician
18 assistants.

19 SEC. 2. Section 3501 of the Business and Professions Code is
20 amended to read:

21 3501. As used in this chapter:

- 1 (a) "Board" means the Physician Assistant Board.
- 2 (b) "Approved program" means a program for the education of
3 physician assistants that has been formally approved by the board.
- 4 (c) "Trainee" means a person who is currently enrolled in an
5 approved program.
- 6 (d) "Physician assistant" or "PA" means a person who meets
7 the requirements of this chapter and is licensed by the board.
- 8 (e) "Supervising physician" or "supervising physician and
9 surgeon" means a physician and surgeon licensed by the Medical
10 Board of California or by the Osteopathic Medical Board of
11 California who supervises one or more physician assistants, who
12 possesses a current valid license to practice medicine, and who is
13 not currently on disciplinary probation prohibiting the employment
14 or supervision of a physician assistant.
- 15 (f) "Supervision" means that a licensed physician and surgeon
16 oversees the activities of, and accepts responsibility for, the medical
17 services rendered by a physician assistant. Supervision shall not
18 be construed to require the physical presence of the physician and
19 surgeon.
- 20 (g) "Regulations" means the rules and regulations as set forth
21 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
22 of the California Code of Regulations.
- 23 (h) "Routine visual screening" means noninvasive
24 nonpharmacological simple testing for visual acuity, visual field
25 defects, color blindness, and depth perception.
- 26 (i) "Program manager" means the staff manager of the diversion
27 program, as designated by the executive officer of the board. The
28 program manager shall have background experience in dealing
29 with substance abuse issues.
- 30 (j) "Organized health care system" includes a licensed clinic as
31 described in Chapter 1 (commencing with Section 1200) of
32 Division 2 of the Health and Safety Code, an outpatient setting as
33 described in Chapter 1.3 (commencing with Section 1248) of
34 Division 2 of the Health and Safety Code, a health facility as
35 described in Chapter 2 (commencing with Section 1250) of
36 Division 2 of the Health and Safety Code, a county medical facility
37 as described in Chapter 2.5 (commencing with Section 1440) of
38 Division 2 of the Health and Safety Code, an accountable care
39 organization, a home health agency, a physician's ~~office~~, *office*,
40 a professional medical corporation, a medical partnership, a

1 medical foundation, and any other organized entity that lawfully
2 provides medical services.

3 (k) "Practice agreement" means the writing, developed through
4 collaboration among one or more physicians and surgeons, one or
5 more physician assistants, and, if applicable, administrators of an
6 organized health care system, that outlines the medical services
7 the physician assistant is authorized to perform and that grants
8 approval for physicians and surgeons on the staff of an organized
9 health care system to supervise one or more physician assistants
10 in the organized health care system. Any reference to a delegation
11 of services agreement relating to physician assistants in any other
12 law shall have the same meaning as a practice agreement.

13 (l) "Other specified medical services" means tests or
14 examinations performed or ordered by a PA practicing in
15 compliance with this chapter or regulations of the board or the
16 Medical Board of California promulgated under this chapter.

17 SEC. 3. Section 3502 of the Business and Professions Code is
18 amended to read:

19 3502. (a) Notwithstanding any other law, a PA may perform
20 those medical services as set forth by ~~the regulations to be adopted~~
21 ~~under~~ this chapter if the following requirements are met:

22 (1) The PA renders the services under the supervision of a
23 licensed physician and surgeon who is not subject to a disciplinary
24 condition imposed by the Medical Board of California or by the
25 Osteopathic Medical Board prohibiting that supervision or
26 prohibiting the employment of a physician assistant.

27 (2) The PA renders the services pursuant to ~~a delegation of~~
28 ~~services agreement or~~ a practice agreement that meets the
29 requirements of Section 3502.3.

30 (3) The PA is competent to perform the services.

31 (4) The PA's education, training, and experience have prepared
32 the PA to render the services.

33 (b) (1) Notwithstanding any other law, a physician assistant
34 performing medical services under the supervision of a physician
35 and surgeon may assist a doctor of podiatric medicine who is a
36 partner, shareholder, or employee in the same medical group as
37 the supervising physician and surgeon. A physician assistant who
38 assists a doctor of podiatric medicine pursuant to this subdivision
39 shall do so only according to patient-specific orders from a
40 supervising physician and surgeon.

1 (2) A supervising physician and surgeon shall be available to
2 the physician assistant for consultation when assistance is rendered
3 pursuant to this subdivision. A physician assistant assisting a doctor
4 of podiatric medicine shall be limited to performing those duties
5 included within the scope of practice of a doctor of podiatric
6 medicine.

7 (c) ~~This section shall not be construed to~~ *Nothing in statute or*
8 *regulations shall* require that a physician *and surgeon* review or
9 countersign a medical record of a patient treated by a physician
10 assistant, unless required by the practice agreement. The board
11 may, as a condition of probation of a licensee, require the review
12 or countersignature of records of patients treated by a physician
13 assistant for a specified duration.

14 (d) This chapter does not authorize the performance of medical
15 services in any of the following areas:

16 (1) The determination of the refractive states of the human eye,
17 or the fitting or adaptation of lenses or frames for the aid thereof.

18 (2) The prescribing or directing the use of, or using, any optical
19 device in connection with ocular exercises, visual training, or
20 orthoptics.

21 (3) The prescribing of contact lenses for, or the fitting or
22 adaptation of contact lenses to, the human eye.

23 (4) The practice of dentistry or dental hygiene or the work of a
24 dental auxiliary as defined in Chapter 4 (commencing with Section
25 1600).

26 (e) This section shall not be construed in a manner that shall
27 preclude the performance of routine visual screening as defined
28 in Section 3501.

29 SEC. 4. Section 3502.1 of the Business and Professions Code
30 is amended to read:

31 3502.1. In addition to the medical services authorized in the
32 regulations adopted pursuant to Section 3502, and except as
33 prohibited by Section 3502, a PA may furnish or order a drug or
34 device subject to *all of* the following:

35 (a) The PA shall furnish or order a drug or device in accordance
36 with the practice agreement and consistent with the PA's
37 educational preparation or for which clinical competency has been
38 established and maintained.

39 (b) (1) A practice agreement authorizing a PA to order or
40 furnish a drug or device shall specify which PAs may furnish or

1 order a drug or device, which drugs or devices may be furnished
2 or ordered, under what circumstances, the extent of physician and
3 surgeon supervision, the method of periodic review of the PA's
4 competence, including peer review, and review of the practice
5 agreement.

6 (2) In addition to the requirements in paragraph (1), if the
7 practice agreement authorizes the PA to furnish a Schedule II
8 controlled substance, the practice agreement shall address the
9 diagnosis of the illness, injury, or condition for which the PA may
10 furnish the Schedule II controlled substance.

11 (c) The PA shall furnish or order drugs or devices under
12 physician and surgeon supervision. This subdivision shall not be
13 construed to require the physical presence of the physician and
14 surgeon, but does require the following:

15 (1) Adherence to adequate supervision agreed to in the practice
16 agreement.

17 (2) The physician and surgeon be available by telephone or
18 other electronic communication method at the time the PA
19 examines the patient.

20 (d) For purposes of this section, a physician and surgeon shall
21 not supervise more than six PAs at one time.

22 (e) (1) Except as provided in paragraph (2), the PA may furnish
23 or order only those Schedule II through Schedule V controlled
24 substances under the California Uniform Controlled Substances
25 Act (Division 10 (commencing with Section 11000) of the Health
26 and Safety Code) that have been agreed upon ~~and specified~~ in the
27 practice agreement.

28 (2) The PA may furnish or order Schedule II or III controlled
29 substances, as defined in Sections 11055 and 11056, respectively,
30 of the Health and Safety Code, in accordance with ~~a patient-specific~~
31 ~~protocol~~ *the practice agreement or a patient-specific order*
32 approved by the treating or supervising physician. A copy of the
33 section of the PA's practice agreement relating to controlled
34 substances shall be provided, upon request, to any licensed
35 pharmacist who dispenses drugs or devices, when there is
36 uncertainty about the PA furnishing the order.

37 (f) (1) The PA has satisfactorily completed a course in
38 pharmacology covering the drugs or devices to be furnished or
39 ordered under this section or has completed a program for

1 instruction of PAs that meet the requirements of Section 1399.530
2 of Title 16 of the California Code of Regulations.

3 (2) ~~Except as provided in subdivision (c), a~~ physician and
4 surgeon through a practice agreement may determine the extent
5 of supervision necessary pursuant to this section in the furnishing
6 or ordering of drugs and devices.

7 (3) PAs who hold an active license, who are authorized through
8 a practice agreement to furnish Schedule II controlled substances,
9 and who are registered with the United States Drug Enforcement
10 Administration, shall complete, as part of their continuing
11 education requirements, a course including Schedule II controlled
12 substances, and the risks of addiction associated with their use,
13 based on the standards developed by the board. The board shall
14 establish the requirements for satisfactory completion of this
15 subdivision. Evidence of completion of a course meeting the
16 standards, including pharmacological content, established in
17 Section 1399.610 and 1399.612 of Title 16 of the California Code
18 of Regulations shall be deemed to meet the requirements of this
19 Section.

20 (g) For purposes of this section:

21 (1) "Furnishing" or "ordering" shall include the following:

22 (A) Ordering a drug or device in accordance with the practice
23 agreement.

24 (B) Transmitting an order of a supervising physician and
25 surgeon.

26 (C) Dispensing a medication pursuant to Section 4170.

27 (2) "Drug order" or "order" means an order for medication that
28 is dispensed to or for an ultimate user, issued by a PA as an
29 individual practitioner, within the meaning of Section 1306.02 of
30 Title 21 of the Code of Federal Regulations.

31 (h) Notwithstanding any other law, (1) a drug order issued
32 pursuant to this section shall be treated in the same manner as a
33 prescription of the *a* supervising physician; (2) all references to
34 "prescription" in this code and the Health and Safety Code shall
35 include drug orders issued by physician assistants; and (3) the
36 signature of a PA on a drug order issued in accordance with this
37 section shall be deemed to be the signature of a ~~prescriber~~.
38 *prescriber for purposes of this code and the Health and Safety*
39 *Code.*

1 SEC. 5. Section 3502.3 of the Business and Professions Code
2 is amended to read:

3 3502.3. (a) (1) A practice agreement shall ~~include, but is not~~
4 ~~limited to, include~~ provisions that address the following:

5 (A) The types of medical services a physician assistant is
6 authorized to perform and how the services are performed.

7 (B) Policies and procedures to ensure adequate supervision of
8 the physician assistant, including but not limited to, appropriate
9 communication, availability, consultations, and referrals between
10 a physician and surgeon and the physician assistant in the provision
11 of medical services.

12 (C) The methods for the continuing evaluation of the
13 competency and qualifications of the physician assistant.

14 (D) The furnishing or ordering of drugs or devices by a
15 physician assistant pursuant to Section 3502.1.

16 (E) Any additional provisions agreed to by the physician
17 assistant and physician and surgeon or organized health care
18 system.

19 (2) A practice agreement shall be signed by both of the
20 following:

21 (A) The physician assistant.

22 (B) One or more physicians and surgeons or a physician and
23 surgeon who is authorized to approve the practice agreement on
24 behalf of the staff of the physicians and surgeons on the staff of
25 an organized health care system.

26 (3) ~~For purposes of the act adding this subdivision, a~~
27 ~~delegation of services agreement in effect prior to January 1, 2020,~~
28 ~~shall be deemed to meet the requirements of this subdivision.~~

29 (4) Nothing in this section shall be construed to require approval
30 of a practice agreement by the board.

31 (b) Notwithstanding any other law, in addition to any other
32 practices that meet the general criteria set forth in this chapter or
33 regulations adopted by the board or the Medical Board of California
34 ~~for inclusion in a practice agreement, California, a practice~~
35 ~~agreement may authorize a PA to do any of the following:~~

36 (1) Order durable medical equipment, subject to any limitations
37 set forth in Section 3502 or the practice agreement.
38 Notwithstanding that authority, nothing in this paragraph shall
39 operate to limit the ability of a third-party payer to require prior
40 approval.

1 (2) For individuals receiving home health services or personal
2 care services, after consultation with a supervising physician and
3 surgeon, approve, sign, modify, or add to a plan of treatment or
4 plan of care.

5 (3) After performance of a physical examination by the PA
6 under the supervision of a physician and surgeon consistent with
7 this chapter, certify disability pursuant to Section 2708 of the
8 Unemployment Insurance Code. The Employment Development
9 Department shall implement this paragraph on or before January
10 1, 2017.

11 (c) This section shall not be construed to affect the validity of
12 any practice agreement in effect prior to the effective date of this
13 section or those adopted subsequent to the effective date of this
14 section.

15 *SEC. 6. Section 3509 of the Business and Professions Code is*
16 *amended to read:*

17 3509. It shall be the duty of the board to:

18 (a) Establish standards and issue licenses of approval for
19 programs for the education and training of physician assistants.

20 (b) Make recommendations to the Medical Board of California
21 concerning the scope of practice for physician assistants.

22 ~~(c) Make recommendations to the Medical Board of California~~
23 ~~concerning the formulation of guidelines for the consideration of~~
24 ~~applications by licensed physicians to supervise physician assistants~~
25 ~~and approval of such applications.~~

26 ~~(d)~~

27 (c) Require the examination of applicants for licensure as a
28 physician assistant who meet the requirements of this chapter.

29 ~~SEC. 6.~~

30 *SEC. 7. Section 3516 of the Business and Professions Code is*
31 *amended to read:*

32 3516. (a) Notwithstanding any other provision of law, a
33 physician assistant licensed by the board shall be eligible for
34 employment or supervision by a physician and surgeon who is not
35 subject to a disciplinary condition imposed by the Medical Board
36 of California prohibiting that employment or supervision.

37 (b) The Medical Board of California may restrict a physician
38 and surgeon to supervising specific types of physician assistants
39 including, but not limited to, restricting a physician and surgeon

1 from supervising physician assistants outside of the field of
2 specialty of the physician and surgeon.

3 ~~SEC. 7.~~

4 *SEC. 8.* Section 3516.5 of the Business and Professions Code
5 is repealed.

6 ~~SEC. 8.~~

7 *SEC. 9.* Section 3518 of the Business and Professions Code is
8 amended to read:

9 3518. The board shall keep a current register for licensed PAs,
10 by specialty if applicable. The register shall show the name of each
11 licensee, the licensee's last known address of record, and the date
12 of the licensee's licensure. Any interested person is entitled to
13 obtain a copy of the register in accordance with the Information
14 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
15 of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon
16 application to the board together with a sum as may be fixed by
17 the board, which amount shall not exceed the cost of this list so
18 furnished.

19 ~~SEC. 9.~~

20 *SEC. 10.* Section 3521 of the Business and Professions Code
21 is repealed.

22 ~~SEC. 10.~~

23 *SEC. 11.* Section 3522 of the Business and Professions Code
24 is repealed.

25 ~~SEC. 11.~~

26 *SEC. 12.* Section 3527 of the Business and Professions Code
27 is amended to read:

28 3527. (a) The board may order the denial of an application
29 for, or the issuance subject to terms and conditions of, or the
30 suspension or revocation of, or the imposition of probationary
31 conditions upon a PA license after a hearing as required in Section
32 3528 for unprofessional conduct that includes, but is not limited
33 to, a violation of this chapter, a violation of the Medical Practice
34 Act, or a violation of the regulations adopted by the board or the
35 Medical Board of California.

36 (b) The board may order the denial of an application for, or the
37 suspension or revocation of, or the imposition of probationary
38 conditions upon, an approved program after a hearing as required
39 in Section 3528 for a violation of this chapter or the regulations
40 adopted pursuant thereto.

1 (c) The Medical Board of California may order the imposition
2 of probationary conditions upon a physician and surgeon's
3 authority to supervise a PA, after a hearing as required in Section
4 3528, for unprofessional conduct, which includes, but is not limited
5 to, a violation of this chapter, a violation of the Medical Practice
6 Act, or a violation of the regulations adopted by the board or the
7 Medical Board of California.

8 (d) The board may order the denial of an application for, or the
9 suspension or revocation of, or the imposition of probationary
10 conditions upon, a PA license, after a hearing as required in Section
11 3528 for unprofessional conduct that includes, except for good
12 cause, the knowing failure of a licensee to protect patients by
13 failing to follow infection control guidelines of the board, thereby
14 risking transmission of bloodborne infectious diseases from
15 licensee to patient, from patient to patient, and from patient to
16 licensee. In administering this subdivision, the board shall consider
17 referencing the standards, regulations, and guidelines of the State
18 Department of Public Health developed pursuant to Section
19 1250.11 of the Health and Safety Code and the standards,
20 regulations, and guidelines pursuant to the California Occupational
21 Safety and Health Act of 1973 (Part 1 (commencing with Section
22 6300) of Division 5 of the Labor Code) for preventing the
23 transmission of HIV, hepatitis B, and other bloodborne pathogens
24 in health care settings. As necessary, the board shall consult with
25 the Medical Board of California, the Osteopathic Medical Board,
26 the Podiatric Medical Board of California, the Dental Board of
27 California, the Board of Registered Nursing, and the Board of
28 Vocational Nursing and Psychiatric Technicians of the State of
29 California to encourage appropriate consistency in the
30 implementation of this subdivision.

31 The board shall seek to ensure that licensees are informed of the
32 responsibility of licensees and others to follow infection control
33 guidelines, and of the most recent scientifically recognized
34 safeguards for minimizing the risk of transmission of blood-borne
35 infectious diseases.

36 (e) The board may order the licensee to pay the costs of
37 monitoring the probationary conditions imposed on the license.

38 (f) The expiration, cancellation, forfeiture, or suspension of a
39 PA license by operation of law or by order or decision of the board
40 or a court of law, the placement of a license on a retired status, or

1 the voluntary surrender of a license by a licensee shall not deprive
2 the board of jurisdiction to commence or proceed with any
3 investigation of, or action or disciplinary proceeding against, the
4 licensee or to render a decision suspending or revoking the license.

5 ~~SEC. 12.~~

6 *SEC. 13.* Section 3528 of the Business and Professions Code
7 is amended to read:

8 3528. Any proceedings involving the denial, suspension, or
9 revocation of the application for licensure or the license of a PA
10 or the application for approval or the approval of an approved
11 program under this chapter shall be conducted in accordance with
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division
13 3 of Title 2 of the Government Code.

14 ~~SEC. 13.~~

15 *SEC. 14.* The provisions of this measure are severable. If any
16 provision of this measure or its application is held invalid, that
17 invalidity shall not affect other provisions or applications that can
18 be given effect without the invalid provision or application.

19 ~~SEC. 14.~~

20 *SEC. 15.* No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

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CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL**No. 1490****Introduced by Assembly Member Carrillo**

February 22, 2019

An act to amend Section 2069 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1490, as introduced, Carrillo. Medical assistants.

Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California. The act authorizes a medical assistant to administer medication only by intradermal, subcutaneous, or intramuscular injections and to perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife. Existing law defines the term "technical supportive services" to mean simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

This bill would define "technical supportive services" to also include drawing up a local anesthetic provided specified conditions are met.

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

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

1 SECTION 1. Section 2069 of the Business and Professions
2 Code is amended to read:

3 2069. (a) (1) Notwithstanding any other law, a medical
4 assistant may administer medication only by intradermal,
5 subcutaneous, or intramuscular injections and perform skin tests
6 and additional technical supportive services upon the specific
7 authorization and supervision of a licensed physician and surgeon
8 or a licensed podiatrist. A medical assistant may also perform all
9 these tasks and services upon the specific authorization of a
10 physician assistant, a nurse practitioner, or a certified
11 nurse-midwife.

12 (2) The supervising physician and surgeon may, ~~at his or her~~
13 *their* discretion, in consultation with the nurse practitioner, certified
14 nurse-midwife, or physician assistant, provide written instructions
15 to be followed by a medical assistant in the performance of tasks
16 or supportive services. These written instructions may provide that
17 the supervisory function for the medical assistant for these tasks
18 or supportive services may be delegated to the nurse practitioner,
19 certified nurse-midwife, or physician assistant within the
20 standardized procedures or protocol, and that tasks may be
21 performed when the supervising physician and surgeon is not
22 onsite, if either of the following apply:

23 (A) The nurse practitioner or certified nurse-midwife is
24 functioning pursuant to standardized procedures, as defined by
25 Section 2725, or protocol. The standardized procedures or protocol,
26 including instructions for specific authorizations, shall be
27 developed and approved by the supervising physician and surgeon
28 and the nurse practitioner or certified nurse-midwife.

29 (B) The physician assistant is functioning pursuant to regulated
30 services defined in Section 3502, including instructions for specific
31 authorizations, and is approved to do so by the supervising
32 physician and surgeon.

33 (b) As used in this section and Sections 2070 and 2071, the
34 following definitions apply:

35 (1) "Medical assistant" means a person who may be unlicensed,
36 who performs basic administrative, clerical, and technical
37 supportive services in compliance with this section and Section
38 2070 for a licensed physician and surgeon or a licensed podiatrist,

1 or group thereof, for a medical or podiatry corporation, for a
2 physician assistant, a nurse practitioner, or a certified
3 nurse-midwife as provided in subdivision (a), or for a health care
4 service plan, who is at least 18 years of age, and who has had at
5 least the minimum amount of hours of appropriate training pursuant
6 to standards established by the board. The medical assistant shall
7 be issued a certificate by the training institution or instructor
8 indicating satisfactory completion of the required training. A copy
9 of the certificate shall be retained as a record by each employer of
10 the medical assistant.

11 (2) "Specific authorization" means a specific written order
12 prepared by the supervising physician and surgeon or the
13 supervising podiatrist, or the physician assistant, the nurse
14 practitioner, or the certified nurse-midwife as provided in
15 subdivision (a), authorizing the procedures to be performed on a
16 patient, which shall be placed in the patient's medical record, or
17 a standing order prepared by the supervising physician and surgeon
18 or the supervising podiatrist, or the physician assistant, the nurse
19 practitioner, or the certified nurse-midwife as provided in
20 subdivision (a), authorizing the procedures to be performed, the
21 duration of which shall be consistent with accepted medical
22 practice. A notation of the standing order shall be placed on the
23 patient's medical record.

24 (3) "Supervision" means the supervision of procedures
25 authorized by this section by the following practitioners, within
26 the scope of their respective practices, who shall be physically
27 present in the treatment facility during the performance of those
28 procedures:

29 (A) A licensed physician and surgeon.

30 (B) A licensed podiatrist.

31 (C) A physician assistant, nurse practitioner, or certified
32 nurse-midwife as provided in subdivision (a).

33 (4) (A) "Technical supportive services" means simple routine
34 medical tasks and procedures that may be safely performed by a
35 medical assistant who has limited training and who functions under
36 the supervision of a licensed physician and surgeon or a licensed
37 podiatrist, or a physician assistant, a nurse practitioner, or a
38 certified nurse-midwife as provided in subdivision (a).

39 (B) Notwithstanding any other law, in a facility licensed by the
40 California State Board of Pharmacy under Section 4180 or 4190,

1 other than a facility operated by the state, "technical supportive
2 services" also includes handing to a patient a prepackaged
3 prescription drug, excluding a controlled substance, that is labeled
4 in compliance with Section 4170 and all other applicable state and
5 federal laws and ordered by a licensed physician and surgeon, a
6 licensed podiatrist, a physician assistant, a nurse practitioner, or a
7 certified nurse-midwife in accordance with subdivision (a). In
8 every instance, prior to handing the medication to a patient pursuant
9 to this subparagraph, the properly labeled and prepackaged
10 prescription drug shall have the patient's name affixed to the
11 package and a licensed physician and surgeon, a licensed podiatrist,
12 a physician assistant, a nurse practitioner, or a certified
13 nurse-midwife shall verify that it is the correct medication and
14 dosage for that specific patient and shall provide the appropriate
15 patient consultation regarding use of the drug.

16 *(C) Notwithstanding any other law, "technical supportive*
17 *services" also includes drawing up a local anesthetic, such as*
18 *lidocaine in a syringe, provided all of the following conditions are*
19 *met:*

20 *(i) A supervising licensed physician and surgeon, licensed*
21 *podiatrist, licensed physician assistant, licensed nurse practitioner,*
22 *or certified nurse-midwife physically observes the medical assistant*
23 *draw up the anesthetic.*

24 *(ii) A supervising licensed physician and surgeon, licensed*
25 *podiatrist, licensed physician assistant, licensed nurse practitioner,*
26 *or certified nurse-midwife verifies that each syringe label is*
27 *accurate.*

28 *(iii) The anesthetic is a local anesthetic and is reconstituted by*
29 *someone with a license to do so or comes reconstituted from the*
30 *manufacturer.*

31 (c) Nothing in this section shall be construed as authorizing any
32 of the following:

33 (1) The licensure of medical assistants.

34 (2) The administration of local anesthetic agents by a medical
35 assistant.

36 (3) The board to adopt any regulations that violate the
37 prohibitions on diagnosis or treatment in Section 2052.

38 (4) A medical assistant to perform any clinical laboratory test
39 or examination for which ~~he or she~~ *the medical assistant* is not
40 authorized by Chapter 3 (commencing with Section 1200).

1 (5) A nurse practitioner, certified nurse-midwife, or physician
2 assistant to be a laboratory director of a clinical laboratory, as those
3 terms are defined in paragraph (8) of subdivision (a) of Section
4 1206 and subdivision (a) of Section 1209.

5 (d) A nurse practitioner, certified nurse-midwife, or physician
6 assistant shall not authorize a medical assistant to perform any
7 clinical laboratory test or examination for which the medical
8 assistant is not authorized by Chapter 3 (commencing with Section
9 1200). A violation of this subdivision constitutes unprofessional
10 conduct.

11 (e) Notwithstanding any other law, a medical assistant shall not
12 be employed for inpatient care in a licensed general acute care
13 hospital, as defined in subdivision (a) of Section 1250 of the Health
14 and Safety Code.

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AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

(Coauthor: Assembly Member Lackey)

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

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

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

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

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, "state body" means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

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Title 16. Professional and Vocational Regulations**Division 13.9. Podiatric Medical Board of Podiatric Medicine California****Article 1. General Provisions****§ 1399.650. Citation**

This division may be cited and referred to as the "Podiatric Medicine Regulations."

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2018, Business and Professions Code.

§ 1399.651. Location of Office.

The principal office of the ~~California Board of Podiatric Medicine~~ Medical Board of California is located at 2005 Evergreen Street, Suite 1300, Sacramento, CA 95815-3831.

Note: Authority cited: Section 2470, Business and Professions Code. Reference: Section 2470, Business and Professions Code.

§ 1399.653. Definitions.

For the purpose of the regulations contained in this chapter, the term:

(a) "Board" means the ~~California Board of Podiatric Medicine~~ Medical Board of California.

(b) "Division" means the Division of Licensing of the Medical Board of California.

(c) "Code" means the Business and Professions Code.

Note: Authority cited: Section 2470, Business and Professions Code. Reference: Section 2470, Business and Professions Code.

Title 16. Professional and Vocational Regulations**Division 13.9. Podiatric Medical Board of Podiatric Medicine California****Article 2. Licensing, Education and Certification****§ 1399.663. Review of Specialty Board Applications; Processing Time.**

(a) Within 30 working days of receipt of an application for specialty board approval, the ~~Board of Podiatric Medicine (BPM)~~ Medical Board of California (PMBC) shall inform the applicant in writing that it is either complete and accepted for filing and referral to a podiatric medical consultant selected by ~~BPM~~ PMBC or that it is deficient and what specific information or documentation is required to complete the application.

(b) Within 918 calendar days from the date of filing of a completed application, ~~BPMPMBC~~ shall inform the applicant in writing of its decision regarding the applicant's

approval as a specialty board.

Note: Authority cited: Sections 651 and 2470, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 651 and 2470, Business and Professions Code; and Section 15376, Government Code.

§ 1399.667. Postgraduate Medical Education.

Podiatric medical residencies approved by the board in accordance with Section 2484 of the code shall be those that meet the minimum requirements set by the Council on Podiatric Medical Education, have designated a Director of Medical Education, provide emergency medical training through emergency room rotations, measure and evaluate the progress of participants and program effectiveness, have at least a seventy-five per cent pass rate for residents taking the Part III exam of the National Board of Podiatric Medical Examiners within the most recent five-year period, and, in the board's determination, reasonably conform with the Accreditation Council for Graduate Medical Education's Institutional Requirements of the Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements, as revised effective September 1998, which are incorporated by reference in their entirety.

Reasonable conformance means that, in applying such requirements, the podiatric medical equivalent should be substituted for references made to general medicine, as appropriate. For example, in regard to resident eligibility and selection, references to "graduates of medical schools accredited by the Liaison Committee on Medical Education" should be interpreted as graduates of podiatric medical schools accredited by the Council on Podiatric Medical Education and approved by the ~~California Board of Podiatric Medicine~~ Medical Board of California.

If a residency program falls below the specified seventy-five per cent pass rate, the board may grant the program approval if it determines after review of reports submitted by the program or the board's own site visit team that the program is in reasonable conformance with all applicable requirements.

Note: Authority cited: Sections 2015, 2018 and 2470, Business and Professions Code. Reference: Sections 2475, 2475.3 and 2484, Business and Professions Code.

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Article 3. Continuing Competence

§ 1399.679. Inactive License.

(a) Any doctor of podiatric medicine desiring an inactive license pursuant to the provisions of Article 9 (commencing with Section 700) of Chapter 1 of Division 2 of the code or to restore an inactive license to active status shall submit an application to the board on a form provided by it. The applicant need not submit his or her certificate or copy thereof to the board with the application.

(b) "Board" as used in Section 701 of the code means the ~~California Board of Podiatric Medicine~~ Medical Board of California.

(c) In order to restore an inactive license to active status, the licensee shall have completed a minimum of fifty (50) hours of approved continuing education within the last two (2) years and meet one of the continuing competence pathways in compliance with this article.

(d) All licensees who are in inactive status shall continue to pay to the board the required biennial renewal fees.

(e) The inactive status of any licensee shall not deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking a certificate or otherwise taking disciplinary action against the licensee on any such ground.

Note: Authority cited: Section 2470 and 2496, Business and Professions Code.
Reference: Sections 700-704 and 2529, Business and Professions Code.

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Article 4. Fees

§ 1399.681. Fee for Specialty Board Approval.

Each specialty board or association applying for approval from the ~~Board of Podiatric Medicine~~ Medical Board of California under section 651 of the code shall pay a fee \$4,030.

Note: Authority cited: Sections 651 and 2470, Business and Professions Code.
Reference: Sections 651 and 2470, Business and Professions Code.

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Article 5. Advertising

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Article 6. Ankle Surgery

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Article 8. Citations and Fines

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Article 9. Information Disclosure

§ 1399.700. Statement of Policy.

It is the policy of the ~~Board of Podiatric Medicine~~ Medical Board of California to permit the maximum public access to information in its possession consistent with the requirements of the California Public Records Act (Govt. Code § 6250 et seq.), the Information Practices Act (Civ. Code § 1798 et seq.), Section 803.1 of the Business & Professions Code and the individual's right of privacy guaranteed by the California Constitution (Art. I, § 1).

Note: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; and Section 6253, Government Code. Reference: Sections 803 and 803.1, Business and Professions Code; and Sections 6250 and 6253, Government Code.

§ 1399.703. Requirements for Information Disclosure.

The ~~Board of Podiatric Medicine~~ Medical Board of California will disclose the following information, if known, upon any request regarding any doctor of podiatric medicine licensed in California:

- (a) Current status of a license, issuance and expiration date of a license, podiatric medical school of graduation, and date of graduation.
- (b) Any public action or administrative decision against any doctor of podiatric medicine, and any disposition thereof, taken by the Board, another state or the Federal Government including, but not limited to:
 - (1) the filing of an accusation;
 - (2) licensure revocations;
 - (3) denial of an application for licensure;
 - (4) temporary restraining orders;
 - (5) interim suspension orders;
 - (6) citations, infractions, or fines imposed;
 - (7) limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement; and
 - (8) public letters of reprimand.

The following disclaimer shall be included with these disclosures:

“Any adverse judgment or administrative order is subject to appeal or challenge by the doctor of podiatric medicine. For example, if an order revoking the license of a doctor of podiatric medicine is adopted by the Board, he or she can challenge that order by filing a petition for a writ of mandamus in superior court. If this court determines the order was issued contrary to law, it can vacate the Board’s action and order that the doctor of podiatric medicine be reinstated.”

(c) Accusations which have been filed and later withdrawn shall be retained in the board’s files for a period of one year after the accusation was withdrawn.

(d) Civil judgments in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice by a doctor of podiatric medicine, or by his or her rendering unauthorized professional services, whether or not vacated by a settlement after entry of the judgment, and not reversed on appeal, including the date and amount of judgment, the court and case number, a brief summary of the circumstances as provided by the court, plus any information the Board possesses pertaining to the disposition of the case following entry of judgment. The Board shall also include the following disclaimer with such disclosures:

“Any civil judgment is subject to appeal by the losing party. For example, if a judgment is entered against a doctor of podiatric medicine, he or she can appeal to a higher court. If this court determines the judgment was entered in error, it can either vacate it or reduce the amount of any money damages awarded against the podiatrist.”

(e) Arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice of the doctor of podiatric medicine, or by his or her rendering unauthorized professional services.

(f) California felony convictions reported to the board on or after January 1, 1991, including the nature of the conviction, the date of conviction, the sentence, if known, the court of jurisdiction, and an appropriate disclaimer including, but not limited to, the accuracy of the information provided.

(g) Summaries of any disciplinary actions taken at a hospital or any other type of health care facility that result in the termination or revocation of staff privileges of a doctor of podiatric medicine for medical disciplinary cause or reason.

(h) Matters that have been referred to the Attorney General for the filing of an accusation or statement of issues; provided that:

(1) The matter has not been rejected by the Attorney General; and

(2) The following disclaimer accompanies the disclosure:

“Referral of a matter to the Attorney General for the filing of an accusation or statement of issues only occurs after an investigation has been conducted by the Board and a determination has been made that the actions of the doctor of podiatric medicine are of a nature that should warrant disciplinary action. In some instances, however, the Attorney General may determine that disciplinary action is not warranted. Such cases

will normally not result in the filing of a formal accusation. When an accusation is filed, the podiatrist will be given notice and the right to request a hearing before an independent administrative law judge. At such a hearing the Board has the burden of proving the allegations contained in the accusation. Unless a legal determination is made that the Board has sustained this burden, no disciplinary action may be taken against the doctor of podiatric medicine.”

Note: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; and Section 6253, Government Code. Reference: Sections 803 and 803.1, Business and Professions Code.

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Article 10. Corrective Shoes

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Article 11. Disciplinary Guidelines

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Article 12. Fingerprint Requirements

§ 1399.720. Statement of Policy.

It is the policy of the ~~Board of Podiatric Medicine~~ Medical Board of California to afford maximum protection to consumers and the public of the State of California by insuring that its licensees provide it with information of any criminal convictions which may have occurred prior to application for initial licensure or renewal thereof.

Note: Authority cited: Section 2470, Business and Professions Code. Reference: Sections 144, 480, 2222, 2229, 2236 and 2497, Business and Professions Code.

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Article 13. Oral Arguments; Amicus Briefs