California State Assembly

BUSINESS AND PROFESSIONS

MARC BERMAN
CHAIR

Chief Consultant
Robert Sumner

Deputy Chief Consultant
Vincent Chee

Consultant
Kaitlin Curry
Edward Franco

Committee Secretary
Christina Rocha

1020 N Street, Room 379
(916) 319-3301
FAX: (916) 319-3306

AGENDA

Tuesday, April 22, 2025
9 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	AB 8	Aguiar-Curry	Cannabis: cannabinoids: industrial hemp.
2.	AB 408	Berman	Physician Health and Wellness Program.
3.	AB 432	Bauer-Kahan	Menopause.
4.	AB 476	Mark González	Metal theft.
5.	AB 506	Bennett	Contracts: sales of dogs and cats.
6.	AB 519	Berman	Pet broker sales.
7.	AB 564	Haney	Cannabis: excise tax: rate increase repeal.(Tax Levy)
8.	AB 759	Valencia	Architects: architects-in-training.
9.	AB 876	Flora	Nurse anesthetists: scope of practice.
10.	AB 967	Valencia	Physicians and surgeons: licensure: expedite fee.
11.	AB 985	Ahrens	Anesthesiologist assistants.
12.	AB 1002	Gabriel	Contractors: failure to pay wages: discipline.
13.	AB 1101*	Nguyen	Plastic Bulk Merchandise Containers: proof of ownership.
14.	AB 1130*	Berman	Medical Board of California: appointments: removal.
15.	AB 1341	Hoover	Contractors: discipline: unlicensed architecture, engineering, or land surveying.

** Proposed for Consent*

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 8 (Aguiar-Curry) – As Amended April 21, 2025

SUBJECT: Cannabis: cannabinoids: industrial hemp.

SUMMARY: Beginning January 1, 2028, requires products containing concentrated cannabinoids other than CBD isolate that are derived from industrial hemp to comply with provisions of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), including track and trace identification, advertising restrictions, security and transportation safety requirements, quality assurance standards, laboratory testing, and taxation; prohibits the sale of synthetic cannabis products and inhalable cannabis products containing cannabinoids derived from hemp; requires out-of-state hemp manufacturers to register with the state; reverts the cannabis excise tax rate to 15 percent effective January 1, 2028; and expands the authority for state and local enforcement agencies to inspect, seize, and destroy unlawful cannabis products.

EXISTING LAW:

1) Enacts MAUCRSA to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)

2) Excludes industrial hemp from the definition of cannabis under MAUCRSA. (BPC § 26001)

3) Establishes the Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

4) Required the DCC to prepare a report to the Governor and the Legislature outlining the steps necessary to allow for the incorporation of hemp cannabinoids into the cannabis supply chain on or before July 1, 2022, so that the Legislature may consider whether and how to take legislative action concerning the incorporation of hemp into the cannabis supply chain no later than the 2023–24 legislative session. (BPC § 26013.2)

5) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state requirements as well as local laws and ordinances. (BPC § 26030)

6) Authorizes the DCC to issue a citation to a licensee or unlicensed person for violating MAUCRSA or regulations adopted pursuant to MAUCRSA, and allows the DCC to assess an administrative fine of up to $5,000 per violation by a licensee and up to $30,000 per violation by an unlicensed person. (BPC § 26031.5)

7) Specifically provides that the unlicensed use of the cannabis universal symbol is a violation of MAUCRSA and empowers the CDTFA to seize unlicensed cannabis products bearing the universal symbol as contraband. (BPC § 26031.6)

8) Prohibits a person or entity from engaging in commercial cannabis activity without a state license issued by the DCC pursuant to MAUCRSA. (BPC § 26037.5)

9) Authorizes the Attorney General or a city or county counsel or city prosecutor to bring an action against persons engaged in unlicensed commercial cannabis activity for civil penalties of up to three times the amount of the license fee per day of violation. (BPC § 26038)

10) Provides for various specified types of cannabis licenses including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness; requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. (BPC § 26050)

11) Prohibits the DCC from approving an application for a state cannabis license if approval of the license will violate the provisions of any local ordinance or regulation. (BPC § 26055)

12) Prohibits the sale of cannabis products that are alcoholic beverages, including through an infusion of cannabis or cannabinoids derived from industrial hemp into alcoholic beverages. (BPC § 26070.2)

13) Authorizes state and local prosecutors to bring an action for injunctive relief and civil penalties against licensed cannabis businesses or an industrial hemp registrants for violations of laws intended to restrict the advertising and marketing of cannabis products to minors by licensed cannabis businesses. (BPC § 26152.2)

14) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200)

15) Defines "industrial hemp" as a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom; exempts industrial hemp from the provisions of MAUCRSA. (Health and Safety Code (HSC) § 11018.5)

16) Prohibits industrial hemp products from being labeled or advertised with any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp. (HSC § 110407)

17) Provides that a cosmetic that includes industrial hemp is not adulterated. (HSC § 111691)

18) Establishes a regulatory framework for industrial hemp under the Sherman Food, Drug, and Cosmetic Law administered by the California Department of Public Health (CDPH), under which manufacturers of products containing industrial hemp are required to obtain a process food registration and comply with good manufacturing practices. (HSC §§ 111920 *et seq.*)

19) Requires the distribution or sale of industrial hemp products to include documentation of a certificate of analysis from an independent testing laboratory that confirms that the industrial hemp raw extract, in its final form, does not exceed THC concentration of an amount determined allowable by the CDPH in regulation, or that the mass of the industrial hemp extract used in the final form product does not exceed a THC concentration of 0.3 percent. (HSC § 111921)

20) Authorizes the CDPH to exclude from the definition of "THC or comparable cannabinoid" isomers that do not cause intoxication, but that the CDPH may include any other cannabinoids that the CDPH determines do cause intoxication. (HSC § 111921.7)

21) Authorizes the CDPH to adopt regulations to determine maximum serving sizes for hemp-derived cannabinoids, hemp extract, and products derived therefrom, active cannabinoid concentration per serving size, the number of servings per container, and any other requirements for foods and beverages. (HSC § 111922)

22) Exempts initial regulations regarding industrial hemp adopted by the CDPH from the Administrative Procedure Act, with the exception of regulations to set maximum serving sizes for hemp-derived cannabinoids, hemp extract, and products derived from industrial hemp. (HSC § 110065)

23) Requires hemp manufacturers to register with the CDPH. (HSC § 111923.3)

24) Requires industrial hemp products to meet specified packaging and labeling requirements, including a label that includes the concentration of cannabinoids present in the product batch, including, at minimum, total THC and any marketed cannabinoids. (HSC § 111926.3)

25) Requires a manufacturer, distributor, or seller of an industrial hemp product to follow packaging, labeling, and advertising laws applicable to cannabis businesses. (HSC § 111926)

26) Prohibits inhalable hemp products from being sold to consumers under 21 years of age. (HSC § 111929)

27) Provides the California Department of Food and Agriculture (CDFA) with responsibility for administering and enforcing laws governing the growing, cultivating, and distributing of industrial hemp. (Food and Agricultural Code §§ (FAC) 81000 *et seq.*)

28) Establishes an Industrial Hemp Advisory Board with members appointed by the Secretary of Food and Agriculture to advise the secretary and make recommendations on all matters pertaining to industrial hemp seed law and regulations, enforcement, related annual budgets, and the setting of an appropriate assessment rate necessary for the administration of the law. (FAC § 81001)

29) Allows only approved cultivars to grow industrial hemp. (FAC § 81002)

30) Requires growers of industrial hemp, hemp breeders, and established agricultural research institutions to register with the commissioner of the county in which the grower intends to engage in industrial hemp cultivation. (FAC §§ 81003 – 81005)

31) Requires each registered established agricultural research institution, registered grower of industrial hemp, and registered hemp breeder to report on its hemp production in the state and any changes to the location where it will produce hemp to the Farm Service Agency of the United States Department of Agriculture. (FAC § 81004.6)

32) Imposes limitations and prohibitions on the growth of industrial hemp and requires each crop of industrial hemp to be tested by a laboratory to determine the THC levels of a random sampling of its dried flowering tops. (FAC § 81006)

33) Establishes the Cannabis Tax Law. (Revenue and Tax Code (RTC) §§ 34010 *et seq.*)

34) Provides the California Department of Tax and Fee Administration (CDTFA) with responsibility for administering and collecting taxes on cannabis businesses. (RTC § 34013)

35) Imposes a cannabis excise tax upon purchasers of cannabis or cannabis products sold in California at 15 percent of the gross receipts of any retail sale by a cannabis retailer, effective January 1, 2023. (RTC § 34011.2(a)(1))

36) Imposes a cultivation tax on all harvested cannabis that enters the commercial market at a rate of $9.25 per dry-weight ounce for cannabis flowers and $2.75 per dry-weight ounce for cannabis leaves; suspends the imposition of this tax effective July 1, 2022. (RTC § 34012)

37) Beginning in Fiscal Year 2025-26 and every two years thereafter, requires the CDTFA, in consultation with the Department of Finance, to adjust the cannabis excise tax rate by the additional percentage that the CDTFA estimates will generate an amount of revenue equivalent to the amount that would have been collected in the previous fiscal year if the cultivation tax had not been suspended, to a maximum total rate of no more than 19 percent of the gross receipts of retail sale, rounded to the nearest one-quarter of 1 percent and in effect the following July 1. (RTC § 34011.2(a)(2))

38) On or before May 1, 2025, and each May 1 every two years thereafter, requires the CDTFA, in consultation with the Department of Finance, to estimate the amount of revenue that would have been collected in the previous fiscal year pursuant to the cultivation tax had it not been suspended. (RTC § 34011.2(a)(3))

39) Authorizes a peace officer to inspect any place at which cannabis or cannabis products are sold and to take enforcement action and seize any products found not to be in compliance with the law. (RTC § 34016)

40) Enacts the Cigarette and Tobacco Products Licensing Act of 2003, which licenses retailers of cigarettes and tobacco products. (BPC §§ 22970 *et seq.*)

THIS BILL:

1) Requires out-of-state hemp manufacturers who produce food or beverage industrial hemp products for sale in California to register with the CDPH.

2) Defines “cannabinoid” as one of various naturally occurring compounds found in cannabis and industrial hemp that attach to cannabinoid receptors in humans and animals, including THC and cannabidiol (CBD).

3) Expands the definition of “cannabis products” to include either cannabis or industrial hemp that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabinoids, or product containing cannabis or concentrated cannabinoids.

4) Defines “CBD isolate” as a compound extracted from cannabis or industrial hemp consisting of CBD with a purity level greater than 99 percent and exempts regulated products that do not contain cannabinoids other than CBD isolate from MAUCRSA.

5) Defines “industrial hemp” for purposes of MAUCRSA as types of the plant Cannabis sativa Linnaeus with a delta-9 THC concentration of no more than 0.3 percent on a dry weight basis and limits the definition to only agricultural products, including seeds, propagated plant material, immature or mature plants, harvested plants, processed plant material, mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant or any other preparation that does not contain cannabinoids.

6) Excludes cannabis products, as defined, from the definition of industrial hemp.

7) Defines “synthetic cannabinoid” as a cannabinoid or cannabinoid-like compound that is produced or converted by using biosynthesis, bioconversion, or chemical synthesis, reaction, modification, or conversion, or a similar process.

8) Specifies certain cannabinoids as falling within the definition of a synthetic cannabinoid, including delta-8, delta-9, or delta-10 THC, that was produced by the conversion of CBD and excludes certain specified cannabinoids from the definition of synthetic cannabinoid in addition to any other chemical substance approved by the DCC in regulation.

9) Prohibits the sale of products containing synthetic cannabinoids by cannabis licensees.

10) Expands current law criminalizing the sale of synthetic cannabinoids to include those defined in MAUCRSA.

11) Prohibits the sale of an inhalable cannabis product containing cannabinoids derived from industrial hemp by cannabis licensees.

12) Prohibits cigarette or tobacco retailers from possessing or selling cannabis, cannabis products, or unauthorized hemp products containing or purporting to contain THC or a comparable cannabinoid at any site where cigarettes or tobacco products are stored or sold.

13) Authorizes the CDTFA or a law enforcement agency to seize products being unlawfully sold at a cannabis or tobacco retail location and provides for specific civil penalties in addition to the suspension or revocation of the retailer’s license.

14) Provides that it shall be presumed that a product containing or purporting to contain THC or comparable cannabinoid is a cannabis product, regardless of the nature or source of the cannabinoid, if there is reasonable cause to believe that the product does not meet the requirements to be considered an industrial hemp product.

15) Expands the prohibition against unlawful use of the universal symbol in connection with illicit commercial cannabis activity to include images bearing any likeness, simulation, or any representation substantially similar to the universal symbol, and prohibits the universal symbol from being altered or cropped except as authorized by MAUCRSA.

16) Provides that it is a violation of MAUCRSA for any unlicensed person to use or possess any package, label, or advertisement of any kind bearing the likeness or simulation of the universal symbol in connection with licensed commercial cannabis activity.

17) Authorizes products found to violate prohibitions against unlawful usage of the universal symbol to be summarily destroyed by the state.

18) Expands the authority of a peace officer to seize cannabis and cannabis products to include industrial hemp or cannabis products subject to seizure under the Sherman Food, Drug, and Cosmetic Law as well as industrial hemp products in violation of state, federal, or tribal law.

19) Provides that a cannabis product is adulterated if it has been mixed or packed with a substance after it has undergone laboratory testing so as to reduce its quality or concentration, or if a substance has been substituted, regardless of if the cannabis product is an edible.

20) Requires the inclusion of information relating to industrial hemp in the DCC's track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain, as provided for by MAUCRSA.

21) Expands provisions of MAUCRSA relating to the regulation of pesticides used in the cultivation of cannabis to also apply to industrial hemp cultivation.

22) Requires industrial hemp products to comply with the DCC's minimum security and transportation safety requirements for the commercial distribution and delivery.

23) Defines "licensed market" as the California licensed market for cannabis, industrial hemp, and cannabis products that is subject to regulation by MAUCRSA.

24) Requires industrial hemp products to comply with provisions of MAUCRSA requiring testing by licensed testing laboratories and provides that upon entry into the licensed market and requires industrial hemp and cannabis products derived from industrial hemp to be held in quarantine and tested by a licensed testing laboratory before transfer to another licensee or incorporation into a cannabis product.

25) Clarifies that industrial hemp or cannabis products derived exclusively from industrial hemp may be shipped through California without entering the licensed market, provided they are not sold in California, or shipped out of California by a licensee.

26) Requires industrial hemp products to comply with quality assurance standards required by MAUCRSA.

27) Requires industrial hemp products to comply with appellation of origin requirements provided for in MAUCRSA.

28) Repeals language excluding industrial hemp products from the definition of "noncannabis food or beverage products" for purposes of provisions in MAUCRSA related to the sale of those products within a consumption lounge.

29) Subjects the sale of cannabis products containing cannabinoids derived from hemp to the cannabis excise tax and, effective January 1, 2028, repeals language requiring the CDTFA to increase the cannabis excise tax to a rate of up to 19 percent, as necessary to replace revenue lost due to the suspension of the cannabis cultivation tax.

30) Delays the effective date for various provisions of the bill until January 1, 2028.

31) Makes other technical and conforming amendments to laws governing industrial hemp.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Cannabis Operators Association*. According to the author:

> Since the federal Farm Bill legalized industrial hemp in 2018, hemp-derived products containing cannabidiol (CBD) and other cannabinoids have become widely available in grocery stores, fitness centers, and other retail locations. In 2021, I authored AB 45 (Aguiar-Curry, Chapter 457, Statutes of 2021) to establish the nation's strongest safety and testing standards for hemp products while preserving access to CBD, because it is a non-intoxicating compound used to manage epilepsy, anxiety, chronic pain, and other health concerns. However, limited enforcement and rapidly evolving industry practices have led to a surge in intoxicating hemp products that are easily accessible to consumers—including youth— in everyday retail settings, posing public health risks and undermining California's regulated hemp and cannabis markets. This bill will protect public health and licensed businesses by strengthening enforcement against illegal hemp products, ensuring that all intoxicating cannabinoids are regulated and taxed as cannabis, and creating a pathway for responsible hemp and cannabis operators to participate in the federal and state legal markets.

Background.

Cannabis versus Hemp. Botanically speaking, both industrial hemp and what has historically been referred to as marijuana are members of the same plant species, *Cannabis sativa*. Under California law, the term "cannabis" typically refers to varieties of the species that contain sufficient levels of the cannabinoid THC to produce an intoxicating psychoactive effect, or "high"; this plant and its associated products are regulated by the DCC under MAUCRSA. Hemp, meanwhile, is commonly regarded more as an agricultural plant and has historically been used for products such as paper, textiles, cosmetics, and fabric. California law requires industrial hemp to contain less than 0.3 percent THC, which is considered trace amounts compared to psychoactive cannabis (which frequently contains between 15-40 percent THC). Hemp is regulated by the CDFA for agricultural purposes, and by the CDPH when it is used in food, beverage, and cosmetic products.

While industrial hemp does not share the same psychoactive properties as cannabis due to its significantly lower amount of THC, both hemp and cannabis contain another cannabinoid known as CBD. According to the National Institute of Health, CBD has pain relieving, anti-inflammatory, anti-psychotic, and tumor-inhibiting properties. There are currently over 100 clinical trials of CBD listed on the National Library of Medicine's website. These trials are testing CBD's utility in treating epilepsy, substance use disorders, pain, psychosis, and anxiety, among other disorders and conditions.

Regulation of Cannabis. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state due to cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription.

After several prior attempts to improve the state's regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate regulations governing the implementation of the state's cannabis laws, MCRSA preserved local control. Under MCRSA, local governments could establish their own ordinances to regulate medicinal cannabis activity, or choose to ban cannabis activity altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)—created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new Department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities' cannabis programs. As of July 1, 2021, the Department has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the consolidation and make other changes to cannabis regulation.

Regulation of Hemp. SB 566 (Leno) of 2013 established the Industrial Hemp Farming Act, which would provide a regulatory scheme for the cultivation and processing of industrial hemp in California upon approval by the federal government. SB 566 required growers of hemp for commercial purposes to register with the county agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation among various provisions. Established agricultural research institutions were exempted from these requirements.

The U.S. Agriculture Improvement Act of 2018 (known as the Farm Bill) federally legalized the growing, cultivating, and the transporting of industrial hemp between states. However, the Farm Bill resulted in CBD containing products that have been approved by the Food and Drug Administration (FDA) to be removed from the list of Schedule I substances under the CSA and reclassified as a Schedule V drug. This policy was enacted because of the findings that it does not contain any psychoactive or addictive properties and has a very low abuse potential. This separates industrial hemp from marijuana specific cannabis products, which remains a Schedule I drug on the federal level. The Farm Bill also classifies CBD as a food product.

Importantly, the Farm Bill also requires states to devise their own sale restrictions and regulations, of which the U.S. Department of Agriculture (USDA) is responsible for overseeing. SB 153 (Wilk) of 2019 revised provisions in SB 566 regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the 2018 Farm Bill. SB 292 (Wilk) of 2021 additionally conformed state law to the USDA Interim Final Rule regarding reporting and testing of industrial hemp in the United States.

In 2021, AB 45 (Aguiar-Curry) was enacted to significantly expand and clarify the framework under which CBD derived from industrial hemp can be used in food, beverages and dietary supplements. The bill revised or added various definitions relating to hemp products and placed new requirements on hemp manufacturers in exchange for more explicit authority to produce manufactured goods containing CBD derived from hemp. In doing so, the bill expressly specified that foods, beverages, dietary supplements, cosmetics, and pet food are not adulterated by the inclusion of industrial hemp cannabinoids.

Integration of Cannabis and Hemp. Notwithstanding the biological and chemical similarities of cannabis and hemp, hemp products are considered "non-cannabis goods" for purpose of MAUCRSA. Under Section 15407 of the DCC's regulations, licensed cannabis retailers are prohibited from selling any non-cannabis goods besides cannabis accessories, branded merchandise, and, subject to local authorization, prepackaged non-cannabis infused and food and beverages. While presumably an individual or entity could both engage in a licensed cannabis business and in a business involving hemp, it is understood that the two supply chains must remain fully distinct.

Whether hemp and cannabis products should be allowed to coexist in a regulatory context has been debated consistently over the past several years. Because both plants contain the same cannabinoids, it is often the case that two essentially identical products—CBD gummies, for example—are regulated and sold differently based on whether the CBD was derived from cannabis or industrial hemp. Many cannabis retailers may wish to also sell products derived from hemp. However, some in the cannabis industry may see hemp as an unwelcomed competitor, and concerns have been expressed that the difference in regulatory systems and consumer safety requirements should keep the two products separated.

AB 45 included language requiring the DCC to prepare a report to the Governor and the Legislature outlining the steps necessary to allow for the incorporation of hemp cannabinoids into the cannabis supply chain. The report is required to include, but is not be limited to, the incorporation of hemp cannabinoids into manufactured cannabis products and the sale of hemp products at cannabis retailers. Language in AB 45 also stated the intent of the Legislature to consider, in light of the DCC's report, "whether and how to take legislative action concerning the incorporation of hemp into the cannabis supply chain."

The DCC published *The Hemp Report: Steps and Considerations for Incorporating Hemp Into the Commercial Cannabis Supply Chain* and submitted it to the Legislature in January of 2023. The report submitted by the DCC stated that "incorporating hemp into the regulated commercial cannabis supply chain presents both policy and implementation challenges. From the policy perspective, several determinations would need to be made to move forward with the inclusion of hemp." In the report's conclusion, the DCC summarized its determinations and conclusions as follows:

> As detailed in this report, the inclusion of hemp into the commercial cannabis supply chain is complex and requires careful consideration of significant policy questions to arrive at an approach that is in the best interests of California. The approach utilized to accomplish this end would directly impact the cannabis industry, hemp industry, standard commercial market, medicinal and adult-use consumers, and the Department and other responsible California state agencies. While this report raises significant policy considerations to inspire and support deliberations between policy makers and stakeholders, it should not be interpreted as containing every single issue that may need to be considered and addressed by policy makers to determine when or if to incorporate hemp into the cannabis supply chain. If California chooses to allow hemp into the commercial cannabis supply chain, irrespective of which approach California adopts, implementation will likely require significant time and resources.

Intoxicating Hemp. Concerns have grown over the past several years regarding the perceived proliferation of intoxicating hemp products. In 2022, the California Cannabis Industry Association (CCIA) issued a white paper in October 2022 titled *Pandora's Box: The Dangers of a National, Unregulated, Hemp-Derived Intoxicating Cannabinoid Market*. The CCIA report argued that loopholes in the 2018 Farm Bill, which defined industrial hemp as having no more than 0.3 percent delta-9 THC content by dry weight, inadvertently created led to the proliferation of intoxicating hemp products. Specifically, the white paper points to a Ninth Circuit decision that the CCIA says "unleashed a Wild West of intoxicants when it ruled that products containing delta-8 THC meet the statutory definition of industrial hemp."

According to the FDA, delta-8 THC is a cannabinoid typically synthetically manufactured from hemp-derived CBD that has significant psychoactive and intoxicating effects. The FDA has expressed concern that delta-8 THC products "likely expose consumers to much higher levels of the substance than are naturally occurring in hemp cannabis raw extracts." There were reportedly 104 reports made to the FDA of adverse events in patients who consumed delta-8 THC products between December 1, 2020, and February 28, 2022, over half of which resulted in medical intervention or hospital admission.

In April 2023, the Cannabis Regulators Association (CANNRA), a coalition of regulatory agencies overseeing cannabis and hemp industries in more than 40 states and territories in the United States, wrote a letter to congressional leadership requesting action at the federal level provide a regulatory framework for products containing THC derived from hemp. CANNRA specifically called attention to the fact that a 0.3 percent threshold of delta-9 THC by weight is a relatively small amount of THC in a hemp plant, but is significantly more when included as an ingredient in edible products and beverages. A 50-gram chocolate bar, for example, would have around 150 milligrams of THC at the 0.3 percent THC limit – 30 times the standard 5 milligram THC dose established by the National Institute on Drug Abuse.

In February 2025, another white paper titled *The Great Hemp Hoax*, was published with funding by the San Diego/Imperial Counties Joint Labor Management Cannabis Committee, UFCW, and March and Ash. This white paper discussed findings that out of more than 100 intoxicating hemp products from 68 brands available to California consumers through online purchases, 95 percent contained synthetic cannabinoids prohibited under California law. Additionally, over 88 percent of tested products exceed the maximum amount of THC allowed to be classified as hemp products in California. The white paper found that on average, vape products supposedly derived from hemp had THC equivalency levels 268 percent above the state's threshold for adult-use cannabis.

Prior Efforts to Integrate and Regulate Hemp Products. In 2023, AB 420 (Aguiar-Curry) was introduced to as a vehicle for continued discussions around how California might integrate industrial hemp into the supply chain for cannabis. Initially, the bill contained a statement that nothing in MAUCRSA prohibits integration. Subsequent amendments to the bill that were made in the Senate provided for greater details regarding how integration would be achieved. The amendments also expanded prohibitions against industrial hemp containing synthetic THC or similar cannabinoids. However, the bill was ultimately held under submission on the suspense file in the Senate Committee on Appropriations.

The following year, AB 2223 (Aguiar-Curry) was introduced to again seek to strengthen California laws governing the cultivation, manufacturing, and sale of hemp products. Language in the bill would have expressly allowed for the integration of industrial hemp into the licensed cannabis supply chain, with additional requirements to ensure that integration occurs safely. The bill also sought to close loopholes created in federal law by explicitly prohibiting intoxicating hemp products from being manufactured and sold in California. However, this bill was also held under submission on the suspense file in the Senate Committee on Appropriations.

In September 2024, Governor Gavin Newsom announced that the CDPH was issuing emergency regulations banning the sale of consumable hemp products containing any detectable levels of THC or other intoxicating cannabinoids in California. The regulations additionally prohibited sales of hemp products to individuals under 21 and limited servings to five per package. State regulators indicated that sellers would be required to implement purchase restrictions and remove consumable hemp products containing any levels of detectable THC from shelves immediately upon the effective date of the regulations.

The Governor's emergency regulations were challenged in court by a coalition led by the U.S. Hemp Roundtable and several California hemp businesses, who sought to halt enforcement and argued that the ban exceeded CDPH's rulemaking authority, specifically pointing to the failure of AB 2223 to pass the Legislature. However, in October 2024, the request for a temporary restraining order was denied by the Los Angeles County Superior Court, who found that the state had a compelling interest in protecting public health, especially that of children, from unregulated intoxicating hemp products. In March 2025, the CDPH extended the ban for another 90 days and will currently remain valid through June 2025.

Regulating Products with Hemp-Derived Cannabinoids. This bill, which represents the author's sixth of leading efforts to strengthen California laws governing the cultivation, manufacturing, and sale of hemp products, would build on the state's current prohibition against the sale of intoxicating hemp products while allowing products containing cannabinoids derived from hemp to be manufactured and sold through the cannabis supply chain. The bill would expand the definition of "cannabis products" in MAUCRSA to include industrial hemp that has undergone a process whereby the plant material has been transformed into concentrated cannabinoids like THC, as well as products containing those concentrated cannabinoids. Under the bill, any product containing a concentrated cannabinoid derived from hemp, with the exception of pure CBD isolate, would fall under the definition of a cannabis product.

Once that classification occurs, cannabis products derived from industrial hemp would be eligible for integration into the cannabis supply chain. Various provisions of MAUCRSA would apply to those products, including track and trace identification, advertising restrictions, security and transportation safety requirements, quality assurance standards, and laboratory testing.

Industrial hemp or cannabis products derived exclusively from industrial hemp could still be shipped through California without entering the licensed cannabis market, provided they are not sold in California, or shipped out of California by a cannabis licensee.

This bill would also subject cannabis products derived from industrial hemp to the cannabis excise tax. MAUCRSA imposes a 15 percent excise tax on sales of cannabis, and previously imposed a weight-based tax on cannabis cultivation that was suspended effective July 1, 2022. Language included in the Budget Act of 2022 requires the CDTFA to adjust the excise tax every two years by a rate that would generate an amount of revenue equivalent to what would have been collected from the cultivation tax, up to 19 percent. This bill would repeal that required adjustment, with the expectation that additional revenue would flow into the Cannabis Tax Fund as a result of integrating products derived from industrial hemp.

In addition to language classifying products containing concentrated cannabinoids derived from industrial hemp as cannabis products and incorporating those products into the cannabis supply chain, this bill would make a number of additional technical and corresponding changes to ensure that regulators are able to oversee and enforce MAUCRSA and other state laws governing cannabis and hemp. A majority of the bill would not go into effect until January 1, 2028, allowing time for the industry and the state to prepare for the changes proposed by the bill. Once implemented, this bill has the potential to resolve years of issues surrounding how to safely and effectively regulate hemp products in California.

Current Related Legislation. AB 564 (Haney) would repeal language requiring the CDTFA to increase the cannabis excise tax rate to compensate for the estimated revenue lost as a result of the suspension of the cannabis cultivation tax. *This bill is pending in this committee.*

AB 1397 (Flora) would authorize the sale of low-dose hemp drinks and subject those products to a 10 percent excise tax. *This bill is pending in this committee.*

Prior Related Legislation. AB 1498 (Ashby), Chapter 899, Statutes of 2024 authorized state and local prosecutors to bring an action for injunctive relief and civil penalties against individuals engaged in commercial cannabis or industrial hemp activity for violations of laws intended to restrict the advertising and marketing of cannabis and hemp products to minors.

AB 2223 (Aguiar-Curry) of 2024 would have allowed for cannabis licensees to manufacture, distribute, or sell products that contain industrial hemp and placed additional restrictions on industrial hemp products containing THC or comparable cannabinoids. *This bill died on suspense in the Senate Committee on Appropriations.*

AB 420 (Aguiar-Curry) of 2023 would have authorized the integration of industrial hemp into the licensed cannabis supply chain and strengthened prohibitions against industrial hemp containing synthesized cannabinoids. *This bill died on suspense in the Senate Committee on Appropriations.*

AB 1656 (Aguiar-Curry) of 2022 would have authorized the integration of industrial hemp into the licensed cannabis supply chain. *This bill died on the Senate inactive file.*

AB 45 (Aguiar-Curry), Chapter 576, Statutes of 2021 established a regulatory framework for industrial hemp under the Sherman Food, Drug, and Cosmetic Law.

SB 292 (Wilk), Chapter 485, Statutes of 2021 conformed current state law to the United States Department of Agriculture's Interim Final Rule regarding reporting and testing of industrial hemp.

SB 153 (Wilk), Chapter 838, Statutes of 2019 revised provisions regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the 2018 Farm Bill.

AB 228 (Aguiar-Curry) of 2019 would have established a regulatory framework for industrial hemp under the Sherman Food, Drug, and Cosmetic Law. *This bill was held on suspense in the Senate Committee on Appropriations.*

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 combined AUMA and MCRSA into a unified system for the regulation of cannabis, MAUCRSA.

SB 566 (Leno), Chapter 398, Statutes of 2013 allowed hemp to be grown in California, upon federal approval, by excluding "industrial hemp" from the definition of "marijuana."

ARGUMENTS IN SUPPORT:

The *California Cannabis Operators Association* (CaCOA) is sponsoring this bill. CaCOA argues that the bill would "fulfill a long-standing commitment to integrate hemp cannabinoids into the regulated cannabis supply chain. Specifically, AB 8 enhances enforcement by addressing the public health threat posed by unregulated, high-potency intoxicating hemp products - which can be easily purchased online and found in gas stations, liquor stores and vape shops. These products blatantly subvert California's rigorous cannabis laws and taxation framework, creating confusion for consumers and unfair competition for compliant businesses. At the same time, AB 8 provides a path for legal cannabis manufacturers to incorporate hemp cannabinoids—bringing California in line with 17 other states."

The *California State Association of Counties*, the *Rural County Representatives of California*, and the *League of California Cities* write jointly in support of this bill: "In passing Proposition 64, voters made it clear that while adults should be able to partake in the intoxicating effects of cannabis, there must be strong regulations to ensure that the products are safe, only available to those over 21, do not appeal to children, and are properly taxed at the state and local level. We have seen intoxicating hemp undermine each of these principles, simply because the tetrahydrocannabinol (THC) compound is hemp-derived, which is the same compound found in intoxicating cannabis. This paradox creates a glaring disparity in the treatment of identical THC products."

ARGUMENTS IN OPPOSITION:

Origins Council, which represents cannabis businesses in rural legacy producing counties, opposes this bill unless amended. According to Origins Council, "We appreciate that AB 8 has been amended significantly in comparison to drafts of AB 2223 which circulated in the last legislative session. In our view, AB 8 is both clearer and closer to addressing our concerns in comparison to prior legislative proposals on hemp integration. For example, we appreciate that AB 8 contains a clear statutory definition of a synthetic or chemically converted cannabinoid, and shows clear intent to prohibit these products. Where we believe AB 8 still falls short, however, is in failing to restrict the incorporation of naturally-occurring, high-THC hemp into the cannabis supply chain at either the point of manufacturing or the point of retail."

A coalition of 98 organizations including *Youth Forward*, *Getting it Right from the Start*, *Child Action, Inc.*, and other nonprofit groups write collectively in specific opposition to this bill's language requiring the cannabis excise tax to remain at 15 percent effective January 1, 2028. The coalition writes: "If the promise made in AB 195 is not kept, we risk losing at least $150 million per year for childcare, youth, and environmental programs. This translates into thousands fewer childcare slots for low-income children, fewer youth benefitting from substance abuse prevention programs, continuing environmental degradation of our watersheds, and other harms." The coalition further argues that "unless it results in revenue neutrality, the elimination of the Cannabis Cultivation Tax is legally vulnerable because: (1) It alters the allocation of funding to Tier 3 programs by eliminating one of the two key revenue streams that fund the Tier 3 allocations; and (2) It would be inconsistent with the voter's intent expressly stated in Proposition 64's text to provide significant funding to Tier 3 programs. We urge you to not support gutting funding for childcare, youth, and environmental programs for the sake of increasing profits for the cannabis industry."

REGISTERED SUPPORT:

California Cannabis Operators Association *(Sponsor)*
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Reserve Peace Officers Association
California State Association of Counties
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Good Farmers Great Neighbors
Kiva Confections
League of California Cities
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Rural County Representatives of California
Santa Ana Police Officers Association
Wine Institute

REGISTERED OPPOSITION:

Alliance for Boys and Men of Color
Arts for Healing and Justice Network
Asian Refugees United
Back to the Start
Big Sur Farmers Association
Big Valley Band of Pomo Indians
Breakthrough Sacramento
Cal Alliance of Child and Family Services
Calexico Wellness Center
California Alliance for Youth and Community Justice
California Health Collaborative
California Native Plant Society
California School-Based Health Alliance
California State Parks Foundation
CalPride
CactusToCloud Institute
Centro del Pueblo Movimiento Indigena Migrante
Child Action, Inc.
City Ministry Network
Club Stride Inc.
Coastal Defenders
Connected to Lead
Core 6
CROP Project
East Bay Asian Youth Center
El Sol Neighborhood Educational Center
Endangered Habitats League
EPIC (Environmental Protection Information Center)
ExpandLA
Freedom 4 Youth
Fresh Lifelines for Youth
Friends of Harbors, Beaches and Parks
Friends of the Eel River
Friends of the Inyo
Future Leaders of America
Gateway Mountain Center
Getting it Right from the Start
Girls Club of Los Angeles
Helpline Youth Counseling
Hermosa Coalition for Drug-Free Kids
Hessel Farmers Grange
Hills for Everyone
Hmong Innovating Politics
Humboldt County Growers Alliance
Indigenous Justice
Institute for Public Strategies
Israel Salazar Villa

Klamath Forest Alliance
Kno'Qoti Native Wellness Inc.
Latino Coalition for a Healthy California
Legacy LA
Leticia Aguilar
LGBTQ Center OC
Lily of the Valley Emmanuel Church of Jesus Christ
Los Angeles Neighborhood Land Trust
Marin Residents for Public Health Cannabis Policies
Mendocino Cannabis Alliance
Mental Health California
Merced Lao Family Community Inc.
Mid-City CAN
Mojave Desert Land Trust
Movimiento Urban Strategies Council
National Council on Alcoholism and Drug Dependence of East San Gabriel and Pomona Valleys
Native Dads Network
Native Sisters Circle
NorCal Phoenix, Inc.
Origins Council
Pacific Forest Trust
Planning and Conservation League
Prevention Institute
Project Optimism, Inc.
Raizes Collective
Resilience Orange County
Resources Legacy Fund
River Partners
RYSE Youth Center
Sacramento Area Congregations Together
Sacramento LGBT Community Center
Sacramento Youth Center
Safe Passages
Santa Cruz County Showing Up for Racial Justice
SAY San Diego
Somos Mayfair
Sonoma County Cannabis Alliance
Sonoma Land Trust
Source LGBT+ Center
Tarzana Treatment Center Inc.
Tahoe Youth and Family Services
The Cambodian Family
The Los Angeles Trust for Children's Health
The Wall Las Memorias
Trinity County Agriculture Alliance
Trout Unlimited
True North Organizing Network
Underground GRIT
Urban Peace Movement

Watershed Research & Training Center
Waymakers
Youth Alliance
Youth Forward
Youth Leadership Institute
Youth Transforming Justice

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 408 (Berman) – As Amended April 21, 2025

NOTE: This bill is double referred and if passed by this Committee will be re-referred to the Assembly Committee on Judiciary.

SUBJECT: Physician Health and Wellness Program.

SUMMARY: Revises the authority of the Medical Board of California (MBC) to establish a Physician Health and Wellness Program to enable the program to align with national best practices for helping physicians with substance use disorders and other conditions receive treatment so they can continue practicing safely.

EXISTING LAW:

1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)

2) Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction, including healing arts boards under Division 2. (BPC § 101)

3) Establishes a Substance Abuse Coordination Committee within the DCA to formulate uniform standards to be used by healing arts boards in dealing with substance-abusing licensees, including specific standards for the extent to which licensee participation in a private-sector vendor program shall be kept confidential from the public. (BPC § 315)

4) Requires a board to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program. (BPC § 315.2)

5) Authorizes boards to adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards. (BPC § 315.4)

6) Authorizes a licensing agency to order a licensee to be examined by one or more physicians and surgeons or psychologists designated by the agency whenever it appears that any person holding a healing arts license, certificate, or permit may be unable to practice their profession safely because the licensee's ability to practice is impaired due to mental illness, or physical illness affecting competency. (BPC § 820)

7) Enacts the Medical Practice Act, which provides for the licensure and regulation of physicians and surgeons. (BPC §§ 2000 *et seq.*)

8) Establishes the MBC within the DCA, a regulatory board comprised of 15 appointed members, including five public members and eight physician members appointed by the Governor, one public member appointed by the Senate Committee on Rules, and one public member appointed by the Speaker of the Assembly. (BPC § 2001)

9) Declares that protection of the public shall be the highest priority for the MBC in exercising its licensing, regulatory, and disciplinary functions. (BPC § 2001.1)

10) Entrusts the MBC with responsibility for all of the following:

    a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

    b) The administration and hearing of disciplinary actions.

    c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

    d) Suspending, revoking, or limiting certificates after the conclusion of disciplinary actions.

    e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

    f) Approving undergraduate and graduate medical education programs.

    g) Approving clinical clerkship and special programs and hospitals.

    h) Issuing licenses and certificates under the board's jurisdiction.

    i) Administering the board's continuing medical education program.

    (BPC § 2004)

11) Authorizes the MBC to appoint panels of at least four of its members for the purpose of fulfilling its disciplinary obligations, and requires that a majority of the panel members be physicians. (BPC § 2008)

12) Authorizes the MBC to establish advisory committees consisting of physicians in good standing and members of the public with interest or knowledge of a subject matter assigned to the committee, who are not required to be members of the MBC. (BPC § 2015.5)

13) Requires the MBC to keep an official record of all its proceedings. (BPC § 2017)

14) With approval from the Director of DCA, authorizes the MBC to employ an executive director as well as investigators, legal counsel, medical consultants, and other assistance, but provides that the Attorney General is legal counsel for the MBC in any judicial and administrative proceedings. (BPC § 2020)

15) Allows the MBC to select and contract with necessary medical consultants who are licensed physicians to assist it in its programs. (BPC § 2024)

16) Requires the MBC to adopt regulations to require its licensees to provide notice to their clients or patients that the practitioner is licensed in California by the MBC. (BPC § 2026)

17) Requires the MBC to post on its website the current status of its licensees and any prior history of discipline. (BPC § 2027)

18) Prohibits the MBC from requiring an applicant for a physician's and surgeon's license or postgraduate training license to disclose either of the following:

    a) A condition or disorder that does not impair the applicant's ability to practice medicine safely.

    b) A condition or disorder for which the applicant is receiving appropriate treatment and which, as a result of the treatment, does not impair the applicant's ability to practice medicine safely, with the exception of an applicant's participation in a treatment program resulting from an accusation or disciplinary action brought by a licensing board.

    (BPC § 2090)

19) Authorizes the MBC to take action against persons guilty of violating the Medical Practice Act. (BPC § 2220)

20) Previously required the Director of DCA to appoint an independent enforcement monitor to monitor the MBC's enforcement efforts, with specific concentration on the handling and processing of complaints and timely application of sanctions or discipline imposed on licensees and persons in order to protect the public. (BPC § 2220.01)

21) Requires the MBC to prioritize its investigative and prosecutorial resources to ensure that physicians representing the greatest threat of harm are identified and disciplined expeditiously, with the following allegations being handled on a priority basis and with the first paragraph receiving the highest priority:

    a) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to patients, such that the physician represents a danger to the public.

    b) Drug or alcohol abuse by a physician involving death or serious bodily injury to a patient.

    c) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor.

    d) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

    e) Sexual misconduct with one or more patients during a course of treatment or an examination.

    f) Practicing medicine while under the influence of drugs or alcohol.

    g) Repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason therefor.

    (BPC § 2220.05)

22) Requires that any complaint determined to involve quality of care, before referral to a field office for further investigation, shall be reviewed by a qualified medical expert and shall include the review of the following:

    a) Relevant patient records.

    b) The statement or explanation of the care and treatment provided by the physician.

    c) Any additional expert testimony or literature provided by the physician.

    d) Any additional facts or information requested by the medical expert reviewers that may assist them in determining whether there was a departure from the standard of care.

    (BPC § 2220.08)

23) Clarifies that the MBC is the only licensing board authorized to investigate or commence disciplinary actions relating to the physicians and surgeons it licenses. (BPC § 2220.5)

24) Authorizes the MBC to either deny an application for licensure as a physician and surgeon or issue a probationary license, subject to specified conditions and limitations. (BPC § 2221)

25) Allows the MBC to delegate its authority to conduct investigations and inspections and to institute proceedings to its executive director or to other personnel. (BPC § 2224)

26) Enacts the Patient's Right to Know Act of 2018 to require certain healing arts licensees, including physicians, who are on probation for certain offenses to provide their patients with information about their probation status prior to the patient’s first visit. (BPC § 2228.1)

27) Provides that all proceedings against a licensee for unprofessional conduct, or against an applicant for licensure for unprofessional conduct or cause, shall be conducted in accordance with the Administrative Procedure Act. (BPC § 2230)

28) Requires the MBC to take action against any licensee who is charged with unprofessional conduct, including, but not limited to, the following:

    a) Violations of the Medical Practice Act.

    b) Gross negligence.

    c) Repeated negligent acts.

    d) Incompetence.

    e) Acts of dishonesty or corruption that are substantially related to the practice of medicine.

    f) Any action or conduct that would have warranted the denial of a certificate.

    g) Failure to attend and participate in an interview by the MBC.

    (BPC § 2234)

29) Provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician constitutes unprofessional conduct. (BPC § 2236)

30) Automatically suspends a physician's license during any time that the physician is incarcerated after conviction of a felony. (BPC § 2236.1)

31) Provides that numerous inappropriate activities or violations of the law constitute unprofessional conduct. (BPC §§ 2237 – 2318)

32) Provides that a physician who uses, prescribes for, or administering to themselves any controlled substance or dangerous drug or alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely has committed unprofessional conduct. (BPC § 2239)

33) Requires the MBC to set as a goal the improvement of its disciplinary system so that an average of no more than six months will elapse from the receipt of complaint to the completion of an investigation. (BPC § 2319)

34) Authorizes the MBC to establish a Physician and Surgeon Health and Wellness Program for the early identification of, and appropriate interventions to support a physician and surgeon in their rehabilitation from, their substance use to ensure that the physician and surgeon remains able to practice medicine in a manner that will not endanger the public health and safety and that will maintain the integrity of the medical profession; if established, the program shall aid a physician and surgeon with substance abuse issues impacting their ability to practice medicine. (BPC § 2340)

35) Requires, if the MBC establishes a Physician and Surgeon Health and Wellness Program, for the program to do all of the following:

    a) Provide for the education of all licensed physicians and surgeons with respect to the recognition and prevention of physical, emotional, and psychological problems.

    b) Offer assistance to a physician and surgeon in identifying substance abuse problems.

    c) Evaluate the extent of substance abuse problems and refer the physician and surgeon to the appropriate treatment by executing a written agreement with a physician and surgeon participant.

    d) Provide for the confidential participation by a physician and surgeon with substance abuse issues who does not have a restriction on his or her practice related to those substance abuse issues; if an investigation of a physician and surgeon occurs after the physician and surgeon has enrolled in the program, the board may inquire of the program whether the physician and surgeon is enrolled in the program and the program shall respond accordingly.

    e) Comply with the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Substance Abuse Coordination Committee of the DCA.

    (BPC § 2340.2)

36) Requires the MBC, if it establishes a Physician and Surgeon Health and Wellness Program, to contract for the program's administration with a private third-party independent administering entity that meets specified qualifications, pursuant to a request for proposals. (BPC § 2340.4)

37) Requires a physician and surgeon to enter into an individual agreement with the Physician and Surgeon Health and Wellness Program and agree to pay expenses related to treatment, monitoring, laboratory tests, and other activities specified in the participant's written agreement as a condition of participation in the program. (BPC § 2340.6)

38) Establishes the Physician and Surgeon Health and Wellness Program Account within the Contingent Fund of the MBC and provides that any fees collected by the MBC through the Physician and Surgeon Health and Wellness Program shall be deposited in that account. (BPC § 2340.8)

39) Authorizes the MBC's Division of Licensing to prepare and provide electronically or mail to every licensed physician at the time of license renewal a questionnaire containing any questions as are necessary to establish that the physician currently has no disorder that would impair the physician's ability to practice medicine safely. (BPC § 2425)

THIS BILL:

1) Repeals current law authorizing the MBC to establish a Physician and Surgeon Health and Wellness Program for physicians and surgeons with substance abuse issues.

2) Reestablishes the MBC's authority to establish a Physician and Surgeon Health and Wellness Program and broadens eligibility for participation in the program to include not only physicians and surgeons but also allied health care professionals licensed by the MBC, applicants, prospective applicants, trainees, and students.

3) Broadens the scope of the Physician and Surgeon Health and Wellness Program to provide assistance for individuals struggling with any impairing or potentially impairing physical or mental health conditions, including but not limited to substance use disorders.

4) Authorizes the MBC to establish one or more advisory committees to assist it in carrying out its duties related to the Physician Health and Wellness Program, as specified.

5) Provides that a Physician and Surgeon Health and Wellness Program established by the MBC shall do all of the following:

    a) Educate the public, licensees, applicants, prospective applicants, trainees, students, health facilities, medical groups, health care service plans, health insurers, and other relevant organizations on specified topics relating to the program.

    b) Enter into relationships supportive of the program with professionals experienced in working with health care providers to provide education, evaluation, monitoring, or treatment services.

    c) Receive and assess reports of suspected impairment from any source.

d) Intervene in cases of verified impairment or suspected impairment, as well as in cases where the individual has a condition that could lead to impairment if left untreated.

e) Upon reasonable cause, refer participants for evaluation, treatment, monitoring, or other appropriate services.

f) Provide consistent and regular monitoring, care management support, or other appropriate services for program participants.

g) Advocate on behalf of participants, with their consent, to the MBC to allow them to participate in the program as an alternative to disciplinary action, when appropriate.

h) Offer guidance on participants' fitness for duty with current or potential workplaces, when appropriate.

i) Perform other services as agreed between the program and the MBC.

6) Exempts voluntary participants in the Physician Health and Wellness Program from the requirements of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees.

7) Requires participants on probation to comply with the terms of that probation, including a probation order imposing the Uniform Standards, and requires the Physician Health and Wellness Program to provide any required evaluations, treatment, monitoring, and reports to the MBC consistent with the participant's order of probation.

8) Authorizes the MBC to refer a licensee to the Physician Health and Wellness Program in lieu of disciplinary action if the MBC determines that the unprofessional conduct may be the result of an impairing or potentially impairing condition; however, prohibits referral to the program in lieu of disciplinary action if the unprofessional conduct involves allegations of patient or client harm or sexual misconduct with a patient, client, or any other person.

9) Requires the MBC to obtain the consent of the licensee prior to referring the licensee to the Physician Health and Wellness Program in lieu of disciplinary action, and provides that if the licensee does not consent or does not successfully complete the program, the MBC may take appropriate disciplinary action.

10) Authorizes the MBC to enter into a multiyear contract with an administering entity without having to obtain the approval of the Department of General Services, the Office of Legal Services, or any other state entity to justify a multiyear term.

11) Requires the administering entity to have expertise and experience in the areas of impairment and rehabilitation in health care providers and requires the leadership of the administering entity to have at least one medical director, who is specially trained or board certified in addiction medicine or addiction psychiatry and has expertise in health programs for health care providers.

12) Requires all evaluation, monitoring, and treatment to be conducted by providers with expertise in working with health care professionals with impairing or potentially impairing conditions approved by the administering entity or the MBC.

13) Provides that the administering entity shall do all of the following in its administration of the Physician Health and Wellness Program:

    a) Identify and use a national treatment resource network that includes in-person and telehealth evaluations, treatment programs, and support groups and shall establish a process for evaluating the effectiveness of those resources and programs.

    b) Identify other individuals affiliated with the participant who would benefit from counseling and may refer them to services appropriate for the circumstances.

    c) Make the program services available to all MBC licensees, applicants, prospective applicants, trainees, and students.

    d) Make prompt and diligent efforts to contact and conduct an appropriate assessment and referral for an independent evaluation, when indicated, with each licensee, applicant, prospective applicant, trainee, and student who has been referred to the program.

    e) Attempt to enroll the referred individual if, in the good faith judgment of the administering entity, the individual has a condition that impairs or may impair their ability to practice their profession in a reasonably safe, competent, and professional manner.

    f) Implement an MBC-approved system for immediately and confidentially reporting a participant to the MBC when required, including, but not limited to, a participant who withdraws or is terminated from the program prior to completion;

    g) Provide regular communication to the MBC through participation in board meetings, annual reports, and other specified reporting at regular intervals or upon request.

14) Requires a contract entered into between the MBC and the administering entity to include procedures on the following topics:

    a) Regular participation at board meetings and reporting of statistical information related to the program and participants.

    b) Periodic disclosure and joint review of information the board may deem appropriate regarding referrals, including the contacts, evaluations, and investigations made, and the disposition of each referral.

    c) Immediate reporting to the board the name, last known contact information, and a factual summary of events and findings regarding any suspected or verified impaired licensee, applicant, or trainee practicing during the exemption period who, in the opinion of the administering entity, is probably an imminent danger to the public.

    d) Timely reporting to the MBC the name, last known contact information, and a factual summary of events and findings regarding any suspected or verified impaired participant who fails to cooperate with the program, fails to submit to an evaluation, treatment, or monitoring, or whose impairment is not substantially alleviated through treatment, or who, in the opinion of the administering entity, is probably unable to practice their profession in a reasonably safe, competent, and professional manner.

e) Timely reporting to the MBC, when required, for the MBC's evaluation and direction, deidentified voluntary participants who commit a program violation; after consulting with the administering entity, if the MBC requests that the individual be identified, the administering entity shall provide to the MBC the name, last known contact information, and a factual summary of events and findings relating to the individual's participation.

f) Informing each participant of the program procedures, the responsibilities of participants, and the possible consequences of noncompliance with the program.

g) Qualifications and requirements for individuals and entities providing services to participants, including, but not limited to, treatment facilities, evaluators, testing locations, laboratories, treatment providers, support group facilitators, and monitors.

h) Quality assurance and quality improvement principles.

i) Confidentiality and maintenance of program records.

j) Identification of the full names and qualifications of program staff who are available to certify records regarding individuals participating pursuant to an order of probation and be the person most knowledgeable to explain the program's records, if needed.

k) Standardized data collection to allow for data analysis and research.

l) Research processes and methodologies.

m) Education and outreach to stakeholders.

n) Interstate monitoring to support communication and accountability of program participants across jurisdictions.

o) Notification of required program evaluations, compliance with those evaluations, and opportunities to cure deficiencies identified in those evaluations.

p) Any other topic pertinent to the program as determined by the MBC.

15) Requires participants in the Physician Health and Wellness Program to enter into an individual agreement with the program that includes all of the following, as applicable:

a) A jointly agreed-upon plan and mandatory conditions and procedures for monitoring of compliance with the program.

b) Criteria for compliance with terms and conditions of evaluation, treatment, or monitoring.

c) Criteria for program completion.

d) Criteria for termination from the program.

e) Criteria for when the administering entity will report a participant to the MBC for noncompliance with the program requirements.

f) Agreement to maintain an active release authorizing communication between the program and the board, and other entities and individuals as required by the program.

g) Acknowledgment that the administering entity is required to report to the board the participant's withdrawal or termination before completion of program requirements or if the administering entity determines that the participant is unable to practice their profession in a reasonably safe, competent, and professional manner.

h) Acknowledgment that the report is required to include the participant's name, last known contact information, and a factual summary of events and findings relating to the individual's participation in the program.

i) Acknowledgment that participation in the program shall not be a defense to any disciplinary or licensing action that may be taken by the board.

j) Acknowledgment that expenses related to evaluation, treatment, monitoring, laboratory tests, and other activities specified by the program shall be paid by the participant or other sources available to the participant.

16) Provides that the cost of evaluation and treatment shall be the sole responsibility of program participants, and this responsibility does not preclude payment by an employer, insurer, or other sources.

17) Continues the existence of the Physician Health and Wellness Program Account within the MBC's Contingent Fund and authorizes the MBC to seek and use grant funds and gifts of financial support from public or private sources to pay any cost associated with the program.

18) Provides that specified program records and correspondence relating to program participants are investigatory or security files compiled for licensing purposes, and are therefore exempt from the California Public Records Act and not subject to discovery by subpoena or admissible as evidence except as provided.

19) Provides for immunity from civil liability for individuals who report information or take in action in relation to the Physician Health and Wellness Program, except when it can be proven that a person made a false report and either knew that the report was false, or made the report with reckless disregard of the truth or falsity of the report.

20) Requires licensees of the MBC to report to the administering entity or the MBC, the name and current contact information of another licensee if they, in their good faith judgment, believe that the other licensee may be impaired.

21) Exempts program staff and agents are exempt from this reporting mandate when the licensee is compliant with program requirements and does not pose a risk to patient safety.

22) Prohibits the administering entity or MBC from disclosing the name of the referring individual to the referred licensee under any circumstances, except with the express written permission of the referring individual, or if otherwise required by law.

23) Clarifies that nothing in the bill applies to the Osteopathic Medical Board of California.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *Medical Board of California*. According to the author:

> When our physicians struggle with substance use disorders, it is in the best interest of both patients and physicians to support them in seeking out help. AB 408 builds off California's longstanding efforts to destigmatize seeking treatment for substance use disorders. This bill is fundamentally about patient safety. Today, physicians struggling with substance use disorders can feel pressure to hide their condition and often never get the help they need. The creation of this program will help healthcare providers get the care they need, which will better protect patients in the end.

Background.

Medical Board of California. The MBC is primarily responsible for licensing and regulating physicians and surgeons, whose certificates authorize the plenary practice of all recognized fields of medicine. The MBC also has jurisdiction over special program registrants and organizations and special faculty permits, which allow those who are not MBC licensees but who meet certain licensure exemption criteria to perform duties in specified settings. The MBC also has authority over licensed midwives, medical assistants, and registered polysomnographic professionals. The MBC additionally approves accreditation agencies that accredit outpatient surgery settings and issues fictitious name permits to physicians practicing under a name other than their own.

Efforts to Address Physician Wellness and Burnout. Discussions have long persisted around how to support the mental and physical well-being of California's frontline health workers, including physicians. National studies have concluded that a significant percentage of physicians meet the diagnostic criteria for substance abuse or dependence compared to the general population.[1] The increased prevalence of substance use disorders among physicians has been associated with the high-stress work environment of medical practice, access to prescription medications, and cultural factors that stigmatize mental health issues and discourage seeking care.[2]

During the MBC's most recent sunset review, the background paper published by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development raised the following issue: "Under ordinary circumstances, frontline healthcare providers and first responders often face difficult situations that are mentally and emotionally challenging. Are there new issues arising from, or ongoing issues being worsened by, the extreme conditions of the COVID-19 pandemic?"

In recognition of these concerns, the MBC's most recent sunset bill made changes to statute authorizing the MBC to require physicians to respond to a questionnaire intended to confirm that the physician "currently has no mental, physical, emotional, or behavioral disorder that would impair the physician's ability to practice medicine safely." Further changes were made in 2024 to further restrict the MBC's authority to require applicants and licensees to self-disclose conditions or disorders that do not impair their ability to practice medicine safely, including disorders for which they are receiving appropriate treatment.

---

[1] Oreskovich, Michael R. *et al.* "The prevalence of substance use disorders in American physicians." *The American journal on addictions* vol. 24,1 (2015).
[2] Hughes, P. H. *et al.* "Prevalence of substance use among US physicians." *JAMA* vol. 267,17 (1992).

Physician Health and Wellness Program. One effective mechanism for addressing substance use disorders within the medical profession is the use of programs for identifying, treating, and monitoring practitioners struggling with addiction or other potential impairments. The first such program in California was established in 1979 through legislation co-sponsored by the MBC (then known as the Board of Medical Quality Assurance) and the California Medical Association. The MBC's original Diversion Program was intended to facilitate the rehabilitation of physicians suffering from drug or alcohol abuse while allowing them to continue practicing medicine under a treatment program, which could be customized to include specific safeguards such as practice monitors and regular drug and alcohol testing. Physicians who failed to comply with their individual treatment plan would face license suspension or would be otherwise referred to the MBC's enforcement program for discipline.

Concerns were raised regarding the MBC's Diversion Program shortly following its implementation. In August 1982, the California State Auditor released a report on the MBC which found that participants in the program were not adequately monitored for compliance with their treatment plans. In January 1985, the California State Auditor released a subsequent report finding that "the state's diversion programs do not adequately protect the public from health professionals who suffer from alcoholism or drug abuse." The report concluded:

> The diversion program of the [MBC] does not protect the public while it rehabilitates physicians who suffer from alcoholism or drug abuse. Compliance officers are not visiting participants and collecting urine samples as frequently as the program requires, some participants do not have practice monitors as required, and practice monitors are not performing all their required duties. Moreover, the program manager is not exercising his authority over participants who do not comply with their treatment programs.

The audit report included several recommendations to improve the MBC's Diversion Program. In June 1986, the California State Auditor released a follow-up report declaring that the MBC had "made progress in improving its diversion program" but that "some problems remain." This report acknowledged that the MBC had taken steps to ensure that participants sign agreements allowing the diversion program manager to effectively evaluate whether the participant is complying with the program requirements and able to practice medicine safely. However, the audit still raised concerns that physicians in the program were not sufficiently subjected to routine monitoring.

During the MBC's sunset review in 2002, the Joint Legislative Sunset Review Committee discussed public criticism of the MBC's enforcement program, including several high-profile news reports of patient harm by physicians who were allowed to practice despite being impaired by substance use disorder. In response, the MBC's sunset bill required the Director of Consumer Affairs to appoint a Medical Board Enforcement Program Monitor to "monitor and evaluate the disciplinary system and procedures of the board, making as his or her highest priority the reform and reengineering of the board's enforcement program and operations and the improvement of the overall efficiency of the board's disciplinary system." The MBC's sunset bill further required the Enforcement Monitor to submit reports to the Legislature, including a requirement that the Enforcement Monitor "evaluate the effectiveness and efficiency of the board's diversion program and make recommendations regarding the continuation of the program and any changes or reforms required to assure that physicians and surgeons participating in the program are appropriately monitored and the public is protected from physicians and surgeons who are impaired due to alcohol or drug abuse or mental or physical illness."

In November 2004, the Enforcement Monitor submitted their initial report to the Legislature, which included a chapter specifically focused on the MBC's Diversion Program. The report discussed how the program was operated, noting that it functioned as a *monitoring* program rather than a *treatment* program, as the Diversion Program itself did not provide substance abuse treatment, but rather sought to confirm active participation in a treatment program as part of the MBC's oversight of the licensee. The report cited the three prior audits that had found deficiencies in the program and questioned whether the MBC's administration of its Diversion Program was consistent with its statutory mandate to prioritize protection of the public.

The Enforcement Monitor's final report, transmitted in November 2005, acknowledged that "the Board's Diversion Program has undergone a dramatic change in management and direction with the stated intent of 'reconstructing' the program to better protect the public, and significant operational improvements have been implemented despite continuing resource shortages." However, the Enforcement Monitor continued to raise "threshold issues" about whether the Diversion Program should be continued and whether it should be administered by the MBC, rather than through a contract with a third party. The Enforcement Monitor's report reflected both technical challenges within the program as well as philosophical misgivings about the program's overall framework.

In 2005, the MBC's sunset bill was amended to require an additional audit of the MBC's Diversion Program, with the program scheduled to sunset on January 1, 2009 unless extended. In June 2007, the California State Auditor released its report, which found that many of the Enforcement Monitor's recommendations had not been implemented and that the program still struggled to sufficiently monitor licensee participation and take action for violations of a participant's treatment plan. In response to this final audit, the MBC voted at its July 2007 meeting to abolish its Diversion Program, which was formally repealed on July 1, 2008.

Following the dissolution of the MBC's Diversion Program in 2008, the Legislature enacted Senate Bill 1441 (Ridley-Thomas), sponsored by the Center for Public Interest Law, whose Administrative Director had served as the MBC's Enforcement Monitor. Senate Bill 1441 established the Substance Abuse Coordination Committee within the DCA to formulate "consistent and uniform standards and best practices in dealing with substance-abusing licensees." This included 16 specific standards each healing arts board would be required to use in dealing with substance-abusing licensees, with or without a formal diversion program.

The intent of Senate Bill 1441 was to standardize programs seeking to rehabilitate health care licensees struggling with substance use problems across all of DCA's healing arts boards. The bill was intended to "continue a measure of self-governance," with committee analysis noting that "the standards for dealing with substance-abusing licensees determined by the commission set a floor, and boards are permitted to establish regulations above these levels." However, Senate Bill 1441 required any initiative by a healing arts board resembling the creation of a diversion program to comply with each of the requirements contained in the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees.

Several legislative attempts to reestablish a program for physicians struggling with substance abuse were subsequently introduced. In 2008, the Legislature passed Assembly Bill 214 (Fuentes), which would have established a Physician Health Program within the Department of Public Health. Governor Schwarzenegger vetoed this bill with a message stating that "separating the operation of such programs from the Medical Board of California is inappropriate."

Subsequently in 2009, Assembly Bill 526 (Fuentes) sought to establish a voluntary Physician Health Program within the State and Consumer Services Agency; this bill died on suspense in the Senate. In 2012, Senate Bill 1483 (Steinberg) was introduced to create a Physician Health Program administered by a committee within the DCA; this bill died on the inactive file in the Assembly. Assembly Bill 2346 (Gonzalez) of 2014 would have authorized MBC to contract with a third party to establish a voluntary Physician Health Program, but this bill died on suspense in the Assembly.

In 2016, the California Medical Association sponsored Senate Bill 1177 (Galgiani) to authorize the MBC to establish a Physician Health and Wellness Program for the early identification of, and appropriate interventions to support a physician and surgeon in their rehabilitation from substance abuse. The MBC had stated during its October 2015 meeting that it believed any program for physicians would have to comply with the DCA's Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, and the bill specifically required the program to comply with those requirements. The bill was signed into law by Governor Brown, finally recodifying the authority for the MBC to establish a program for substance abusing physicians.

The MBC began its formal rulemaking process to implement Senate Bill 1177 shortly after Senate Bill 1177 was signed, voting in October 2016 to hold interested parties meetings in 2017 to obtain input on potential regulatory language. In October 2017, the MBC voted to move forward with noticing proposed regulations for a 45-day comment period and hearing; however, while this was underway, the Substance Abuse Coordination Committee within the DCA announced that it was meeting to make changes to the Uniform Standards, resulting in a pause in the MBC's rulemaking. In November 2019, the MBC voted to move forward with a modified regulatory proposal, which was submitted to the DCA; two years later, the MBC voted once again to move forward with another revised version of its regulations, which were formally noticed for public comment in September 2023.

After receiving public comments through November 2023, the MBC reviewed what it has described as "thoughtful feedback from stakeholders and experts who raised valid concerns about the effectiveness of our proposal and its potential unintended consequences." Specifically, the MBC determined that the Physician Health and Wellness Program authorized by Senate Bill 1177 would not align with national best practices for encouraging participation and achieving successful outcomes. One specific concern was that Senate Bill 1177 would still require the MBC's program to comply with the Uniform Standards, which would require the board to disclose information to the public on licensees participating in the program "regardless of whether the licensee is a self-referral or a board referral." Concerns were raised that this would only serve to further stigmatize practitioners who seek care for disorders and disincentivize those who would otherwise consider voluntarily entering a program.

In response to these concerns, the MBC voted to withdraw its proposed regulations and instead move forward with legislation to revise its authority to establish a Physician Health and Wellness Program to allow it to implement a program that aligns with best practices. This bill, sponsored by the MBC, would make several important changes to the MBC's existing authority. First, it would provide that the Uniform Standards would not be mandated on any individual who is participating in the Physician Health and Wellness Program voluntarily. This would allow for that participation to occur confidentially, just as it would be were the individual to participate in any other treatment program not currently affiliated with a licensing board.

This bill would also expand eligibility to participate in the Physician Health and Wellness Program to include not just physicians, but also other professionals overseen by the MBC, such as licensed midwives or registered polysomnographic professionals, as well as license applicants and medical students. Under this bill, the program would also be broadened to include any impairing or potentially impairing physical or mental health conditions, which would include substance use disorders but could also include other conditions commonly associated with physician stress and burnout. The bill would also streamline the MBC's ability to enter into multi-year contracts with a program administrator, authorize the creation of advisory committees within the MBC, and provide for mandatory reporting by licensees of colleagues believed to have impairing conditions.

Nothing in the bill is intended to change the process for licensees who are required enter into the program as a form of discipline. Further, this bill would not change the requirements for any licensee who is found to have engaged in unprofessional conduct involving allegations of patient or client harm or sexual misconduct with a patient, client, or any other person. While the MBC already has authority to establish a Physician Health and Wellness Program, this bill would arguably enable it to establish a more successful program that can help more individuals receive help with a broader range of disorders while continuing to safely practice medicine.

Current Related Legislation. AB 1130 (Berman) would clarify that any member of the MBC may be removed by the authority that appointed that member for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. *This bill is pending in this committee.*

Prior Related Legislation. AB 2164 (Berman), Chapter 952, Statutes of 2024 restricted the authority of the MBC to require applicants and licensees to self-disclose conditions or disorders that do not impair their ability to practice medicine safely, including disorders for which they are receiving appropriate treatment.

AB 1130 (Berman), Chapter 21, Statutes of 2023 updated various provisions of code to replace use of the term "addict" with the term "person with substance use disorder."

SB 815 (Roth), Chapter 294, Statutes of 2023 extended the sunset for the MBC and narrowed the scope of the questions that the MBC may ask of physicians as part of its renewal questionnaire.

SB 1177 (Galgiani), Chapter 591, Statutes of 2016 authorized the MBC to contract with a private third party to allow physicians and surgeons to participate in a Physician Health and Wellness Program to provide treatment for substance abuse disorders.

AB 2346 (Gonzalez) of 2014 would have authorized the MBC to contract with a third party to establish a voluntary Physician Health Program. *This bill died on suspense in the Assembly Committee on Appropriations.*

SB 1483 (Steinberg) of 2012 would have created the Physician Health, Awareness, and Monitoring Quality Act and established a Physician Health Program within the DCA for physicians, medical students, and medical residents seeking treatment for alcohol or substance abuse, a mental disorder, or other health conditions. *This bill died on the inactive file on the Assembly Floor.*

AB 526 (Fuentes) of 2009 would have established a voluntary Physician Health Program within the State and Consumer Services Agency to assist physicians and surgeons with alcohol or substance abuse. *This bill died on suspense in the Senate Committee on Appropriations.*

AB 214 (Fuentes) of 2008 would have established a Physician Health Program within the Department of Public Health to assist physicians and surgeons with alcohol or substance abuse. *This bill was vetoed by the Governor.*

SB 1441 (Ridley-Thomas), Chapter 548, Statutes of 2008 established the Substance Abuse Coordination Committee in the DCA, tasked with developing uniform standards and controls for programs dealing with substance-abusing healing arts licensees.

AB 2443 (Nakanishi) of 2008 would have required the MBC to establish a program to promote the well-being of physicians and surgeons. *This bill was vetoed by the Governor.*

SB 231 (Figueroa), Chapter 674, Statutes of 2005 required an audit for the MBC's Diversion Program and established a January 1, 2009, sunset date for the program.

ARGUMENTS IN SUPPORT:

The *Medical Board of California* (MBC) is sponsoring this bill. According to the MBC: "Whether due to a substance use disorder, or another mental or physical health condition, impaired healthcare providers can cause devastating harm to the public. AB 408 authorizes the Board to establish a physician health and wellness program (program) that will coordinate treatment and monitoring services for the Board's current and future licensees consistent with national best practices so that they can get the help they need to stay healthy and provide the high-quality care that patients deserve. This proposal also includes reporting requirements so that the program and/or Board is aware of its licensees who are unsafe to practice, authorizes program quality and compliance evaluations, and requires public disclosure of various program statistics."

The *California Medical Association* (CMA) supports this bill, writing: "This bill will authorize a physician health program (PHP) that aligns with national best practices. PHPs that incorporate these best practices provide a proactive approach to address health issues that may result in impairment. Establishing one would enable the Medical Board of California (MBC) to prevent patient harm by connecting impaired or at-risk physicians with treatment before issues arise. CMA supports AB 408 because it creates the framework for an effective, confidential program – similar to those in other states – that supports physicians' health and wellness and protects patients by allowing physicians to be at their best."

ARGUMENTS IN OPPOSITION:

The *Consumer Protection Policy Center* (CPPC) opposes this bill, writing: "CPPC urges the Legislature to reject the proposed PHWP legislation and instead encourage MBC to focus on matters that truly and appropriately concern the legitimate regulatory functions of MBC. When MBC seeks to create a rehabilitation program, it is the Board's burden to ensure that patients are protected above all else. This Board previously rejected similar PHWP proposal in the form of rulemaking and there are identical similarities to this new proposed PHWP legislation. There is no need for MBC to be concerned in physician and doctor rehabilitation in light of the Board's enforcement obligations."

Consumer Watchdog also opposes this bill, writing: "AB 408 would create a drug and alcohol diversion program run by the Medical Board of California so doctors with abuse problems could be sent into rehab in lieu of board disciplinary action. The bill would replicate the problems with the Medical Board's prior diversion program that allowed repeat offender doctors to evade discipline by entering the program, fail, and keep practicing, placing patients at risk."

REGISTERED SUPPORT:

Medical Board of California *(Sponsor)*
American College of Obstetricians & Gynecologists – District IX
California Academy of Child and Adolescent Psychiatry
California Dental Association
California Medical Association
California Orthopedic Association
California Public Protection & Physician Health
California Society of Addiction Medicine
California Society of Anesthesiologists
California Society of Dermatology & Dermatologic Surgery
California Society of Pathologists
Center for Professional Recovery
Drug Policy Alliance
Federation of State Physician Health Programs
SEIU California
4 Individuals

REGISTERED OPPOSITION:

Consumer Protection Policy Center
Consumer Watchdog
2 Individuals

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 432 (Bauer-Kahan) – As Introduced February 5, 2025

NOTE: This bill is double-referred, and if passed by this Committee, will be re-referred to the Assembly Health Committee.

SUBJECT: Menopause.

SUMMARY: Requires physicians with a patient population of 25% or more of women to complete a mandatory continuing medical education course in perimenopause, menopause, and postmenopausal care, mandates the Medical Board of California (MBC) to require a continuing education (CE) course in menopausal mental or physical health, and requires health care service plan contracts and health insurance policies to cover the evaluation and treatment of perimenopause and menopause, as specified.

EXISTING LAW:

1) Establishes the Medical Practice Act, which provides for the state's licensure and regulation of physicians and surgeons, and the Osteopathic Act, which includes the state's licensure and regulation of osteopathic physicians and surgeons. (Business and Professions Code (BPC) §§ 2000 *et seq.*)

2) Establishes the MBC within the Department of Consumer Affairs (DCA) to implement and enforce the Medical Practice Act. (BPC § 2001)

3) Establishes the OMBC within the DCA to implement and enforce the Osteopathic Act and the Medical Practice Act when applicable. (BPC § 2701)

4) Specifies that references to the MBC in the Medical Practice Act also refer to the OMBC, as specified. (BPC § 2451)

5) Requires the MBC to adopt and administer standards for the CE of its licensees; authorizes the MBC to set content standards for any education regarding the prevention and treatment of a chronic disease; and mandates that the MBC require licensees to demonstrate satisfaction of CE requirements every four to six years. (BPC § 2190)

6) Requires all general internists and family physicians who have a patient population of which over 25% are 65 years of age or older to complete at least 20% of all mandatory CE hours in a course in the field of geriatric medicine, the special care needs of patients with dementia, or the care of older patients. (BPC § 2190.3)

7) Requires a physician and surgeon to complete not less than 50 hours of approved CE every two years as a condition of license renewal. (California Code of Regulations, Title 16, § 1336)

8) Requires physicians and surgeons to complete a one-time CE course in pain management and the treatment of terminally ill and dying patients, which must include the subject of the risks of addiction associated with the use of Schedule II drugs, except as specified. (BPC § 2190.5)

9) Authorizes a physician and surgeon to complete a one-time CE course on the treatment and management of opiate-dependent patients as an alternative to the required course in pain management and the treatment of terminally ill and dying patients. (BPC § 2190.6)

10) Requires the MBC, in determining CE requirements for licensees, to consider including courses related to following subjects: human sexuality; child abuse detection and treatment; acupuncture; elder abuse and treatment; early detection and treatment of substance abusing pregnant women; special care needs of drug-addicted infants; screening for spousal or partner abuse detection or treatment; special care needs of individuals and their families facing end-of-life issues; menopausal mental or physical health; geriatric care for emergency room physicians and surgeons; integrating HIV/AIDS pre-exposure and post-exposure prophylaxis medication maintenance and counseling in primary care settings; integrating mental and physical health care in primary care settings; infection-associated chronic conditions; and maternal mental health. Requires the MBC to give its highest priority to considering a course on pain management and the risks of addiction associated with the use of Schedule II drugs. (BPC §§ 2191, 2191.4, 2191.5, 2191.6, 2196.9)

11) Requires the MBC to encourage licensees to take a CE course related to nutrition, pharmacology and pharmaceuticals, and geriatric medicine. (BPC §§ 2191(d), 2191.1, 2191.2)

12) Requires the OMBC to adopt and administer standards for CE of osteopathic physicians and surgeons. Mandates that the OMBC require licensed osteopathic physicians and surgeons to complete a minimum of 50 hours of CE of American Osteopathic Association CE hours, as specified, and demonstrate satisfaction of CE requirements every two years as a condition of license renewal. Requires osteopathic physicians and surgeons to complete a course on the risks of addiction associated with the use of Schedule II drugs. (BPC § 2454.5)

THIS BILL:

1) Requires all physicians with a patient population of 25% or more of women to complete a mandatory continuing medical education course in perimenopause, menopause, and postmenopausal care.

2) Requires the MBC, in determining its CE requirements, to include a course in menopausal mental or physical health.

3) Requires a health care service plan contract and a health insurance policy, except as specified, that is issued, amended, or renewed on or after January 1, 2026, to include coverage for evaluation and treatment options for perimenopause and menopause, as is deemed medically necessary by the treating health care provider without utilization management, as specified.

4) Specifies that coverage required by this bill includes authority for the treating provider to adjust the dose of a drug consistent with clinical care recommendations.

5) Requires a health care service plan and a health insurer to annually provide current clinical care recommendations for hormone therapy from the Menopause Society or other nationally recognized professional associations to all contracted primary care providers who treat

enrollees with perimenopause and menopause. A health care service plan and a health insurer must encourage primary care providers to review those recommendations.

6) Requires coverage for the evaluation and treatment options for perimenopause and menopause to be provided without discrimination based on gender expression or identity.

7) Specifies that nothing in the bill shall be construed to limit coverage for medically necessary outpatient prescription drugs under existing law.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is author-sponsored. According to the author:

> Although menopause is a natural occurrence that 1 million Americans experience every year, it has been treated as unworthy of proper care, research, and basic understanding. According to a recent survey, a majority of women felt that they were 'not informed at all' when it came to menopause and perimenopause. Additionally, medical students get less than one hour training in menopause, and 80% of graduating OB/GYN residents admit to feeling "barely comfortable" talking to their patients about menopause. Quality, evidence-based care is critical as the hormonal changes that occur at menopause have profound effects on health and wellbeing for the remainder of a woman's life. Menopause impacts women who are often in the peak of their careers and when not provided adequate treatment and support it can cause massive financial ramifications. According to Mayo Clinic, the annual cost of untreated menopause symptoms in workplace productivity and related health care costs is $150 billion globally and 26.6 billion in the United States.
>
> [This bill] mandates coverage for healthcare treatment plans for people experiencing perimenopause and menopause related symptoms. This bill also requires that certain physician specialties take menopause continuing education as part of their bi-annual re-licensure process. Menopause isn't just a personal experience; it's a public health issue that deserves our attention and action. It is time we stop devaluing women after their reproductive years.

Background.

Continuing Education for Physicians. Physicians and surgeons must complete 50 hours of approved CE every two years as a condition of license renewal. Both the MBC and the OMBC require CE courses to be accredited or approved by specified organizations such as the American Medical Association and the Accreditation Council for Continuing Medical Education. Osteopathic physicians and surgeons are required to complete a minimum of 20 CE hours certified by the American Osteopathic Association. While existing law requires the MBC to consider requiring CE related to various topics (e.g., nutrition), there are only two subject-specific CE requirements in statute. The majority of physicians and surgeons are required to complete a one-time, 12-hour training in either the pain management and treatment of terminally ill and dying patients or the treatment and management of opiate-dependent patients. Additionally, general internists and family physicians with a patient population of over 25% who are 65 years of age or older must complete at least 20% of their mandatory CE in the field of

geriatric medicine. Licensees may take one or more courses of their choosing, provided they comply with the relevant statutory and regulatory requirements. Physicians are otherwise afforded great latitude in choosing which CE courses to take to satisfy their 50 hours. This bill would require physicians and surgeons who have a patient population composed of 25% or more of women to complete a mandatory CE course in perimenopause, menopause, and postmenopausal care. This bill would also mandate the MBC, in determining its CE requirements, to include a course in menopausal mental or physical health.

Menopause. Menopause refers to a singular point in time marking the natural end of fertility for a woman or person assigned female at birth. It is diagnosed after 12 consecutive months without a menstrual cycle.[1] In the United States, the average age of menopause is 52. Perimenopause usually begins in a person's 40s. It is the period before menopause in which a person's ovaries produce less and less estrogen and progesterone, resulting in the end of menstrual periods. Many people experience symptoms such as hot flashes, insomnia, and mood swings, for which there are a variety of treatment options, including hormone therapy, nonhormonal medications, and lifestyle changes. Researchers who studied the impact of menopause symptoms on work outcomes in 2023 estimated an annual loss of $1.8 billion in the United States based on workdays missed due to menopause symptoms.[2] Postmenopause follows menopause and lasts the rest of a person's life. Symptoms may improve during postmenopause, but risks of adverse health conditions such as osteoporosis and heart disease increase.

A 2017 survey of 183 postgraduates in family medicine, internal medicine, and obstetrics and gynecology residency programs across the United States highlighted knowledge gaps concerning hormone therapy and menopause management strategies.[3] Notably, 20% of respondents (36) reported a lack of menopause lectures during residency, and just 6.8% (12) felt adequately prepared to manage menopausal patients. Moreover, a needs assessment survey completed by 99 or 145 U.S. OBGYN residency program directors in 2022 revealed substantial gaps in education and resources and a strong desire for a standardized menopause curriculum. Fewer than 32% of respondents reported having a menopause curriculum in their residency program, and less than 30% of respondents reported that residents had dedicated time assigned to a menopause clinic. Nearly 84% of respondents agreed that their programs needed more menopause educational resources, and approximately 93% of respondents strongly agreed that there should be a standardized menopause curriculum.

This bill would require physicians with a patient population of 25% or more of women to complete a mandatory CE course in perimenopause, menopause, and postmenopausal care and would mandate that the MBC require a CE course in menopausal mental or physical health. According to the author, this bill would help address inequities in health care for women, particularly women of color, as research indicates, for example, that Black and Hispanic women report worse and longer side effects of menopause.[4]

---

[1] Cleveland Clinic, *Menopause*, https://my.clevelandclinic.org/health/diseases/21841-menopause#overview.
[2] Stefania D'Angelo et al., *Impact of Menopausal Symptoms on Work: Findings from Women in the Health and Employment after Fifty (HEAF) Study*, 20 INT'L J. ENV'T RSCH. & PUB. HEALTH 295 (Dec. 24, 2022).
[3] Juliana M. Kling et al., *Menopause Management Knowledge in Postgraduate Family Medicine, Internal Medicine, and Obstetrics and Gynecology Residents: A Cross-Sectional Survey*, 94 MAYO CLINIC PROC. 242 (Feb. 2019).
[4] FP Analytics, *The Health and Economic Impacts of Menopause*, https://impactsofmenopause.com/.

This bill is double-referred to the Assembly Health Committee, which has jurisdiction over sections three and four of the bill pertaining to health care service plans and health insurers.

Current Related Legislation.

AB 360 (Papan) would require the Department of Health Care Access and Information shall work with the MBC, the OMBC, and state higher education entities to assess physicians' education and training regarding menopause diagnosis and management and trends in practice patterns regarding menopause diagnosis and treatment by specialty, region, sex, race or ethnicity, medical practice setting, and experience. *AB 360 is pending in the Assembly Appropriations Committee.*

Prior Related Legislation.

AB 2467 (Bauer-Kahan) of 2024 would have required a health care service plan contract or health insurance policy, except for a specialized contract or policy that is issued, amended, or renewed on or after January 1, 2025, to include coverage for treatment of perimenopause and menopause. *AB 2467 was vetoed.*

AB 2229 (Wilson), Chapter 706, Statutes of 2024, required comprehensive sexual health education to include instruction and materials on menopause, among other topics related to menstruation.

AB 2270 (Maienschein), Chapter 636, Statutes of 2024, required the MBC, Board of Registered Nursing, Board of Psychology, Physician Assistants Board, and Board of Behavioral Sciences to, in determining their CE requirements, consider including a course in menopausal mental or physical health.

AB 487 (Aroner), Chapter 518, Statutes of 2001, required all physicians to complete a mandatory CE course in the subjects of pain management and the treatment of terminally ill and dying patients.

AB 1820 (Wright), Chapter 440, Statutes of 2000, as it relates to this bill, required all general internists and family physicians who have a patient population of which more than 25% are 65 years of age or older to complete at least 20% of all mandatory continuing education hours in a course in the field of geriatric medicine or the care of older patients.

ARGUMENTS IN SUPPORT:

The *California Retired Teachers Association* writes in support:

> Unfortunately, not enough education and support have been provided in the medical community to support women facing both perimenopause and menopause, which are a natural change that impacts half of California's population. This lack of awareness and education can have negative impacts on the multitudes of women as they go through these changes. Women compose 72 percent of educators in California public schools and should have equitable representation in the knowledge their medical providers receive.

ARGUMENTS IN OPPOSITION:

The *California Orthopedic Association* writes in opposition:

> While our members do not disagree that training in menopause is important, we believe the California Medical Board is best suited to determine continuing education requirements. The Medical Board already requires each California licensed physician to complete 50 hours of CME Each biennial (two year) cycle. The medical board takes into consideration account the nature of the specialty in determining if the CME Is appropriate. For example, education in pain management, and the treatment of terminally ill patients – but pathologists and radiologists are exempt from this requirement. Orthopedists are vey aware of and concerned about osteoporosis, osteoarthritis, and the bone issues related to menopause, but they believe the Medical Board is better suited than is the legislature to dictate physician training.

POLICY ISSUE(S) FOR CONSIDERATION:

Impact on physicians' discretion to choose CE. Physicians have long advocated for discretion to choose CE to ensure its applicability to their medical practice. Subject-specific CE mandates, such as the one contemplated by this bill, require physicians to take CE on a specific topic at the expense of another.

Breadth. This bill would require any physician for whom a quarter of their patients are women to take a mandatory CE course on menopause, regardless of applicability to their medical practice. For example, otolaryngologists (ear, nose, and throat specialists), ophthalmologists (eye doctors), and pediatricians would be required to take menopause-related CE if more than a quarter of their patients are women. Additionally, while most people who go through menopause do so around the age of 50, with perimenopause beginning sometime in their forties, this bill would apply to any physician for whom at least 25% of their patients are women of any age.

IMPLEMENTATION ISSUES:

Vagueness. As drafted, whether the bill's requirements are intended to be one-time or recurring is unclear. Additionally, this bill does not specify the length of the course or any date by which licensees must comply.

Conflicting requirements. Although the author intends to require menopause-related CE for physicians for whom women make up more than a quarter of their patients, this bill additionally mandates the MBC, in determining its CE requirements, to include a course in menopausal mental or physical health, which would require every physician to take menopause-related CE.

AMENDMENTS:

To address the issues of relevance and vagueness, and to eliminate conflicting requirements, amend the bills as follows:

On page two, after line two:

2190.4. All ~~physicians~~ *general internists, family physicians, obstetricians and gynecologists, cardiologists, endocrinologists, and neurologists* who have a patient population composed of 25 percent or more of *adult* women *under 65* years of age shall complete ~~a~~*at least 10 percent of all* mandatory continuing medical education *hours in a* course in perimenopause, menopause, and postmenopausal care.

On page four, after line seven, strike:

~~(l) In determining its continuing education requirements, the board shall include a course in menopausal mental or physical health.~~

REGISTERED SUPPORT:

Bayer U.S. LLC
California Retired Teachers Association
California Commission on the Status of Women and Girls
National Women's Political Caucus of California
Two individuals

REGISTERED OPPOSITION:

American College of Obstetricians & Gynecologists - District IX (unless amended)
California Chapter American College of Cardiology
California Chapter of the American College of Emergency Physicians (unless amended)
California Medical Association (unless amended)
California Orthopedic Association
California Rheumatology Alliance
California Society of Plastic Surgeons

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 476 (Mark González) – As Amended March 27, 2025

SUBJECT: Metal theft.

SUMMARY: Establishes additional record-keeping requirements for junk dealers and recyclers; requires individuals to obtain a license issued by the Contractors State License Board (CSLB or board) to sell copper scrap metal; expands prohibitions on the possession on various types of scrap metal; and increases fines for crimes related scrap metal.

EXISTING LAW:

1) Defines "junk" as any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof. Specifies that "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers. (Business and Professions Code (BPC) § 21600)

2) Defines "junk dealer" as any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer. (BPC § 21601)

3) Defines "recycler" as any processor, recycling center, or noncertified recycler, as defined, who buys or sells scrap metal that constitutes junk. (BPC § 21605(b))

4) Defines "junk yard" as any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept. (BPC § 21602)

5) Requires every junk dealer and every recycler to keep a written record of all sales and purchases made in the course of their business. (BPC § 21605)

6) Requires every junk dealer and every recycler to include in the written record:

    a) The place and date of each sale or purchase of junk made in the conduct of their business as a junk dealer or recycler.

    b) One of the following methods of identification:

        i) The name, valid driver's license number and state of issue or California- or United States-issued identification card number.

ii) The name, identification number, and country of issue from a passport used for identification and the address from an additional item of identification that also bears the seller's name.

iii) The name and identification number from a Matricula Consular used for identification and the address from an additional item of identification that also bears the seller's name.

c) The vehicle license number, including the state of issue, of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

d) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.

e) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

f) A statement indicating either that the seller of the junk is the owner of it, or the name of the person they obtained the junk from, as shown on a signed transfer document.

(BPC § 21606(a))

7) Specifies that any person who makes, or causes to be made, any false or fictitious statement regarding any information required to be included in the written record is guilty of a misdemeanor. (BPC § 21606(b))

8) Requires every junk dealer and every recycler to report the information in the written record to the chief of police or to the sheriff, as specified. (BPC § 21606(c))

9) Requires every junk dealer or recycler to, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the aforementioned recordkeeping requirements, and must during those hours produce their records of sales and purchases, except as specified, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

a) An officer holding a warrant authorizing them to search for personal property.

b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.

c) An officer holding a court order directing them to examine the records or property.

(BPC § 21606.5)

10) Requires every junk dealer and recycler to preserve written records for at least two years after making the final entry of any purchase or sale of junk or scrap metals and alloys. (BPC § 21607)

11) Specifies that a junk dealer or recycler who fails in any respect to keep written records, or to include any of the information required to be included, is guilty of a misdemeanor and every junk dealer or recycler who refuses to share those written records with law enforcement, as specified, or who destroys that record within two years, is guilty of a misdemeanor. (BPC § 21608(a)

12) Specifies that any knowing and willful violation is punishable as follows:

    a) For a first offense, by a fine of not less than $1,000, or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.

    b) For a second offense, by a fine of not less than $2,000, or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other sentence imposed, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

    c) For a third or any subsequent offense, by a fine of not less than $4,000, or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed, the court must order the defendant to stop engaging in business as a junk dealer or recycler for at least one year.

    (BPC § 21608)

13) Prohibits a junk dealer or recycler from providing payment for nonferrous material unless, in addition to meeting the written record requirements above, all of the following requirements are met:

    a) The payment for the material is made by cash, a general-use prepaid card, or a check. The check may be mailed to the seller, or the cash or check may be collected by the seller from the junk dealer or recycler on or after the third business day after the date of sale. If the buyer offers, and the seller agrees, to have the payment made by a general-use prepaid card, the card may be provided to the seller at the time of sale, but funds shall not be available to the seller until the third business day after the date of sale.

    b) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

    c) The junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller, a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, a passport from any other country in addition to another item of identification bearing an address of the seller, or a Matricula Consular in addition to another item of identification bearing an address of the seller. If the seller prefers to have the check or general use prepaid card with payment for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card, and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale.

d) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

e) The junk dealer or recycler preserves the aforementioned information for a period of two years after the date of sale.

f) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler must keep this thumbprint with the information obtained and preserve the thumbprint in either hardcopy or electronic format for a period of two years after the date of sale.

(BPC § 21608.5(a))

14) Specifies that if, during any three month period, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller, and the seller continues to complete five or more separate transactions per month with the junk dealer or recycler, then the three-day waiting period for payment does not apply. (BPC § 21608.5(b))

15) Exempts from the conditions for payment of nonferrous metals, if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

a) The name, physical business address, and business telephone number of the seller's business.

b) The business license number or tax identification number of the seller's business.

c) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

(BPC § 21608.5(c))

16) Requires a junk dealer or recycler to request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor. This requirement does not apply if the institute or its successor requires payment for use of the theft alert system. (BPC § 21608.7)

17) Authorize a peach officer who has probable cause to believe that property in the possession of a junk dealer or recycler is stolen to, in lieu of seizing the property, place a hold on the property for a period not to exceed 90 days, as specified. (BPC § 21609(a))

18) Requires the court to order the defendant to do both of the following upon conviction for the theft of property placed on hold: pay the junk dealer or recycler reasonable costs for the storage of the property and pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft. (BPC § 21609(c))

19) Prohibits a junk dealer or recycler from possessing any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including, but not limited to, reasonably recognizable brass fittings and parts, or any manhole cover or lid or

reasonably recognizable part of a manhole cover or lid, or any backflow device or connection to that device or reasonably recognizable part of that device, that was owned or previously owned by an agency (e.g., public agency, local government, or private utility), in the absence of a written certification on the letterhead of the agency owning or previously owning the material described in the certification that the agency has either sold the material described or is offering the material for sale, salvage, or recycling, and that the person possessing the certification and identified in the certification is authorized to negotiate the sale of that material. (BPC § 21609.1(a))

20) Requires a junk dealer or recycler who unknowingly takes possession of one or more of the items listed in (17) above as part of a load of otherwise nonprohibited materials without a written certification to notify the appropriate law enforcement agency by the end of the next business day upon discovery of the prohibited material. Written certification relieves the junk dealer or recycler from any civil or criminal penalty for possessing the prohibited material. The prohibited material shall be set aside and not sold pending a determination made by a law enforcement agency. (BPC § 21609.1(b))

21) Establishes a "sunrise review" process for the Legislature to evaluate proposals to create any state board or category of licensed professional. (Government Code (GOV) §§ 9148 *et seq.*)

22) Requires a plan for the establishment and operation of the proposed state board or new category of licensed professional to be developed by the author or sponsor of the legislation prior to consideration by the Legislature, including all of the following:

    a) A description of the problem that the creation of the specific state board or a new category of licensed professional would address, including the specific evidence of need for the state to address the problem.

    b) The reasons why this proposed state board or new category of licensed professional was selected to address this problem, including the full range of alternatives considered and the reason why each of these alternatives was not selected.

    c) Alternatives that shall be considered include, but are not limited to, the following:

        i) No action taken to establish a state board or create a new category of licensed professional.

        ii) The use of a current state board or agency or the existence of a current category of licensed professional to address the problem, including any necessary changes to the mandate or composition of the existing state board or agency or current category of licensed professional.

        iii) The various levels of regulation or administration available to address the problem.

        iv) Addressing the problem by federal or local agencies.

        (GOV § 9148.4)

    d) The specific public benefit or harm that would result from the establishment of the proposed state board or new category of licensed professional, the specific manner in

which the proposed state board or new category of licensed professional would achieve this benefit and the specific standards of performance which shall be used in reviewing the subsequent operation of the board or category of licensed professional. (GOV § 9148.4(c))

e) The specific source or sources of revenue and funding to be utilized by the proposed state board or new category of licensed professional in achieving its mandate. (GOV § 9148.4(d))

f) The necessary data and other information required in this section shall be provided to the Legislature with the initial legislation and forwarded to the policy committees in which the bill will be heard. (GOV § 9148.4(e))

23) Authorizes the appropriate policy committee of the Legislature to evaluate the plan prepared in connection with a legislative proposal to create a new state board and provides that, if the appropriate policy committee does not evaluate a plan, then the Joint Sunset Review Committee shall evaluate the plan and provide recommendations to the Legislature. (GOV § 9148.8)

THIS BILL:

1) Requires every junk dealer and every recycler to include in the written record for the sale or purchase of junk the amount paid for each sale or purchase and the name of the employee handling the transaction.

2) Requires every junk dealer and every recycler to include the type, number of units, weight, volume, length, predominant type of metal, identifying marks engraved or etched on the metal, if any, and serial numbers, if any, in the description of the item or items of junk purchased or sold, in lieu of the type and quantity, and identification number, if visible.

3) Requires the statement indicating either that the seller of the junk is the owner of it, or the name of the person the seller obtained the junk from to be signed and include the legal name, date of birth, and place of residence, including street number, street name, city, state, and zip code, of the seller.

4) Requires, prior to the purchase of any nonferrous metals from a seller, a junk dealer or recycler to obtain acceptable proof of ownership from the seller that shows the seller has lawful possession or lawful ownership of the nonferrous metals. Acceptable proof of ownership shall be either of the following:

   a) An invoice or receipt documenting the purchase of the nonferrous metals that contains the name of the seller and the name of the person from whom the seller purchased the nonferrous metals.

   b) A contractor's license, a construction or demolition permit for the site from which the nonferrous metal came, and a declaration by the seller describing the source of the metal that is signed and dated by the seller and witnessed by the junk dealer or recycler. Acceptable proof of lawful possession requires the signed declaration of the named purchaser of the nonferrous metals or the holder of the contractor's license that the seller

has been designated as the owner's agent for purposes of the sale of nonferrous metals and the address and telephone number of the declarant.

5) Requires a junk dealer or recycler, before purchasing junk from a seller, to verify the seller's identity, as specified.

6) Prohibits a junk dealer or recycler from purchasing nonferrous metals from a person under 18 years of age.

7) Requires a junk dealer or recycler to maintain specified information for at least one year from the date of purchase or delivery, whichever is later, unless a longer period of time is required. A junk dealer or recycler must make available to any law enforcement agency the information required to be collected.

8) Allows any authorized law enforcement officer to conduct reasonable inspections during regular business hours to ensure compliance with applicable laws.

9) Prohibits a junk dealer or recycler from possessing any of the following material that was owner or previously owned by an agency, in the absence of a written certification on the letterhead of the agency owning or previously owning the material described in the certification that the agency has either sold the material described or is offering the material for sale, salvage, or recycling, and that the person possessing the certification and identified in the certification is authorized to negotiate the sale of that material:

   a) Street lights and other attachments related to street lighting, including, but not limited to, all of the following:

      i) Ubicquia smart nodes.

      ii) Light-emitting diode (LED) fixtures.

      iii) Ornamental or historical, modern, or pedestrian poles made of concrete, steel, brass, cast iron, or aluminum.

      iv) Solar street lighting components, such as solar panels, steel poles, and battery packs.

      v) Colocation equipment.

      vi) Fiber optic cables.

      vii) Electric vehicle chargers.

      viii) Cameras.

      ix) Air quality sensors.

      x) Digital banners.

   b) Pedestrian and cycling counters.

   c) Traffic signals and active grade crossing signals.

d) Sewer flow monitoring station equipment.

e) Sewer pump station instrumentation and controls.

f) Stormwater auto sampling equipment and instrumentation.

g) Stormwater pump station instrumentation and controls.

h) Irrigation wiring.

i) Plaques.

j) Communications or broadband infrastructure or equipment.

10) Prohibits a person from engaging in the sale of scrap metal copper without a valid license issued by the registrar of contractors of the CSLB.

11) Authorizes a seller of scrap metal copper to apply to the registrar on a form prescribed by the registrar that includes, at a minimum, both of the following:

a) The name, permanent address, telephone number, and date of birth of the applicant.

b) An acknowledgment that the applicant obtained the copper by lawful means in the regular course of the applicant's business, trade, or authorized construction work.

12) Requires an application to be accompanied by a nonrefundable fee of up to $500, not to exceed the reasonable cost to the board, as specified.

13) Authorizes the registrar to require additional information or submissions from an applicant within 30 days of the date an application is received and may obtain any document or information that is reasonably necessary to verify the information contained in the application. Within 90 days after the date a completed application is received, the registrar must review the application and issue a license if the applicant is deemed qualified. The registrar may issue a license subject to restrictions or limitations. If the registrar determines the applicant is not qualified, the registrar must notify the applicant and must specify the reason for the denial.

14) Exempts a person licensed to perform work pursuant to Chapter 4.5 (commencing with Section 108) of Division 1 of the Labor Code, the Contractors State License Law (Chapter 9 (commencing with Section 7000) of Division 3), or who is a technician certified under Section 608 of the federal Clean Air Act (40 C.F.R. Part 82, Subpart F) from the requirement to obtain a license to sell scrap metal copper.

15) Specifies that a license is valid for one year, and to renew a license, an applicant must submit a completed renewal application on a form prescribed by the registrar and a renewal fee of up to $500, not to exceed the reasonable cost to the board, as specified. The registrar may request that a renewal applicant submit additional information to clarify any new information presented in the renewal application. A renewal application submitted after the renewal deadline must be accompanied by a nonrefundable late fee of up to $750, not to exceed the reasonable cost to the board, as specified.

16) Authorizes the registrar to deny a license renewal under either of the following circumstances:

    a) The registrar determines that the applicant is in violation of federal or state law.

    b) The applicant fails to timely submit a renewal application and the information required under this subdivision.

17) Authorizes the registrar to permit the applicant to submit to the registrar a corrective action plan to cure or correct deficiencies.

18) Authorizes the registrar to suspend, revoke, or place on probation a license if the applicant does any of the following:

    a) Engages in fraudulent activity that violates state or federal law.

    b) The registrar receives consumer complaints that justify an action to protect the safety and interests of consumers.

    c) The applicant fails to pay an application license or renewal fee.

    d) The applicant fails to comply with a requirement, as specified.

    e) The fees collected pursuant to this section shall be deposited in the Contractors License Fund.

19) Increases from $1,000 to $10,000 the fine for criminally receiving property, as specified.

20) Makes it a crime for an person who is engaged in the salvage, recycling, purchase, or sale of scrap metal and who possesses any of the following items that were owned or previously owned by any public agency, city, county, city and county, special district, or private utility that have been stolen or obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or fails to report possession of the items:

    a) Streetlights and other attachments related to street lighting, including, but not limited to, all of the following:

        i) Ubicquia smart nodes.

        ii) Light-emitting diode (LED) fixtures.

        iii) Ornamental or historical, modern, or pedestrian poles made of concrete, steel, brass, cast iron, or aluminum.

        iv) Solar street lighting components, such as solar panels, steel poles, and battery packs.

        v) Colocation equipment.

        vi) Fiber optic cables.

        vii) Electric vehicle chargers.

viii) Cameras.

ix) Air quality sensors.

x) Digital banners.

xi) Pedestrian and cycling counters.

b) Traffic signals and active grade crossing signals.

c) Sewer flow monitoring station equipment.

d) Sewer pump station instrumentation and controls.

e) Stormwater auto sampling equipment and instrumentation.

f) Stormwater pump station instrumentation and controls.

g) Irrigation wiring.

h) Plaques.

i) Communications or broadband infrastructure or equipment.

21) Increases from $3,000 to $10,000 the criminal fine for unlawfully possessing the aforementioned items or any of the following:

a) A fire hydrant or any reasonably recognizable part of that hydrant.

b) Any fire department connection, including, but not limited to, reasonably recognizable bronze or brass fittings and parts.

c) Maintenance hole covers or lids, or any reasonably recognizable part of those maintenance hole covers and lids.

d) Backflow devices and connections to that device, or any part of that device.

22) Makes technical and conforming changes.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *League of California Cities*, *City of San Jose*, *Los Angeles Cleantech Incubator*, and the *Electric Vehicle Charging Association*. According to the author:

> Copper theft is a growing crisis in California, threatening public safety, straining municipal resources, and literally leaving communities in the dark. Despite existing laws, cities across the state continue to face a surge in thefts, costing taxpayers millions in infrastructure repairs and emergency responses.

> The consequences of these thefts are far-reaching. In my district, the City of Los Angeles has seen a dramatic increase in streetlight outages, more than doubling since 2021. The city's Bureau of Street Lighting reported approximately 45,000 service requests in 2024 alone, many of which were due to theft or vandalism. One particularly egregious case involved the theft of 38,000 feet—nearly seven miles—of copper from the Sixth Street Bridge, resulting in repair costs of approximately $2.5 million, despite the stolen metal's street value being a mere $11,000. These crimes go beyond financial losses; they create unsafe conditions for residents and businesses by leaving streets, neighborhoods, and business corridors in complete darkness.
>
> [This bill] takes a comprehensive approach to combating this issue by strengthening theft prevention and enforcement. This bill enhances reporting requirements for junk dealers and recyclers, establishes a licensing requirement for copper sellers, modernizes restrictions on the possession of scrap metal from critical public infrastructure, and revises penalties to better reflect the true cost of damages to the public. These measures will increase transparency, discourage illicit sales, and ensure accountability throughout the recycling and resale process.
>
> When copper is stolen from streetlights, traffic signals, and telecommunications lines, it directly endangers residents by depriving them of essential public services. AB 476 prioritizes public safety and ensures that taxpayer dollars are no longer wasted on preventable infrastructure repairs. This legislation is a necessary step toward safeguarding our communities, protecting public infrastructure, and putting an end to the cycle of copper theft that has burdened our cities for far too long.

Background. The issue of copper wire theft has been well-documented over the last several years. Dozens of news stories recount extensive damage to public and private infrastructure and utilities, resulting in millions of dollars in repair and replacement costs, as well as power outages and disruptions to landline, internet, and emergency response services. Copper, commonly found in telecommunication and utility wires, can be extracted and sold to junk dealers and recyclers. Recent thefts correspond with record-high prices for copper. However, the retail value of stolen copper is often a fraction of the cost to repair infrastructure damaged during the theft of such wires.

The harms of copper theft generally fall into the following categories:

- Economic consequences stemming from repair and replacement costs for local governments and private industry, higher tax burden and costs for residents and consumers, and reduction of funds for other essential services.

- Safety consequences resulting from removing copper wires from streetlights and electrical systems. The applicants assert that unlit streets increase the risk of accidents and crime. Moreover, tampered infrastructure becomes dangerous. Additionally, phone, internet, and other service disruptions caused by outages undermine emergency response.

Junk dealers and recyclers are heavily regulated to prevent the purchase and sale of stolen materials. For example, junk dealers and recyclers are required to keep a detailed written record for each sale or purchase of all junk, subject to review by law enforcement, for up to two years. The sale or purchase of nonferrous materials is subject to stricter regulation, including a three-

day hold before the seller may receive payment for the material. Junk dealers and recyclers are also required to take a photograph or video of nonferrous material and obtain the thumbprint of the seller.

This bill seeks to crack down on copper wire theft in numerous ways. First, this bill endeavors to strengthen record-keeping requirements pertaining to the purchase or sale of all junk. Existing law requires junk dealers and recyclers to collect specified information, such as the place and date of a sale, identification information of the seller, and a description of the junk purchased or sold. By law, junk dealers must include in the description of the junk the item type and quantity, and visible identification numbers. This bill would instead require the description to include the type, number of units, weight, volume, length, predominant type of metal, identifying marks engraved or etched on the metal, if any, and serial number, if any. Additionally, current law requires these records to be maintained for at least two years. A violation of the written record requirements is a misdemeanor. As part of the written record documenting the purchase or sale of junk, a junk dealer or recycler is required to obtain a statement indicating that the seller is the owner of the material for sale or the name of the person the seller obtained the material from, as shown on a signed transfer document. This bill would additionally require the statement to be signed and include the seller's legal name, date of birth, and residential address.

Second, this bill would create restrictions and obligations on sellers of nonferrous metals. This bill would require sellers of nonferrous metals to demonstrate their lawful ownership or possession of any nonferrous metals they are selling by providing "acceptable proof of ownership." Under the bill, an invoice or receipt documenting the purchase of the nonferrous metals by the seller, or a contractor's license, a construction or demolition permit for the site from which the nonferrous metal came, and a declaration by the seller describing the source of the metal, would constitute acceptable proof of ownership. This bill would additionally prohibit a junk dealer or recycler from purchasing nonferrous metals from a minor, and require any person engaged in the sale of scrap metal copper to have a valid license issued by the Contractors State License Board.

Third, this bill expands prohibitions on the possession of specified materials owned or previously owned by a public agency, local governmental, or private utility, without their authorization, as specified. Existing law currently prohibits the possession of fire hydrants or their parts, manhole covers or their parts, and any backflow device or its parts. This bill would add street lights and other attachments related to street lighting, traffic signals and crossing signals, sewer and storm water equipment and controls, irrigation wiring, plaques, and communications or broadband infrastructure or equipment. Under current law, any person who is engaged in the salvage, recycling, purchase, or sale of scrap metal and who possesses any of the prohibited items, knowing they were stolen or obtained unlawfully, and fails to report possession of the items to law enforcement, is guilty of a crime. This bill would increase the criminal fine for a violation from $3,000 to $10,000. Additionally, this bill would increase from $1,000 to $10,000 the fine for purchasing wire, cable, copper, lead, solder, mercury, iron, or brass that are ordinarily used by or belong to transportation or utility companies without doing due diligence to confirm that the seller is lawfully permitted to sell the items. This bill is expected to be double referred to the Assembly Public Safety Committee, which has appropriate jurisdiction over the Penal Code provisions in the bill.

Sunrise review. Because this bill proposes to establish a new category of licensed professionals, specifically, sellers of copper scrap metal, this bill is required to undergo what is known as the

"sunrise process." Current law requires a sunrise review prior to consideration by the Legislature of legislation that would establish a new licensing entity or a new category of licensed professional. The sunrise process includes a questionnaire and a set of evaluative scales to be completed by the group supporting regulation. The author and sponsor of this bill have provided the committee with a completed sunrise questionnaire in support of this proposal. The questionnaire is an objective tool for collecting and analyzing information needed to arrive at accurate, informed, and publicly supportable decisions regarding the merits of regulatory proposals. New regulatory and licensing proposals are generally intended to assure the competence of specified practitioners in different occupations. However, these proposals have resulted in a proliferation of licensure and certification programs, which are often met with mixed support. Proponents argue that regulation benefits the public by assuring competence and an avenue for consumer redress. Critics argue that regulation benefits a profession more than it benefits the public. The sunrise process helps distill those arguments by: (1) placing the burden of showing the necessity for new regulations on the requesting groups; (2) allowing the systematic collection of opinions both pro and con; and (3) documenting the criteria used to decide upon new regulatory proposals.[1]

Modeled after a Minnesota law requiring a license for copper scrap metal sales[2], this bill proposes a new licensing scheme for sellers of copper scrap metal. Specifically, this bill would require a seller of scrap metal copper, with limited exceptions, to apply to the board for a license and, in doing so, provide specified information, including an acknowledgement that the applicant obtained the copper by lawful means. The board would have 30 days to collect additional information as necessary to verify the information contained in the application. This bill would require an applicant to pay an application fee up to $500 for a license that would be good for one year. The cost of renewal would be $500 or, if submitted after the renewal deadline, $750. This bill would also authorize the board to deny or take disciplinary action against a license under specified circumstances.

Current Related Legislation.

AB 1218 (Soria) would make it a crime to unlawfully possess copper materials, as specified. *That bill is pending in the Assembly Public Safety Committee.*

Prior Related Legislation.

AB 1372 (Parra) of 2007 would have added theft of copper materials as a type of theft punishable as grand theft. *That bill died pending a hearing in the Assembly Public Safety Committee.*

AB 841 (Torres) of 2013 requires junk dealers and recyclers to provide payment to sellers of nonferrous material by mailed check only. *That bill was vetoed.*

AB 1971 (Buchanan), Chapter 82, Statutes of 2012, in part, increased the maximum fine for junk and second-hand dealers who knowingly purchase metals used in transportation or public utility services without due diligence from $250 to $1,000.

---

[1]Assembly Business and Professions Committee, *Review of occupational regulation and the "sunrise" process.*
[2] HF4461 | Minnesota 2023-2024 | License to sell copper metal required. | TrackBill

AB 801 (Brown) of 2013 would have required junk dealers and recyclers to obtain specified information before providing payment for nonferrous materials marked with an indicia of ownership, as defined, and would require that this information be retained as part of the written record of purchases. *That bill died pending a hearing in this committee.*

ARGUMENTS IN SUPPORT:

The *Electric Vehicle Charging Association*, a co-sponsor of this bill, writes in support:

> This form of infrastructure theft and criminal property destruction has become a concerning, increasingly chronic, and widespread trend across the state, with some stations even experiencing multiple theft events. In many cases, the theft of a single cable can result in an entire station being offline for extended periods of time. Even as charging providers work to bring sites back into operation as quickly as possible, they must file police reports, insurance claims, and other required paperwork to document these incidents before repairs can begin. These repairs are costly, and supply chain constraints for replacement components can result in prolonged repair timelines as parts are manufactured or shipped from specific suppliers. In addition to the cost of repairing and replacing the charging equipment itself, operators often need to pay for enhanced security measures to deter repeat offenses. These new costs, coupled with the revenue lost when chargers are offline, ultimately limit the industry's ability to invest in new charging sites that expand the network.
>
> The targeted theft and destruction of the state's charging network challenges California's ability to meet its clean air and climate goals, and reduces public confidence in EVs. By increasing tracking of illegal copper sales, [this bill] will help to address the ease with which criminals can resell illegally obtained copper and improve law enforcement's ability to investigate and prosecute these crimes. This will be crucial to protecting public EV infrastructure, improving charging accessibility, and enabling the state's climate and zero-emission vehicle goals.

As a co-sponsor of this bill, the *League of California Cities* writes in support:

> This legislation is a crucial step toward protecting California's public infrastructure and ensuring the safety and functionality of essential services that communities rely on daily. Metal theft has become a widespread and costly issue, severely impacting critical infrastructure components such as streetlights, fire hydrants and fire department connections, manhole covers, electric vehicle (EV) charging stations, and backflow prevention devices. Thieves often target these public assets due to the high value of precious metal, specifically copper, leaving behind significant damage that endangers public safety and imposes burdensome repair costs on local governments and businesses. The consequences of metal theft are far-reaching:
>
> - **Streetlight Tampering:** Stolen copper wiring from streetlights creates hazardous conditions by leaving streets and neighborhoods in darkness, increasing risks for pedestrians, motorists, and law enforcement.
>
> - **Fire Protection System Compromise:** The theft of metal components from fire hydrants or fire department connections weakens emergency response capabilities, endangering lives and property in the event of a fire.

- **Manhole Cover Theft:** The removal of manhole covers poses severe hazards to drivers, bicyclists, and pedestrians, leading to potential accidents and injuries.

- **Backflow Device Damage:** Backflow prevention devices protect drinking water supplies from contamination, and theft-related damages compromise water quality and public health.

The financial burden of repairing and replacing stolen infrastructure components falls on taxpayers, utility providers, and municipalities, draining resources that could otherwise be used for community development and essential services.

ARGUMENTS IN OPPOSITION:

The *Contractors State License Board* writes in opposition to this bill:

> While CSLB understands the plight of local communities in dealing with copper theft, it is unclear how the establishment of a new licensing structure under CSLB will prevent the purchase of stolen scrap copper by junk dealers and recyclers. The costs for CSLB to implement a new license type will require substantial upfront resources to be fully borne by existing licenses, as CSLB is a special fund entity. It is also unclear if there are enough individuals interested in copper seller licensure to ensure this new license type is financially sustainable moving forward.

The *Recycled Materials Association – West Coast Chapter (ReMA),* which has taken an oppose unless amended position on this bill, writes:

> [R]equiring many of the honest and hardworking retail suppliers that collect and sell recycled material to obtain an expensive and time consuming confactor's license would either force them out of business or give them no option other than to sell to black market recyclers. The majority of these are small, independent family owned businesses and run by hard working people who rely on this income to make ends meet.
>
> In addition, under Business and Professions Code 21608.5, there are already stringent identification and record keeping requirements, as well as payment restrictions when selling and buying recycled material, including copper. Currently, in order for recycling businesses to buy scrap copper pipes or wires, they must do the following: record the seller's ID, take a photo and fingerprint of the seller, make a record of the description of the vehicle that delivered the material, obtain a photo of the material, and obtain a statement from the seller that it has lawful possession of the material. The seller also cannot be paid until 3 days after the transaction. Black market recyclers do not follow these rules and thieves sell their stolen material on the black market. Requiring sellers of copper to have a contractor's license will not prevent black market transactions.
>
> ReMA members have worked closely with local law enforcement agencies throughout the years in an attempt to get the recycling black marketers off of our streets. The real issue comes down to enforcement of the current antitheft statutes and not additional economic barriers that, though well intentioned, could force small legitimate retail suppliers out of business. The recent increase in focused enforcement efforts in Los Angeles resulted in the arrests of numerous metal thieves and black market recyclers and

is a good example that more enforcement is needed. More laws without enforcement simply creates a bigger black market.

POLICY ISSUE(S) FOR CONSIDERATION:

Need for licensure. Licensure is generally reserved for professions where verification of competency is necessary to protect consumers from harm. While copper theft negatively affects the public and private industry, the collection and sale of copper scrap metal is not a trade that requires minimum standards (i.e., education, experience, and examination requirements) to enter the profession. Therefore, licensure may not be the appropriate level of regulation.

Illicit marketplace. This bill is intended to curb the theft of copper and copper-containing materials. While well-intentioned, placing additional requirements on law-abiding junk dealers and recyclers or on scrap metal peddlers is unlikely to thwart unlawful activity by those who are currently breaking the law.

IMPLEMENTATION ISSUES:

Practicality of additional reporting requirements. This bill would require junk dealers and recyclers to include in the written record for every sale or purchase of junk additional information, such as volume and length of the items. It is unclear what the added benefit would be, and more so, whether the benefit would outweigh the additional burden on junk dealers and recyclers. Moreover, some of the information that would be required to be included may not be applicable to all junk.

Proof of ownership burden. This bill would require junk dealers and recyclers to obtain "acceptable proof of ownership" from a seller prior to purchasing nonferrous metals from that person. The bill deems an invoice or receipt documenting the purchase of the nonferrous metals, or a contractor's license, as acceptable proof of ownership. According to industry representatives, it would be extremely difficult, if not impossible, for a scrap metal peddler to demonstrate acceptable proof of ownership for scrap metals collected around town (plus the difficulty of trying to keep sorted materials from each source), or because obtaining a contractor license may be too burdensome. These new requirements could have the unintended effect of driving law-abiding scrap metal collectors to the illicit marketplace.

Duplication of existing requirements. This bill would require junk dealers and recyclers to maintain written records of junk sales and purchases for at least one year, unless required by another law to keep the records for longer. Existing law requires written records to be kept for two years. Additionally, this bill would authorize law enforcement to conduct reasonable inspections during regular business hours, which current law already provides for.

Expansion of material prohibitions. Existing law prohibits a junk dealer or recycler from possessing specified materials that were owned or previously owned by an agency without a written certification from the agency that the seller is in lawful possession of the items. This bill would add several new items to that list that the average person may own (e.g., irrigation wiring) or that are broad and undefined (e.g., plaques). The author may wish to consider refining the list to avoid the unintended consequence of junk dealers and recyclers requiring authorization from every person, or turning away individuals in lawful possession of items included in the list.

AMENDMENTS:

The author has agreed to amend the bill as follows to limit the additional record-keeping requirements, delete provisions that are duplicative of existing law, and delete the licensure requirement:

On page 4, after line 23:

(5) A description of the item or items of junk purchased or sold, including the item type, number of units, weight, ~~volume, length, predominant type of metal,~~ identifying marks engraved or etched on the metal, if any, and serial numbers, if any.

On page 4, after line 33:

~~(b) Before purchasing any nonferrous metals from a seller, a junk dealer or recycler shall obtain acceptable proof of ownership from the seller that shows the seller has lawful possession or lawful ownership of the nonferrous metals. Acceptable proof of ownership shall be either of the following:~~

~~(1) An invoice or receipt documenting the purchase of the nonferrous metals that contains the name of the seller and the name of the person from whom the seller purchased the nonferrous metals.~~

~~(2) A contractor's license, a construction or demolition permit for the site from which the nonferrous metal came, and a declaration by the seller describing the source of the metal that is signed and dated by the seller and witnessed by the junk dealer or recycler. Acceptable proof of lawful possession requires the signed declaration of the named purchaser of the nonferrous metals or the holder of the contractor's license that the seller has been designated as the owner's agent for purposes of the sale of nonferrous metals and the address and telephone number of the declarant.~~

~~(c) Before purchasing junk from a seller, a junk dealer or recycler shall verify the seller's identity with one of the methods of identification specified in paragraph (2) of subdivision (a).~~

(*b*~~d~~) A junk dealer or recycler shall not purchase nonferrous metals from a person under 18 years of age.

~~(e) (1) Unless a longer period of time is required pursuant to Section 21607 or another law, a junk dealer or recycler shall maintain the information required to be collected under this section for at least one year from the date of purchase or delivery, whichever is later. A junk dealer or recycler shall make available to any law enforcement agency the information required to be collected under this section.~~

~~(2) Any authorized law enforcement officer may conduct reasonable inspections during regular business hours to ensure compliance with applicable laws.~~

(*c*~~f~~) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

(*d*~~g~~) Every junk dealer and every recycler shall report the information required in subdivision (a) to the chief of police or to the sheriff in the same manner as described in Section 21628.

On page 7, after line 27:

~~SEC. 3. Section 21611 is added to the Business and Professions Code, to read:~~

~~21611. (a) A person shall not engage in the sale of scrap metal copper without a valid license issued by the registrar of contractors of the Contractors State License Board pursuant to this section.~~

~~(b) A seller of scrap metal copper may apply to the registrar on a form prescribed by the registrar that includes, at a minimum, both of the following:~~

~~(1) The name, permanent address, telephone number, and date of birth of the applicant.~~

~~(2) An acknowledgment that the applicant obtained the copper by lawful means in the regular course of the applicant's business, trade, or authorized construction work.~~

~~(c) An application shall be accompanied by a nonrefundable fee of up to five hundred dollars ($500), not to exceed the reasonable cost to the board to administer this section.~~

~~(d) Within 30 days of the date an application is received, the registrar may require additional information or submissions from an applicant and may obtain any document or information that is reasonably necessary to verify the information contained in the application. Within 90 days after the date a completed application is received, the registrar shall review the application and issue a license if the applicant is deemed qualified under this section. The registrar may issue a license subject to restrictions or limitations. If the registrar determines the applicant is not qualified, the registrar shall notify the applicant and shall specify the reason for the denial.~~

~~(e) A person licensed to perform work pursuant to Chapter 4.5 (commencing with Section 108) of Division 1 of the Labor Code, the Contractors State License Law (Chapter 9 (commencing with Section 7000) of Division 3), or who is a technician certified under Section 608 of the federal Clean Air Act (40 C.F.R. Part 82, Subpart F) shall not be required to obtain a license under this section to sell scrap metal copper.~~

~~(f) A license issued under this section is valid for one year. To renew a license, an applicant shall submit a completed renewal application on a form prescribed by the registrar and a renewal fee of up to five hundred dollars ($500), not to exceed the reasonable cost of administering this section. The registrar may request that a renewal applicant submit additional information to clarify any new information presented in the renewal application. A renewal application submitted after the renewal deadline shall be accompanied by a nonrefundable late fee of up to seven hundred fifty dollars ($750), not to exceed the reasonable cost to the board to administer this section.~~

~~(g) The registrar may deny a license renewal under this section under either of the following circumstances:~~

~~(1) The registrar determines that the applicant is in violation of federal or state law.~~

~~(2) The applicant fails to timely submit a renewal application and the information required under this subdivision.~~

~~(h) In lieu of denying a renewal application under subdivision (g), the registrar may permit the applicant to submit to the registrar a corrective action plan to cure or correct deficiencies.~~

~~(i) The registrar may suspend, revoke, or place on probation a license issued under this section if the applicant does any of the following:~~

~~(1) Engages in fraudulent activity that violates state or federal law.~~

~~(2) The registrar receives consumer complaints that justify an action under this subdivision to protect the safety and interests of consumers.~~

~~(3) The applicant fails to pay an application license or renewal fee.~~

~~(4) The applicant fails to comply with a requirement set forth in this section.~~

~~(j) The fees collected pursuant to this section shall be deposited in the Contractors License Fund.~~

On page 9, in line 20:

SEC. *3*~~4~~. Section 496a of the Penal Code is amended to read:

On page 10, in line 7:

SEC. *4*~~5~~. Section 496e of the Penal Code is amended to read:

On page 11, after line 12:

SEC. *5*~~6~~. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

REGISTERED SUPPORT:

California Broadband & Video Association
California Communications Association
California Central Valley Flood Control Association
Central City Association of Los Angeles
California Contract Cities Association
California Legislative Conference of Plumbing, Heating & Piping Industry
California Municipal Utilities Association
City of Alameda
City of Buena Park
City of La Mirada
City of Lakewood

City of Lathrop
City of Los Alamitos
City of Manteca
City of Norwalk
City of Paramount
City of Placentia
City of Redding
City of Thousand Oaks
City Tustin
City of Willows
County of Fresno
CTIA
Downtown LA Industrial District Bid
Electric Vehicle Charging Association (co-sponsor)
Fresno County Board of Supervisors
Independent Energy Producers Association
League of California Cities (co-sponsor)
Los Angeles Cleantech Incubator (co-sponsor)
Los Angeles County Sanitation Districts
Mayor Matt Mahan, City of San Jose
National Electrical Contractors Association
Northern California Allied Trades
Swana California Chapters Legislative Task Force
Southern California Glass Management Association
Southern California Public Power Authority
United States Telecom Association - the Broadband Association
United Contractors
Valley Ag Water Coalition
Wall and Ceiling Alliance
Western Line Constructors
Western Painting and Coating Contractors Association

REGISTERED OPPOSITION:

The Contractors State License Board
The Recycled Materials Association – West Coast Chapter (unless amended)

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 506 (Bennett) – As Amended April 1, 2025

NOTE: This bill was double referred to the Assembly Judiciary Committee, where is passed on a 12-0-0 vote.

SUBJECT: Contracts: sales of dogs and cats.

SUMMARY: Specifies information that must be included in a contract between a buyer and pet broker, as defined, prohibits such contracts from including a nonrefundable deposit, and provides consumer remedies and rights of action for contracts that violate the provisions of this bill.

EXISTING LAW:

1) Establishes that a contract or a contract term is void if the subject of the contract or contract term is unlawful, performance is impossible, or so vague it cannot be determined. (Civil Code (CIV) § 1598)

2) Prohibits the following provisions to be contained within contracts:

   a) Those contrary to a provision of law;

   b) Those contrary to the express policy of existing law, even if not expressly prohibited; and

   c) Those otherwise contrary to good morals.

   (CIV § 1667)

3) Provides that contracts which have for their object, directly or indirectly, to exempt any one from responsibility for their own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law. (CIV § 1668)

4) Provides that if a court finds, as a matter of law, a contract or any clause of a contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result. (CIV § 1670.5)

5) Provides that a provision in a contract liquidating the damages for the breach of the contract is valid unless the party seeking to invalidate the provision establishes that the provision was unreasonable under the circumstances existing at the time the contract was made. (CIV § 1671 (b))

6) Establishes the Polanco-Lockyer Pet Breeder Warranty Act, which regulates the sale dogs by dog breeders. (Health and Safety Code (HSC) §§ 122045 *et seq*.)

7) Requires every dog breeder to deliver to each purchaser of a dog a specified written disclosure and record of veterinary treatment. (HSC § 122050)

8) Requires dog breeders to maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. (HSC § 122055)

9) Prohibits a dog breeder from knowingly selling a dog that is diseased, ill or has a condition, which requires hospitalization or nonelective surgical procedures. (HSC § 122060)

10) Requires every breeder who sells a dog to provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, including conditions to return a dog and be eligible to receive a refund for an animal or reimbursement for veterinarian fees. (HSC § 122100)

11) Establishes the Polanco-Lockyer-Farr Pet Protection Act, which regulates the sale of dogs and cats by pet dealers. (HSC §§ 122125 *et seq*.)

12) Requires that every pet dealer receiving a dog or cat from a common carrier shall transport, or have transported, dogs and cats from the carrier's premises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination. (HSC § 122130)

13) Requires that all dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness, and that any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals. (HSC § 122135)

14) Requires pet dealers to provide consumers with similar written disclosures as those contained in the Lockyer-Polanco Pet Breeder Warranty Act, and requires similar recordkeeping requirements. (HSC §§ 122140–122145)

15) Requires that a pet dealer must:

    a) Maintain facilities where the dogs are kept in a sanitary condition;

    b) Provide dogs with adequate nutrition and potable water;

    c) Provide adequate space appropriate to the age, size, weight, and breed of dog. Adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position;

    d) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition;

    e) Provide dogs with adequate socialization and exercise. For the purpose of this article "socialization" means physical contact with other dogs or with human beings;

    f) Wash hands before and after handling each infectious or contagious dog;

    g) Maintain either a fire alarm system that is connected to a central reporting station that alerts the local fire department, or maintain a fire suppression sprinkler system; and

h) Provide veterinary care without delay when necessary.

(HSC § 122155(a))

16) Prohibits a pet dealer from possessing a dog that is less than eight weeks old. (HSC § 122155(b))

17) Establishes certain requirements, restitution processes, and consumer rights related to the purchase of a dog by a pet dealer that subsequently falls ill within specified timeframes. (HSC §§ 122160–122190)

18) Prohibits an online pet retailer, as defined, from offering, brokering, making a referral for, or otherwise facilitating a loan or other financing option for the adoption or sale of a dog, cat, or rabbit. (HSC § 122191)

19) Prohibits pet dealers from selling a dog unless it has been examined by a California-licensed veterinarian, and requires that the dealer quarantine any sick or diseased animal separate from the healthy animals until a veterinarian determines the dog is free from infection. (HSC § 122210)

20) Requires every retail pet dealer to conspicuously post a notice indicating the state where the dog was bred and brokered on the cage of each dog offered for sale. (HSC § 122215)

21) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (HSC § 122354.5(a))

22) Requires pet store operators to maintain specified minimum standards regarding enclosures. (HSC § 122352)

23) Prohibits a public animal control agency or shelter, an animal rescue group displaying animals at a pet store, or an animal rescue group operating a retail establishment from offering dogs, cats, or rabbits for adoption unless the animals are sterilized, and the adoption fees from being more than $500. (HSC § 122354.5(c))

24) Subjects a pet store operator who violates the prohibition on the sale of retail animals, who failed to correct the first notice of a violation to a civil penalty of $1,000 and $5,000 for subsequent violations, as specified. (HSC § 122354.5(d)(2))

THIS BILL:

1) Defines “broker” as a person or business that (1) sells, (2) arranges, negotiates, or processes the sale of, or (3) facilitates the transfer of, dogs or cats bred by another for profit.

2) Establishes that a contract entered into on or after January 1, 2026, to transfer ownership of a dog or cat that is offered, negotiated, brokered, or otherwise arranged by a broker and where the buyer is located in California is void as against public policy if any of the following circumstances apply:

a) The contract requires a nonrefundable deposit;

b) The contract does not identify the original source of the dog or cat, including, but not limited to, the breeder.

3) Requires that, in a contract entered into on or after January 1, 2026, between a broker and a buyer who is located in California:

a) The broker must disclose the original source of the dog or cat involved in the contract; and

b) The broker shall not require a nonrefundable deposit.

4) Requires that, if money has been exchanged pursuant to a voided contract, the seller shall refund the money to the buyer within 30 days of receiving notice that the contract is void without expectation of return of the contract subject (i.e., the dog or cat).

5) Prohibits a person from offering a contract that contains terms in violation of the above requirements.

6) Establishes that a person who offers a contract that contains a term in violation of the above requirements may be enjoined by any court of competent jurisdiction.

7) Establishes that a buyer harmed by a violation of the above requirements may bring a civil action against any person in violation.

8) Establishes that a prevailing plaintiff in an action brought pursuant to the bill shall be entitled to reasonable attorney's fees and costs.

9) Grants the Attorney General, a county counsel, a city attorney, or a city prosecutor the authority to enforce the provisions contained in the bill on behalf of pet purchasers in a claim brought in the name of the people of the State of California in any court of competent jurisdiction.

10) Establishes that the authorities provided to public prosecutors under the bill is not an exclusive remedy and does not affect any other relief or remedy provided by law.

11) Exempts contracts for the transfer of ownership of an animal by a governmental agency, or contracts for the transfer of ownership of a guide, signal, or service dog as defined in Section 54.1 of the Civil Code, from requirements under the bill.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is co-sponsored by the **American Society for the Prevention of Cruelty to Animals (ASPCA)** and **San Diego Humane Society (SDHS)**. According to the author:

> For good reason, retail pet sales have been banned since 2019. Now, online sales have become a breeding ground for fraud—fake sellers, hidden mass breeders, and unscrupulous brokers using "bait-and-switch" tactics to trick buyers into bad deals. Pet scams are the #1

online purchase fraud, costing victims thousands without recourse. AB 506 protects consumers from predatory pet sales and stops the puppy-mill pipeline. This bill voids contracts between consumers and online dog and cat brokers who fail to disclose the original source of the animal and/or require a nonrefundable deposit.

Background.

Federal Regulation. National animal welfare and pet sale standards are largely regulated pursuant to the Animal Welfare Act (AWA), passed by Congress in 1966. The AWA is administered by the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), which requires certain entities that breed, sell, exhibit, transport, or conduct other relevant animal business activities to obtain a license or registration. APHIS licensees are required to abide by minimum health, safety, and care standards as required by the AWA, and are subject to inspection and enforcement by the APHIS's Animal Care (AC) Unit. As it pertains to animal breeding specifically, individuals and businesses that own more than four breeding females, sell more than 25 dogs or cats each year, or make more than $500 in gross sales of bred animals must be licensed by the APHIS. According to USDA data provided by the bill sponsors, there are over 2,000 federal licensed dog breeders across the nation, with most concentrated in the Midwest.

While the AWA stipulates certain requirements that licensees and registrants must abide by, many large-scale commercial breeding facilities—often dubbed "puppy mills" or "kitten factories"—have a documented history of noncompliance and have demonstrated continued violations of the law. In February of this year, the USDA's Office of Inspector General (OIG) released an audit report regarding the AC Unit's oversight of dog breeder operations. The audit report demonstrated numerous, repeated cases of dogs kept in squalid and unsanitary conditions that fall far below standards set forth under the AWA. According to the audit, over 80% of facilities inspected failed to correct past AWA violations, and 57% of inspections conducted by the AC Unit were deemed incomplete. The OIG audit shows that oversight and enforcement of federal animal laws pursuant to the AWA are minimal and sporadic.

State Regulation of Pet Sales. California has a long history of regulating pet sales in the state beyond federal standards, with a number of laws that oversee pet dealers and their businesses, and aim to protect the wellbeing of the animals they sell. The Lockyer-Polanco-Farr Pet Protection Act (Pet Protection Act) establishes requirements on pet dealers in California. When selling a pet to a consumer, pet dealers must provide purchasers with written information about the animal's health, including any known illnesses or conditions. Additionally, before any dog or cat is sold, it must be examined by a licensed veterinarian to ensure it is free from contagious diseases and fit for sale. The Pet Protection Act also outlines consumer remedies in the event a purchased animal is found to be ill or affected by a congenital or hereditary condition within 15 days of sale, in which case the consumer may be entitled to a refund, an exchange, or reimbursement for veterinary costs. The law also imposes recordkeeping requirements, obligating dealers to retain documentation regarding the source of animals, veterinary treatments, and sales transactions for a specified period. Enforcement of the Pet Protection Act is delegated to local animal control agencies and humane officers, who are authorized to conduct inspections and enforce compliance, and violations of the law may result in civil penalties and administrative actions.

The Pet Store Animal Care Act, contained in Part 6, Chapter 9 of Division 105 of the Health and Safety Code, establishes minimum care and cleanliness standards for animals housed and sold in retail pet stores. The law defines a "pet store" as a retail establishment open to the public that sells or offers for sale animals normally kept as household pets, and outlines detailed requirements for housing, sanitation, feeding, veterinary care, socialization, and environmental enrichment for animals in these stores. Specifically, the law mandates that animals be provided with adequate food and potable water, daily care by competent staff, and housing that ensures comfort through minimum size standards, ventilation, and enrichment devices (i.e., pet toys). Stores must maintain written programs of veterinary care developed in consultation with a licensed veterinarian, and animals showing signs of illness or distress must receive prompt attention. The law also prohibits the sale of animals younger than eight weeks, and requires records of animal origin and health status to be kept for specified periods.

Beyond pet sales that occur in retail settings, California regulates the sale of dogs by dog breeders through the Polanco-Lockyer Pet Breeder Warranty Act (Warranty Act). Under the Warranty Act, "dog breeders" are defined as a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association. Much like the Pet Protection Act, the Warranty Act allows a consumer to receive a refund or reimbursement should they purchase a sick pet, or a pet that is found to have a hereditary or congenital condition requiring surgery or hospitalization. The Warranty Act further regulates California dog breeders by requiring breeders to provide specific written disclosures, including the breeder's name, address, information on the dog, and signed statements that the dog has no known diseases or illnesses, as well as a notice of the purchaser's rights to obtain a refund or reimbursement.

Breeder Operations. There are various types of breeders in the commercial animal market, particularly as federal, state, and local laws evolve to better promote animal welfare in pet sales. Professional breeders are generally recognized as responsible breeding operations who adhere to strict animal health, safety, and breeding standards; maintain active membership in their kennel clubs; and conduct extensive research on breed lineage, health risks, and canine or feline obstetrics. Professional breeders must comply with all existing state laws when selling an animal, and ensure that contracts meet existing requirements on health guarantees such as the ones outlined in the Polanco-Lockyer Pet Breeder Warranty Act.

Conversely, "puppy mills" or "kitten factories" generally refer to commercial, high-volume breeding facilities that mass produce animals for retail sale. As detailed in the *Federal Regulations* section of this analysis, while commercial breeders are required to abide by the AWA, and some operations are even federally licensed, there is limited oversight and enforcement of the requirements. These commercial-scale breeding facilities are often those most associated with inhumane conditions and sickly animals.

"Backyard breeder" is an informal catch-all term referring to breeders with little experience or knowledge in the practice of animal breeding. While such breeders are not necessarily unethical, breeding without the training, knowledge, or even support of a kennel club can lead to genetic issues and put the health and safety of the animal and their offspring at risk. Untrained breeders may have various reasons for breeding an animal, such as making extra income, or having extra puppies or kittens for their own family. Over the years, local jurisdictions have reported untrained breeders selling sick or injured animals who were raised in inhumane conditions,

though it is unclear to what extent these individuals are responsible for other issues relating to animal overcrowding and welfare.

Further Legislative Reforms. Building off existing federal and state laws, the Legislature has made additional reforms in recent years to the sale of animals coming from large-scale animal "mills" and other cruel commercial operations. In an effort to reduce the flow of pets sourced from breeder mills, AB 485 (O'Donnell, Chapter 740, Statutes of 2017) was enacted in 2018 to prohibit pet store operators from selling a live cat, dog, or rabbit unless the animal is offered through a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization. Pet store operators who violate these provisions are subject to a civil penalty of up to $500 for each animal offered for sale.

To address loopholes that resulted from the implementation of AB 485, in which commercial breeders guised their businesses as nonprofit organizations to circumvent prohibitions, further legislation enacted in 2021 (AB 2152, Gloria & O'Donnell, Chapter 96, Statutes of 2020) specifically defined the type of animal rescue organizations that pet stores could source animals from. Additionally, AB 2152 prohibited pet stores from displaying animals except for cases of providing display space for nonprofit partners. In 2023, AB 2380 (Maienschein, Chapter 548, Statutes of 2022) was enacted to further curb the importation of commercially-bred pets into California, and address unscrupulous and predatory lending practices in the pet market by prohibiting online pet retailers from offering or brokering a loan or other financing option for the adoption or sale of a dog, cat, or rabbit.

LA Times Exposé. Despite California's many past efforts to address animal welfare in pet sales broadly, and more specifically, to eliminate large-scale, commercially-bred animals from retail channels, a 2024 investigative report by the *Los Angeles Times* titled "Inside California's Brutal Underground Market for Puppies" exposed that some breeders and pet sellers were exploiting loopholes that allow them to serve as brokers, reselling or arranging the sale of dogs bred in "puppy mills." Through analysis of more than 88,000 certificates of veterinary inspection—or "travel certificates"—from states throughout the country, the *Times* identified that more than 71,000 were imported into California. Individual pet dealers and businesses then rebrand and resell these imported dogs as "California-bred" to unknowing consumers. According to the report, many of these pets develop future health problems and consumers are left with little knowledge as to the original source of their pet, nor recourse for the fraudulent sale.

According to the *Times* investigation, more than 70% of dogs imported into California come from Missouri, Ohio, Oklahoma, and Iowa, areas which the report notes have high concentrations of commercial breeding facilities. Among other egregious cases, the report details "photos and videos of… dogs with bleeding open wounds, decaying teeth and crusty infected eyes" documented in the federal inspection reports of a particular Iowa breeder, who was previously suspended by the USDA, that exports puppies to California via brokers. Once in the state, individuals often use fake names and addresses to obfuscate the original source of the dog and "launder" the records to imply it is locally bred and raised. The same Iowa breeding operator, for example, did not list their name directly on the travel certificates of dogs imported into California. Rather, they arranged transfers through a former employee who used a portion of the breeding grounds as a "separate" business. In some cases, puppies may move through multiple brokers before being sold to a final consumer, further complicating the tracking and retention of veterinary health certificates.

In response to this investigative report, the author and sponsors have put forward this measure to reduce fraud in dog and cat sales, and provide consumers who may have unknowingly purchased an animal brokered from an out-of-state breeder remedies in court. Specifically, this bill defines a "broker" as a person or business that "sells, arranges, negotiates, or processes" the sale of a dog or cat that was bred by another person or business in exchange for a profit. This would also include facilitating the transfer of one of these animals for a profit. The bill establishes that any contract entered into on or after January 1, 2026, between a broker and buyer is void as against public policy if the contract requires a nonrefundable deposit, or if the contract does not identify the original source of the animal. Additionally, the bill expressly requires that contracts must disclose the original source of the animal, and prohibits nonrefundable deposits. It requires that brokers refund buyers within 30 days for any contract that is voided, and makes clear that the buyer can still keep their pet. Finally, the bill contains enforcement provisions that reiterate the buyer's right to sue the broker, and that would allow a public prosecutor—such as the Attorney General—to bring forward a claim on behalf of pet purchasers.

Notably, this bill is part of a wider "Close the Puppy Mill Pipeline" legislative package put forward by the sponsors to address issues raised in the *Times* investigation. In addition to this bill which clarifies contract law related to pet sales by brokers, the package also contains AB 519 (Berman), which expressly bans pet brokers, and SB 312 (Umberg), which would require the California Department of Food and Agriculture (CDFA) to retain and make available information related to certificates of veterinary inspection. AB 519 is also under consideration by this Committee, while SB 312 passed the Senate Business, Professions, and Economic Development Committee on April 7th with a vote of 10-0-1, and is currently under consideration by the Senate Agriculture Committee.

Current Related Legislation. AB 519 (Berman) would prohibit brokers from selling, offering for sale, or making available for adoption a dog, cat, or rabbit, subject to specified exemptions. *This bill is pending consideration in this Committee.*

SB 312 (Umberg) would expand requirements related to obtaining and submitting a health certificate to the Department of Food and Agriculture (CDFA) when selling or importing dogs into California, and require the CDFA to retain, and make available to the public, information related to the health certificates. *This bill is pending consideration in the Senate Agriculture Committee. It passed the Senate Business, Professions, and Economic Development Committee with a vote of 10-0-1.*

Prior Related Legislation. AB 2248 (Maienschein) of 2024 was substantially similar to this bill, and passed the Senate Business, Professions, and Economic Development Committee and the Senate Judiciary Committee unanimously. This bill was held in the Senate Appropriations Committee.

AB 2380 (Maienschein), Chapter 548, Statutes of 2022 prohibited an online pet retailer, as defined, from offering a loan or other financing for the adoption or sale of a dog, cat, or rabbit.

AB 2152 (Gloria & O'Donnell), Chapter 96, Statutes of 2020 prohibited a pet store from selling dogs, cats, or rabbits, but allows a pet store to provide space to display animals for adoption if the animals are displayed by either a shelter or animal rescue group, as defined, and establishes a fee limit, inclusive of the adoption fee, for animals adopted at a pet store.

SB 639 (Mitchell), Chapter 856, Statutes of 2019 established various limits on the use of third-party financial products in healthcare settings, including prohibiting the arranging for or establishing of an open-end credit or loan application that contains a deferred interest provision, except as specified.

AB 2445 (O'Donnell), Chapter 145, Statutes of 2018 required a pet store operator to maintain records to document the health, status, and disposition of each animal it sells for a period of not less than two years, and provide to the prospective purchaser of any animal the veterinary medical records, as specified, and the pet store return policy including the circumstances, if any, under which the pet store will provide follow-up veterinary care for the animal in the event of illness.

AB 485 (O'Donnell), Chapter 740, Statutes of 2017 prohibited, beginning January 1, 2019, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless they are offered through a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization, as defined; permits a public or private shelter to enter into a cooperative agreement with animal rescue or adoption organizations regarding rabbits; requires dogs or cats sold in a retail pet store to comply with current spay and neuter laws; provides specified exemptions to the pet warranty law; and permits an animal control officer, a humane officer, or a peace officer to enforce the pet store prohibition.

AB 1491 (Caballero), Chapter 731, Statutes of 2017 declares as void against public policy a contract for the purchase of a dog or cat which is made contingent on making of payments over a period of time, or other types of lease-to-own agreements that do not immediately transfer ownership of the animal to the purchaser.

ARGUMENTS IN SUPPORT:

A coalition of supporters including the sponsors of the measure, as well as the *California Animal Welfare Association (CalAnimals), Best Friends Animal Society, San Francisco SPCA,* and more, write: "At a time when California's shelters are at, and in many cases over, capacity with animals in need of loving homes, it is imperative to eliminate deceptive sales that undermine adoption efforts and perpetuate unethical breeding practices. AB 506 is a necessary step toward encouraging responsible pet acquisition and protecting both animals and consumers."

The *American Kennel Club* (AKC) submitted a "Support, if amended" position to the Committee, stating that "AKC thinks the intent of Assembly Bill 506 can be achieved with greater impact by strengthening contract law and expanding consumer protection rights for Californians when buying/acquiring companion animals from all sources, not just "brokers.".

POLICY ISSUE(S) FOR CONSIDERATION:

Parity with other pet disclosure standards. In response to the *Los Angeles Times* investigation, the author and sponsors have put forward this measure in an effort to increase transparency and accountability in brokered pet sales. Under both the Lockyer-Polanco Farr Pet Protection Act and the Breeder Warranty Act, pet retailers and breeders are required to provide consumers with a host of important information regarding the animal upon purchase, including the date the animal was birthed, the animal's USDA license number if applicable, a record of any inoculations, vaccinations, and veterinary treatments, a statement that the animal does not have any known disease or illness, and more. The Committee has received correspondence from stakeholders

involved in breeder sales, such as the American Kennel Club, reasonably arguing that similar disclosures in broker sales would promote greater consumer transparency and better address the state's goals regarding humane pet sales. As such, the author and sponsors may wish to amend the bill to include disclosure requirements similar to those in current law pertaining to breeders and pet retailers.

IMPLEMENTATION ISSUES:

Use of the term "broker" Currently, the bill's provisions are limited to contracts between pet buyers and brokers, and adds a definition of a "broker" under the Civil Code that means "a person or business that (1) sells, (2) arranges, negotiates, or processes the sale of, or (3) facilitates the transfer of dogs or cats bred by another for profit." This definition is substantially similar to that contained in AB 519 (Berman), which is also under consideration in this Committee, and both measures are co-authored as part of a wider "bill package." Authors of both measures have conveyed that, in practice, the bills are intended to work in tandem with one another, with AB 519 banning broker businesses in pet sales and this bill providing the consumer restitution pathways and enforcement if an individual is wronged by a broker. As written, however, the bills conflict with one another by each defining and using the term "broker" in two different ways. In other words, this Committee is currently considering a bill that bans brokers, and paradoxically considering another that clarifies how brokers are allowed to do business in California.

The Committee has heard from stakeholders involved in animal welfare and consumer protection that the bill could be more practically used if it applied to all forms of pet sales in California, as opposed to just those brokered by individuals on behalf of another. As such, the author and sponsors may wish to expand requirements in the bill to all contracts between pet sellers and buyers.

AMENDMENTS:

In response to implementation issues raised by the Committee and stakeholders, to make current breeder sale disclosure requirements applicable to pet sales pursuant to this bill, and to streamline statutory language, amend the bill as follows in a new article of the Health and Safety Code:

On page 2, before line 1:

SECTION 1. Article 2.5 (commencing with Section 122225) is added to Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, to read:

Article 2.5. Sale of Dogs, Cats, and Rabbits

122225. For purposes of this article, the following definitions apply:
(a) "Buyer" means an individual who purchases a dog, cat, or rabbit while located in California.
(b) "Person or business" includes a breeder or third-party seller.
(c) "Public animal control agency or shelter" has the same meaning as defined in Section 122354.5.

122226. A person or business that sells a dog, cat, or rabbit to a buyer shall provide a written notice to the buyer or recipient of the dog, cat, or rabbit that states all of the following:

(a) The original source of the dog, cat, or rabbit, including, but not limited to:

(1) The breeder.

(2) If applicable, the United States Department of Agriculture license number associated with the breeder.

(3) The state that the dog, cat, or rabbit was born in.

(4) If any of this information is unknown, the seller shall state that this information is unknown and shall provide any related information known by the seller, seller's agents, or seller's employees. The record shall contain a statement that the information is complete and true to the best of the seller's knowledge.

(b) A record of inoculations and worming treatments administered, if any, to the dog, cat, or rabbit as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(c) A record of any veterinarian treatment or medication received by the dog, cat, or rabbit while in the possession of the person or business and either of the following:

(1) A statement, signed by the person or business at the time of sale, containing both of the following:

(A) The dog, cat, or rabbit has no known disease or illness.

(B) The dog, cat, or rabbit has no known congenital or hereditary condition that adversely affects the health of the dog, cat, or rabbit at the time of the sale or that is likely to adversely affect the health of the dog, cat, or rabbit in the future.

(2) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog, cat, or rabbit at the time of sale, or is likely to adversely affect the health of the dog, cat, or rabbit in the future.

122227. (a) A contract entered into on or after January 1, 2026, to transfer ownership of a dog, cat, or rabbit to a buyer that is offered, negotiated, brokered, or otherwise arranged by a person or business while the buyer is located in California is void as against public policy if the contract includes or requires a nonrefundable deposit.

(b) If money is exchanged pursuant to a contract that is void pursuant to this section, the seller shall refund the money to the buyer within 30 days of receiving notice that the contract is void pursuant to this section without expectation of return of the contract subject.

122228. (a) A person or business shall not offer a contract that contains a term that violates Section 122226 or Section 122227.

(b) A person or business who offers a contract that contains a term that violates Section 122226 or Section 122227 may be sued in any court of competent jurisdiction for the recovery of money exchanged pursuant to that contract, injunctive relief, and other remedies the court deems appropriate.

(1) A buyer affected by a violation of Section 122226 or Section 122227 may bring a civil action pursuant to this subdivision against the person or business in violation of those sections.

(2) A prevailing plaintiff in an action brought pursuant to this subdivision shall be entitled to reasonable attorney's fees and costs.

(c) The Attorney General, a county counsel, a city attorney, or a city prosecutor shall have the authority to enforce this article on behalf of a buyer in a claim brought in the name of the people of the State of California in any court of competent jurisdiction. The authority provided to a public prosecutor by this subdivision is not

an exclusive remedy and does not affect any other relief or remedy provided by law.
122229. This article does not limit a contract for the transfer of ownership of an animal by a governmental agency or the transfer of ownership of a guide, signal, or service dog, as defined in Section 54.1 of the Civil Code.
122230. This article does not apply to a public animal control agency or shelter.

~~*SECTION 1. Section 1670.13 is added to the Civil Code, to read:*~~

~~*1670.13. (a) For purposes of this section, "broker" means a person or business that (1) sells, (2) arranges, negotiates, or processes the sale of, or (3) facilitates the transfer of dogs or cats bred by another for profit.*~~
~~*(b) A contract entered into on or after January 1, 2026, to transfer ownership of a dog or cat that is offered, negotiated, brokered, or otherwise arranged by a broker and where the buyer is located in California is void as against public policy if any of the following circumstances apply:*~~
~~*(1) The contract requires a nonrefundable deposit.*~~
~~*(2) The contract does not identify the original source of the dog or cat, including, but not limited to, the breeder.*~~
~~*(c) A contract entered into on or after January 1, 2026, between a broker and a buyer who is located in California shall include the following information:*~~
~~*(1) The broker is required to disclose the original source of the dog or cat involved in the contract.*~~
~~*(2) The broker is prohibited from requiring a nonrefundable deposit.*~~
~~*(d) If money has been exchanged pursuant to a contract that is void pursuant to this section, the seller shall refund the money to the buyer within 30 days of receiving notice that the contract is void pursuant to this section without expectation of return of the contract subject.*~~
~~*(e) A person shall not offer a contract that contains a term that violates subdivision (b) or (c).*~~
~~*(f) A person who offers a contract that contains a term that violates subdivision (b) or (c) may be enjoined by any court of competent jurisdiction.*~~
~~*(1) A buyer harmed by a violation may bring a civil action pursuant to this subdivision against any person in violation.*~~
~~*(2) A prevailing plaintiff in an action brought pursuant to this subdivision shall be entitled to reasonable attorney's fees and costs.*~~
~~*(g) The Attorney General, a county counsel, a city attorney, or a city prosecutor shall have the authority to enforce this section on behalf of pet purchasers in a claim brought in the name of the people of the State of California in any court of competent jurisdiction. The authority provided to the public prosecutor by this section is not an exclusive remedy and does not affect any other relief or remedy provided by law.*~~
~~*(h) This section shall not be construed to limit a contract for the transfer of ownership of an animal by a governmental agency or the transfer of ownership of a guide, signal, or service dog, as defined in Section 54.1.*~~

REGISTERED SUPPORT:

American Society for the Prevention of Cruelty to Animals (ASPCA) *(Co-Sponsor)*
San Diego Humane Society *(Co-Sponsor)*
Best Friends Animal Society

California Animal Welfare Association
Michelson Center for Public Policy
San Francisco SPCA
Valley Humane Society

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Edward Franco / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 519 (Berman) – As Amended March 18, 2025

SUBJECT: Pet broker sales.

SUMMARY: Prohibits pet brokers, as defined, from selling, making available for sale, or adopting out a dog, cat, or rabbit to a consumer in California, subject to specified exemptions.

EXISTING LAW:

1) Establishes the Polanco-Lockyer Pet Breeder Warranty Act, which regulates the sale dogs by dog breeders. (Health and Safety Code (HSC) §§ 122045 *et seq.*)

2) Requires every dog breeder to deliver to each purchaser of a dog a specified written disclosure and record of veterinary treatment. (HSC § 122050)

3) Requires dog breeders to maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. (HSC § 122055)

4) Prohibits a dog breeder from knowingly selling a dog that is diseased, ill or has a condition, which requires hospitalization or nonelective surgical procedures. (HSC § 122060)

5) Requires every breeder who sells a dog to provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, including conditions to return a dog and be eligible to receive a refund for an animal or reimbursement for veterinarian fees. (HSC § 122100)

6) Establishes the Polanco-Lockyer-Farr Pet Protection Act, which regulates the sale of dogs and cats by pet dealers. (HSC §§ 122125 *et seq.*)

7) Requires that every pet dealer receiving a dog or cat from a common carrier shall transport, or have transported, dogs and cats from the carrier's premises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination. (HSC § 122130)

8) Requires that all dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness, and that any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals. (HSC § 122135)

9) Requires pet dealers to provide consumers with similar written disclosures as those contained in the Lockyer-Polanco Pet Breeder Warranty Act, and requires similar recordkeeping requirements. (HSC §§ 122140-122145)

10) Requires that a pet dealer must:

    a) Maintain facilities where the dogs are kept in a sanitary condition;

    b) Provide dogs with adequate nutrition and potable water;

c) Provide adequate space appropriate to the age, size, weight, and breed of dog. Adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position;

d) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition;

e) Provide dogs with adequate socialization and exercise. For the purpose of this article "socialization" means physical contact with other dogs or with human beings;

f) Wash hands before and after handling each infectious or contagious dog;

g) Maintain either a fire alarm system that is connected to a central reporting station that alerts the local fire department, or maintain a fire suppression sprinkler system; and

h) Provide veterinary care without delay when necessary.

(HSC § 122155(a))

11) Prohibits a pet dealer from possessing a dog that is less than eight weeks old. (HSC § 122155(b))

12) Establishes certain requirements, restitution processes, and consumer rights related to the purchase of a dog by a pet dealer that subsequently falls ill within specified timeframes. (HSC §§ 122160-122190)

13) Prohibits an online pet retailer, as defined, from offering, brokering, making a referral for, or otherwise facilitating a loan or other financing option for the adoption or sale of a dog, cat, or rabbit. (HSC § 122191)

14) Prohibits pet dealers from selling a dog unless it has been examined by a California-licensed veterinarian, and requires that the dealer quarantine any sick or diseased animal separate from the healthy animals until a veterinarian determines the dog is free from infection. (HSC § 122210)

15) Requires every retail pet dealer to conspicuously post a notice indicating the state where the dog was bred and brokered on the cage of each dog offered for sale. (HSC § 122215)

16) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (HSC § 122354.5(a))

17) Requires pet store operators to maintain specified minimum standards regarding enclosures. (HSC § 122352)

18) Prohibits a public animal control agency or shelter, an animal rescue group displaying animals at a pet store, or an animal rescue group operating a retail establishment from

offering dogs, cats, or rabbits for adoption unless the animals are sterilized, and the adoption fees from being more than $500. (HSC § 122354.5(c))

19) Subjects a pet store operator who violates the prohibition on the sale of retail animals, who failed to correct the first notice of a violation to a civil penalty of $1,000 and $5,000 for subsequent violations, as specified. (HSC § 122354.5(d)(2))

THIS BILL:

1) Prohibits a broker from making available for adoption, selling, or offering for sale a dog, cat, or rabbit.

2) Defines "broker" as a person or a business that sells, arranges, negotiates, or processes, either in person or online, the sale of dogs, cats, or rabbits bred by another for profit.

3) Clarifies that facilitating the transfer of a dog, cat, or rabbit for profit is also included in the definition of "broker".

4) Exempts the following from prohibitions in the bill:

   a) The sale, transfer, or adoption of an animal by a governmental agency.

   b) The transfer of ownership of a guide, signal, or service dog.

   c) Public or privately-operated animal shelters, humane societies, or rescue organizations.

FISCAL EFFECT: This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *American Society for the Prevention of Cruelty to Animals (ASPCA)* and the *San Diego Humane Society* (SDHS). According to the author:

> As Chair of the Business and Professions Committee, every year I see advocates and animal lovers push for improvements to animal welfare in California. After reading the *LA Times* exposé, and as a dog dad myself, it was clear to me that we must do more to improve both animal welfare and consumer protection in our state. My bill will crack down on those that represent to be small, local home breeders, when they are actually importing puppies bred in puppy mills in states with inhumane animal welfare laws.

Background.

Federal Regulation. National animal welfare and pet sale standards are largely regulated pursuant to the Animal Welfare Act (AWA), passed by Congress in 1966. The AWA is administered by the U.S. Department of Agriculture's (USDA) Animal and Plant Inspection Service (APHIS), which requires certain entities that breed, sell, exhibit, transport, or conduct other relevant animal business activities to obtain a license or registration. APHIS licensees are required to abide by minimum health, safety, and care standards as required by the AWA, and are subject to inspection and enforcement by the APHIS's Animal Care (AC) Unit. As it pertains to animal breeding specifically, individuals and businesses that own more than four breeding females, sell more than 25 dogs or cats each year, or make more than $500 in gross sales of bred

animals must be licensed by the APHIS. According to USDA data provided by the bill sponsors, there are over 2,000 federal licensed dog breeders across the nation, with most concentrated in the Midwest.

While the AWA stipulates certain requirements that licensees and registrants must abide by, many large-scale commercial breeding facilities—often dubbed "puppy mills" or "kitten factories"—have a documented history of noncompliance and have demonstrated continued violations of the law. In February of this year, the USDA's Office of Inspector General (OIG) released an audit report regarding the AC Unit's oversight of dog breeder operations. The audit report demonstrated numerous, repeated cases of dogs kept in squalid and unsanitary conditions that fall far below standards set forth under the AWA. According to the audit, over 80 percent of facilities inspected failed to correct past AWA violations, and 57 percent of inspections conducted by the AC Unit were deemed incomplete. The OIG audit shows that oversight and enforcement of federal animal laws pursuant to the AWA are minimal and sporadic.

State Regulation of Pet Sales. California has a long history of regulating pet sales in the state beyond federal standards, with to a number of laws that oversee pet dealers and their businesses, and aim to protect the wellbeing of the animals they sell. The Lockyer-Polanco-Farr Pet Protection Act (Pet Protection Act) establishes requirements on pet dealers in California. When selling a pet to a consumer, pet dealers must provide purchasers with written information about the animal's health, including any known illnesses or conditions. Additionally, before any dog or cat is sold, it must be examined by a licensed veterinarian to ensure it is free from contagious diseases and fit for sale. The Pet Protection Act also outlines consumer remedies in the event a purchased animal is found to be ill or affected by a congenital or hereditary condition within 15 days of sale, in which case the consumer may be entitled to a refund, an exchange, or reimbursement for veterinary costs. The law also imposes recordkeeping requirements, obligating dealers to retain documentation regarding the source of animals, veterinary treatments, and sales transactions for a specified period. Enforcement of the Pet Protection Act is delegated to local animal control agencies and humane officers, who are authorized to conduct inspections and enforce compliance, and violations of the law may result in civil penalties and administrative actions.

The Pet Store Animal Care Act, contained in Part 6, Chapter 9 of Division 105 of the Health and Safety Code, establishes minimum care and cleanliness standards for animals housed and sold in retail pet stores. The law defines a "pet store" as a retail establishment open to the public that sells or offers for sale animals normally kept as household pets, and outlines detailed requirements for housing, sanitation, feeding, veterinary care, socialization, and environmental enrichment for animals in these stores. Specifically, the law mandates that animals be provided with adequate food and potable water, daily care by competent staff, and housing that ensures comfort through minimum size standards, ventilation, and enrichment devices (i.e., pet toys). Stores must maintain written programs of veterinary care developed in consultation with a licensed veterinarian, and animals showing signs of illness or distress must receive prompt attention. The law also prohibits the sale of animals younger than eight weeks, and requires records of animal origin and health status to be kept for specified periods.

Beyond pet sales that occur in retail settings, California regulates the sale of dogs by dog breeders through the Polanco-Lockyer Pet Breeder Warranty Act (Warranty Act). Under the Warranty Act, "dog breeders" are defined as a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or

more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association. Much like the Pet Protection Act, the Warranty Act allows a consumer to receive a refund or reimbursement should they purchase a sick pet, or a pet that is found to have a hereditary or congenital condition requiring surgery or hospitalization. The Warranty Act further regulates California dog breeders by requiring breeders to provide specific written disclosures, including the breeder's name, address, information on the dog, and signed statements that the dog has no known diseases or illnesses, as well as a notice of the purchaser's rights to obtain a refund or reimbursement.

Breeder Operations. There are various types of breeders in the commercial animal market, particularly as federal, state, and local laws evolve to better promote animal welfare in pet sales. Professional breeders are generally recognized as responsible breeding operations who adhere to strict animal health, safety, and breeding standards; maintain active membership in their kennel clubs, and conduct extensive research on breed lineage, health risks, and canine or feline obstetrics. Professional breeders comply with all existing state laws when selling an animal, and ensure that contracts meet existing requirements on health guarantees such as the ones outlined in the Polanco-Lockyer Pet Breeder Warranty Act.

Conversely, "puppy mills" or "kitten factories" generally refer to commercial, high-volume breeding facilities that mass produce animals for retail sale. As detailed in the *Federal Regulations* section of this analysis, while commercial breeders are required to abide by the AWA, and some operations are even federally licensed, there is limited oversight and enforcement of the requirements. These commercial-scale breeding facilities are often those most associated with inhumane conditions and sickly animals.

"Backyard breeder" is an informal catch-all term referring to breeders with little experience or knowledge in the practice of animal breeding. While such breeders are not necessarily unethical, breeding without the training, knowledge, or even support of a kennel club can lead to genetic issues and put the health and safety of the animal and their offspring at risk. Untrained breeders may have various reasons for breeding an animal, from making extra income, or having extra puppies or kittens for their own family. Over the years, local jurisdictions have reported untrained breeders selling sick or injured animals who were raised in inhumane conditions, though it is unclear to what extent these individuals are responsible for other issues relating to animal overcrowding and welfare.

Further Legislative Reforms. Building off existing federal and state laws, the Legislature has made additional reforms in recent years to the sale of animals coming from large-scale animal "mills" and other cruel commercial operations. In an effort to reduce the flow of pets sourced from breeder mills, AB 485 (O'Donnell, Chapter 740, Statutes of 2017) was enacted in 2018 to prohibit pet store operators from selling a live cat, dog, or rabbit unless the animal is offered through a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization. Pet store operators who violate these provisions are subject to a civil penalty of up to $500 for each animal offered for sale.

To address loopholes that resulted from the implementation of AB 485, in which commercial breeders guised their businesses as nonprofit organizations to circumvent prohibitions, further legislation enacted in 2021 (AB 2152, Gloria & O'Donnell, Chapter 96, Statutes of 2020) specifically defined the type of animal rescue organizations that pet stores could source animals from. Additionally, AB 2152 prohibited pet stores from displaying animals except for cases of

providing display space for nonprofit partners. In 2023, AB 2380 (Maienschein, Chapter 548, Statutes of 2022) was enacted to further curb the importation of commercially-bred pets into California, and address unscrupulous and predatory lending practices in the pet market, by prohibiting online pet retailers from offering or brokering a loan or other financing option for the adoption or sale of a dog, cat, or rabbit.

LA Times Exposé. Despite California's many past efforts to address animal welfare in pet sales broadly, and more specifically, to eliminate large-scale, commercially-bred animals from retail channels, a 2024 investigative report by the *Los Angeles Times* titled "Inside California's Brutal Underground Market for Puppies" exposed loopholes being exploited by some breeders and pet sellers that allow them to serve as brokers, reselling or arranging the sale of dogs bred in "puppy mills". Through analysis of more than 88,000 certificates of veterinary inspection—or "travel certificates"—from states throughout the country, the *Times* identifies more than 71,000 were imported into California. Individual pet dealers and businesses then rebrand and resell these imported dogs as "California-bred" to unknowing consumers. According to the report, many of these pets develop future health problems and consumers are left with little knowledge as to the original source of their pet, nor recourse for the fraudulent sale.

According to the *Times* investigation, more than 70 percent of dogs imported into California come from Missouri, Ohio, Oklahoma, and Iowa, areas which the report notes have high concentrations of commercial breeding facilities. Among other egregious cases, the report details "photos and videos of… dogs with bleeding open wounds, decaying teeth and crusty infected eyes" documented in the federal inspection reports of a particular Iowa breeder, who was previously suspended by the USDA, that exports puppies to California via brokers. Once in the state, individuals often use fake names and addresses to obfuscate the original source of the dog and "launder" the records to imply it is locally bred and raised. The same Iowa breeding operator, for example, did not list their name directly on the travel certificates of dogs imported into California. Rather, they arranged transfers through a former employee who used a portion of the breeding grounds as a "separate" business. In some cases, puppies may move through multiple brokers before being sold to a final consumer, further complicating the tracking and retention of veterinary health certificates.

In response to this investigative report, the author and sponsors have put forward this measure to expressly ban most types of pet brokering in California. Specifically, the bill defines a "broker" as a person or business that "sells, arranges, negotiates, or processes" the sale of a dog, cat, or rabbit that was bred by another person or business in exchange for a profit. This would also include facilitating the transfer of one of these animals for a profit. The bill contains exceptions for dog procurement by government agencies, such as police dogs, as well as the transfer of a guide, signal or service dog. Additionally, the bill exempts private or publicly operated animal shelters, human societies, and rescue organizations.

Notably, this bill is part of a wider "Close the Puppy Mill Pipeline" legislative package put forward by the sponsors to address issues raised in the *Times* investigation. In addition to this bill which bans pet brokers, the package also contains AB 506 (Bennett), which would establish specific contract stipulations and consumer restitution measures related to pet sales, and SB 312 (Umberg), which would require the California Department of Food and Agriculture (CDFA) to retain and make available information related to certificates of veterinary inspection. AB 506 is also under consideration by this committee, while SB 312 passed the Senate Business,

Professions, and Economic Development committee on April 7th with a vote of 10-0-1, and is currently under consideration by the Senate Agriculture Committee.

Current Related Legislation. AB 506 (Bennett) would specify information that must be included in a contract between a buyer and pet broker, as defined, prohibit such contracts from requiring a nonrefundable deposit, and provide consumer remedies and rights of action for contracts. *This bill is pending consideration in this Committee.*

SB 312 (Umberg) would expand requirements related to obtaining and submitting a health certificate to the Department of Food and Agriculture (CDFA) when selling or importing dogs into California, and require the CDFA to retain, and make available to the public, information related to the health certificates. *This bill is pending consideration in the Senate Agriculture Committee. It passed the Senate Business, Professions, and Economic Development Committee with a vote of 10-0-1.*

Prior Related Legislation. AB 2380 (Maienschein), Chapter 548, Statutes of 2022 prohibited an online pet retailer, as defined, from offering a loan or other financing for the adoption or sale of a dog, cat, or rabbit.

AB 2152 (Gloria & O'Donnell), Chapter 96, Statutes of 2020 prohibited a pet store from selling dogs, cats, or rabbits, but allows a pet store to provide space to display animals for adoption if the animals are displayed by either a shelter or animal rescue group, as defined, and establishes a fee limit, inclusive of the adoption fee, for animals adopted at a pet store.

SB 639 (Mitchell), Chapter 856, Statutes of 2019 established various limits on the use of third-party financial products in healthcare settings, including prohibiting the arranging for or establishing of an open-end credit or loan application that contains a deferred interest provision, except as specified.

AB 2445 (O'Donnell), Chapter 145, Statutes of 2018 required a pet store operator to maintain records to document the health, status, and disposition of each animal it sells for a period of not less than two years, and provide to the prospective purchaser of any animal the veterinary medical records, as specified, and the pet store return policy including the circumstances, if any, under which the pet store will provide follow-up veterinary care for the animal in the event of illness.

AB 485 (O'Donnell), Chapter 740, Statutes of 2017 prohibited, beginning January 1, 2019, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless they are offered through a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization, as defined; permits a public or private shelter to enter into a cooperative agreement with animal rescue or adoption organizations regarding rabbits; requires dogs or cats sold in a retail pet store to comply with current spay and neuter laws; provides specified exemptions to the pet warranty law; and permits an animal control officer, a humane officer, or a peace officer to enforce the pet store prohibition.

AB 1491 (Caballero), Chapter 731, Statutes of 2017 declares as void against public policy a contract for the purchase of a dog or cat which is made contingent on making of payments over a period of time, or other types of lease-to-own agreements that do not immediately transfer ownership of the animal to the purchaser.

ARGUMENTS IN SUPPORT:

A coalition of supporters including the sponsors of the measure, as well as the *California Animal Welfare Association (CalAnimals), Best Friends Animal Society, San Francisco SPCA,* and more, write: "California has been a leader in enacting strong protections for companion animals, and AB 519 continues that legacy. At a time when our state's shelters are overwhelmed with adoptable animals in need of homes, we must prioritize ending the exploitative business practices that fuel the demand for mass-bred puppies and kittens while disregarding the welfare of animals."

Social Compassion in Legislation (SCIL) writes in support of the bill, stating: "AB 519 provides a solution by defining brokers within California's pet laws and explicitly prohibiting them from selling or transferring-for-profit a dog, cat, or rabbit bred by another entity. Importantly, this bill does not impact consumers' ability to obtain pets from responsible breeders, shelters, or breed-specific rescues. Rather, it closes a predatory loophole that enables consumer fraud and perpetuates animal cruelty."

ARGUMENTS IN OPPOSITION:

Pet Advocacy Network, a trade association representing retailers, companion animal suppliers, manufacturers, distributors, and other stakeholders, writes in opposition: "AB 519 risks repeating and compounding the policy failures of the 2019 retail pet sale ban. It targets the wrong actors, undermines federal standards, and would be incredibly difficult to enforce. We urge you to reconsider this legislation and work toward solutions that focus on enforcement, consumer empowerment, and real accountability for bad actors—not those operating transparently and within the law."

PuppySpot Group, LLC, a USDA-licensed pet broker, writes in opposition to the bill, arguing "the legislation under consideration (AB 519) punishes the organizations that take these responsibilities seriously and try to lead by example to get at those organizations that prioritize profit over animal care."

REGISTERED SUPPORT:

American Society for the Prevention of Cruelty to Animals (ASPCA) *(Co-Sponsor)*
San Diego Humane Society *(Co-Sponsor)*
Best Friends Animal Society
California Animal Welfare Association
Michelson Center for Public Policy
San Francisco SPCA
Social Compassion in Legislation
Valley Humane Society

REGISTERED OPPOSITION:

Pet Advocacy Network
PuppySpot Group, LLC

Analysis Prepared by: Edward Franco / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 564 (Haney) – As Introduced February 12, 2025

NOTE: This bill is double referred and if passed by this Committee will be re-referred to the Assembly Committee on Revenue and Taxation.

SUBJECT: Cannabis: excise tax: rate increase repeal.

SUMMARY: Repeals language requiring the California Department of Tax and Fee Administration (CDTFA) to increase the cannabis excise tax rate to compensate for the estimated revenue lost as a result of the suspension of the cannabis cultivation tax.

EXISTING LAW:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)

2) Establishes the Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency (previously established as the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation), for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

3) Requires the DCC to provide waivers and deferrals for application fees, licensing fees, and renewal fees for equity applicants and other specified licensees. (BPC § 26249)

4) Establishes the Cannabis Tax Law. (Revenue and Tax Code (RTC) §§ 34010 *et seq.*)

5) Provides the CDTFA with responsibility for administering and collecting taxes on cannabis businesses. (RTC § 34013)

6) Imposes a cannabis excise tax upon purchasers of cannabis or cannabis products sold in California at 15 percent of the gross receipts of any retail sale by a cannabis retailer, effective January 1, 2023. (RTC § 34011.2(a)(1))

7) Imposes a cultivation tax on all harvested cannabis that enters the commercial market at a rate of $9.25 per dry-weight ounce for cannabis flowers and $2.75 per dry-weight ounce for cannabis leaves; suspends the imposition of this tax effective July 1, 2022. (RTC § 34012)

8) Beginning in Fiscal Year 2025-26 and every two years thereafter, requires the CDTFA, in consultation with the Department of Finance, to adjust the cannabis excise tax rate by the additional percentage that the CDTFA estimates will generate an amount of revenue equivalent to the amount that would have been collected in the previous fiscal year if the cultivation tax had not been suspended, to a maximum total rate of no more than 19 percent of the gross receipts of retail sale, rounded to the nearest one-quarter of 1 percent and in effect the following July 1. (RTC § 34011.2(a)(2))

9) On or before May 1, 2025, and each May 1 every two years thereafter, requires the CDTFA, in consultation with the Department of Finance, to estimate the amount of revenue that would have been collected in the previous fiscal year pursuant to the cultivation tax had it not been suspended. (RTC § 34011.2(a)(3))

10) Requires each cannabis retailer is to collect the cannabis excise tax from the purchaser and remit that tax to the CDTFA. (RTC § 34011.2(c))

11) Provides that the cannabis excise tax is in addition to the sales and use tax imposed by the state and local governments. (RTC § 34011.2(e))

12) Prohibits the sale of cannabis or cannabis products unless the cannabis excise tax has been paid by the purchaser at the time of sale. (RTC § 34011.2(g))

13) Until December 31, 2025, authorizes a licensed cannabis retailer that has received approval from the DCC for a fee waiver to retain vender compensation in an amount equal to 20 percent of the cannabis excise tax. (RTC § 34011.1)

14) Provides that the cannabis excise tax collected by a cannabis retailer, and any amount not returned to the purchaser that is not tax but was collected from the purchaser under the representation by the cannabis retailer that it was tax, constitutes debt owed by the cannabis retailer to the state. (RTC § 34012.3)

15) Provides for the administration and collection of cannabis taxes by the CDTFA. (RTC § 34013)

16) Requires the cannabis excise tax to be paid to the CDTFA quarterly on or before the last day of the month following each quarterly period of three months. (RTC § 34015)

17) Establishes the California Cannabis Tax Fund (Tax Fund) in the State Treasury wherein cannabis tax revenues are deposited. (RTC § 34018)

18) Specifies that money in the Tax Fund shall be disbursed by the Controller in the following order of funding priority:

    a) Funds sufficient to reimburse departments for any reasonable costs incurred through the implementation of the state's cannabis laws that are not otherwise reimbursed.

    b) $10 million to a public university in California annually to research and evaluate the implementation and effect of the state's cannabis laws, including the impact of legal cannabis on public health; the public safety implications of legal cannabis; the effectiveness of certain drug treatment programs; whether additional antitrust protections are needed in the recreational cannabis market; the economic impacts of the state's cannabis laws; and how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses; among other topics of study.

    c) $3 million to the Department of the California Highway Patrol (CHP) annually to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired by the use of cannabis.

d) $10 million beginning with the 2018-19 fiscal year, then increasing by $10 million each year until reaching $50 million annually, to GO-Biz to award community reinvestments grants to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies.

e) $2 million annually to the University of California, San Diego Center for Medicinal Cannabis Research to further its objectives.

f) Remaining funds deposited into sub-trust accounts as follows:

i) 60 percent into the Youth Education, Prevention, Early Intervention and Treatment Account, disbursed to the Department of Health Care Services (DHCS) for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families, and their caregivers.

ii) 20 percent into the Environmental Restoration and Protection Account, disbursed to the Department of Fish and Wildlife (CDFW) and the Department of Parks and Recreation to fund activities related to the natural resources and wildlife implications of legal cannabis.

iii) 20 percent into the State and Local Government Law Enforcement Account, disbursed to the CHP to fund education regarding cannabis-impaired driving and to the Board of State and Community Corrections (BSCC) to award grants to local law enforcement to address the public health and safety implications of locally legalized cannabis.

(RTC § 34019)

19) Prohibits the Legislature from changing the cannabis tax revenue funding allocations before July 1, 2028. (RTC § 34019(h))

20) Requires the Controller to additionally disburse, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts to be equal to the 2020–21 fiscal year baseline. (RTC § 34019.01)

21) Requires the DCC, in consultation with the CDTFA and the Department of Finance, to submit a report to the Legislature on the condition and health of the cannabis industry in the state, including the health of the Cannabis Tax Fund, any future projections of Cannabis Tax Fund revenues, and the impacts of the suspension of the cultivation tax, including whether that suspension resulted in a decrease in retail cannabis prices or increased participation in the legal cannabis market. (RTC § 34020.1)

22) Provides that state cannabis are in addition to any other tax imposed by a city, county, or city and county. (RTC § 34021)

THIS BILL:

1) Requires the cannabis excise tax rate to remain at 15 percent of the gross receipts of any retail sale by a cannabis retailer by repealing language requiring the CDTFA to increase the excise tax to a rate of up to 19 percent, as necessary to replace revenue lost due to the suspension of the cannabis cultivation tax.

2) Correspondingly repeals requirements on the CDTFA to biannually estimate the amount of revenue that would have been collected from the suspended cannabis cultivation tax for purposes of the repealed tax rate adjustment.

3) Makes additional technical changes.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is co-sponsored by *California NORML*, *United Food and Commercial Workers Western States Council*, *California Cannabis Industry Association*, *California Cannabis Operators Association*, *United Cannabis Business Association*, and *Origins Council*. According to the author:

> AB 564 provides tax relief to California's struggling cannabis industry and will help California maintain its position as the heart of America's cannabis economy and culture. The legal cannabis industry in California is being crushed by taxes, fees, and other regulation compliance costs, driving licensed cannabis businesses out of the market. Fully licensed, legal businesses in California capture just 40% of the state's entire market, while the underground illicit market accounts for 60% of the overall market. That means California is missing out on millions in lost potential revenue from illicit, untaxed sales. Starting July 1, 2025, California is required by law to increase the excise tax rate from 15% to 19%, an overall 25% tax hike for an already-struggling and overtaxed industry. AB 564 will suspend the cannabis excise tax increase from 15% to 19%, allowing the legal cannabis industry to regain its foothold.

Background.

Brief History of Cannabis Regulation in California. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created persistent apprehension within California's cannabis community.

A document issued by the United States Attorney General in 2013 known as the "Cole Memorandum" indicated that the existence of a strong and effective state regulatory system, and a cannabis operation's compliance with such a system, could allay the threat of federal enforcement interests. Federal prosecutors were urged under the memorandum to review cannabis cases on a case-by-case basis and consider whether a cannabis operation was in compliance with a strong and effective state regulatory system prior to prosecution. The memorandum was followed by Congress's passage of the Rohrabacher-Farr amendment, which prohibits the United States Department of Justice from interceding in state efforts to implement medicinal cannabis.

After several prior attempts to improve the state's regulation of cannabis, the Legislature passed a package of bills collectively referred to as the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state's cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments could establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), in 2016. The passage of the AUMA legalized cannabis for non-medicinal use by adults in a private residence or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of cannabis concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)—created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new Department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities' cannabis programs. As of July 1, 2021, the DCC has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the organizational consolidation and make other changes to cannabis regulation.

Cannabis Taxation under Proposition 64. The AUMA, and subsequently MAUCRSA, imposed a 15 percent excise tax on sales of cannabis and imposed a tax on cannabis cultivation at a rate of $9.25 per dry-weight ounce of cannabis flowers and $2.75 per dry-weight ounce of cannabis leaves that are harvested and brought to market. These taxes are distinct from state sales and use taxes, which apply to recreational cannabis, as well as any taxes imposed by local governments. One of the principal arguments made by the proponents of Proposition 64 was that legalizing cannabis would result in significant tax revenue for use by state and local governments.

Excise tax and cultivation tax revenues are deposited into a special fund referred to as the California Cannabis Tax Fund and are then allocated for a variety of purposes in order of priority. First, expenditures incurred by state agencies responsible for implementing cannabis laws are to be paid for through the Tax Fund. This includes reasonable costs incurred by the CDTFA for administering and collecting the taxes, not to exceed 4 percent of revenue; reasonable costs incurred by the DCC for licensing and enforcement programs; reasonable costs incurred by the CDFW, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their environmental protection duties under the state's cannabis laws; and other state agencies. Allocations to reimburse these state entities shall only be made to the extent the entities are not otherwise reimbursed for their costs.

After reimbursement, Tax Fund revenue is next allocated to fund a series of specific programs designated under Proposition 64. These programs are provided with precise amounts of funding totaling $25 million, appropriated annually until the 2028-29 fiscal year. This includes $10 million to a public university to research and evaluate the implementation and effect of legal cannabis and make recommendations to the Legislature and Governor regarding possible changes to the law; $3 million to the CHP to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired; $10 million to GO-Biz, which subsequently increases by an additional $10 million each fiscal year until reaching a total disbursement of $50 million annually beginning in the 2022-23 fiscal year, to administer a community reinvestments grants program; and $2 million to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

After each of the above allocations have been made, totaling $25 million, any remaining revenue in the Tax Fund is divided into sub-trust accounts as follows:

1) 60 percent of the remaining revenue is deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the DHCS for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use.

2) 20 percent of the remaining revenue is deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

    a. To the CDFW and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of Proposition 64, and to support local partnerships for this purpose. The CDFW and the Department of Parks and Recreation may distribute a portion of the funds they receive through grants.

b. To the CDFW and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

c. To the CDFW to assist in funding the watershed enforcement program and multiagency taskforce to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

3) 20 percent of the remaining revenue is deposited in the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

a. To the CHP for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis.

b. To the CHP to fund internal programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

c. To the BSCC for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Proposition 64; the BSCC is prohibited from making grants to local governments which have banned the cultivation or retail sale of cannabis.

d. The Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated to CHP for training programs shall not be less than $10 million annually and the amount allocated to the CHP for grants shall not be less than $40 million.

Initial Efforts to Reform State Cannabis Taxation. In its original analysis of Proposition 64, the Legislative Analyst's Office (LAO) stated that the initiative's fiscal effects were "subject to significant uncertainty." However, the LAO suggested in the Proposition 64 voter guide that over time, the legal sale of legalized cannabis could result in state and local tax revenues the LAO said "could eventually range from the high hundreds of millions of dollars to over $1 billion annually." However, early tax revenues collected following the implementation of the AUMA signaled that Proposition 64's promise of substantial tax revenue was not to be immediately fulfilled. The Governor's Budget Summary for the 2018-19 fiscal year stated that "cannabis excise taxes are expected to generate $175 million in 2017-18 and $643 million in 2018-19." The January 10, 2019 release of the Governor's Proposed Budget predicted that approximately $355 million in excise tax revenue would be collected by the end of the fiscal year–nearly half of what was originally anticipated.

This situation was not unique to California. For example, Massachusetts officials projected $63 million in tax revenue for the first year of that state's cannabis legalization, but as of March 1, the state had collected only $5.9 million. Advocates for California's legal cannabis industry attributed the lackluster tax revenues on larger struggles for licensed operators to thrive under the requirements of MAUCRSA. Many specifically pointed out that the rate of taxation itself was part of the problem, as products sold on the illicit market were able to be priced much lower than products in the legal market.

Given that fewer businesses initially entered the newly licensed cannabis industry than anticipated and many jurisdictions still banned cannabis locally, the illicit market posed a significant challenge to the success of MAUCRSA. Multiple bills were subsequently introduced to lower the state's excise tax and suspend the cultivation tax, including bills championed by the original authors of MCRSA. Supporters of these bills argued that because the high tax rate on cannabis businesses is a leading cause for this slow industry growth, a tax levy would ultimately lead to a larger scale of taxable activity and thus greater revenue.

Supporters of tax reform pointed to how when the State of Washington first legalized cannabis, it initially had higher tax rates; when that state lowered their rate and simplified their system, the state eventually began generating greater revenue. New Frontier Data provided estimates for an earlier iteration of this bill that "a 4 percent reduction in the state excise tax would expect to see an increase in legal participation by 119,000 consumers, generating an estimated additional $278 million in retail revenue." However, it was pointed out that the State of Washington was not a perfect allegory for California—originally, Initiative 502 in that state levied a 25 percent tax on cannabis at three separate points in the supply chain: a 25 percent tax on producer sales to processors, another 25 percent tax on processor sales to retailers, and a third 25 percent tax on retailer sales to customers. The change made in Washington was to replace this three-tiered system of taxation with a single 37 percent tax on final sales of cannabis. Not only was this a much more significant reform to the state's legal scheme for cannabis, but both the resulting excise tax rate of 37 percent remained much higher than California's 15 percent rate.

It was also noted that state-level taxes on the cultivation and sale of cannabis in California represent only a portion of the overall effective tax rate for any given cannabis operation. Under Proposition 64 and MAUCRSA, local governments are permitted to levy their own taxes on a cannabis business, and many jurisdictions have imposed additional taxes that greatly exceed the assessments adjusted by this bill. For example, the County of Monterey imposed its own cultivation tax of $15 per square foot. The City of Berkeley cut its local excise tax on cannabis sales from 10 percent to 5 percent. In 2017, the City of Campbell approved a measure to impose an initial tax of 7 percent on cannabis businesses that could be raised through local ordinance to a tax rate as high as 15 percent.

Between 2018 and 2022, multiple pieces of legislation attempted to reform the state's taxation of cannabis, but none were successful, with the majority of bills failing to pass either the Assembly Committee on Revenue and Taxation or the Assembly Committee on Appropriations. Concerns were raised about the potential short-term impact on cannabis tax revenue that would be caused by a tax cut; the State of California had transferred $135 million in General Fund loans to the Cannabis Control Fund, which needed to be paid back. Additionally, the 2019 Governor's proposed budget summary stated that "the Administration is deferring allocations for Proposition 64 programs until the May Revision, when more updated revenue data will be available."

In December 2019, the LAO released a report to the Legislature titled: *How High? Adjusting California's Cannabis Taxes.* This report, required as part of Proposition 64, was aimed at making recommendations for adjustments to the state's cannabis tax rate to achieve three goals: (1) undercutting illicit market prices, (2) ensuring sufficient revenues are generated to fund the types of programs designated by the measure, and (3) discouraging youth use. The report went over several different types of taxation, ultimately recommending that the state adopt a potency-based tax or tiered ad valorem cannabis tax. The LAO acknowledged that the Legislature was unlikely to enact the scale of reform recommended in the report, and stated: "If the Legislature decides not to adopt a potency-based or tiered ad valorem cannabis tax, we nevertheless recommend that the Legislature eliminate the cultivation tax. In this case, we recommend that the Legislature set the retail excise tax rate somewhere in the range of 15 percent to 20 percent depending on its policy preferences."

Enacted Cannabis Tax Reforms. On January 10, 2022, Governor Gavin Newsom announced his proposed 2022-23 Budget. The budget summary provided an update on cannabis tax allocations and the continued funding of programs under the DCC. The Budget summary then stated that "further, the Administration supports cannabis tax reform and plans to work with the Legislature to make modifications to California's cannabis tax policy to help stabilize the market; better support California's small licensed operators; and strengthen compliance with state law." This announcement was made as several legislators had introduced their own bills to reform the state's cannabis tax laws.

While there appeared to be early consensus around the need to suspend (or zero out) the state's cultivation tax, there was significant disagreement among stakeholders regarding what reforms should be enacted to the imposition of the state's excise tax. One frequently cited issue was that MAUCRSA required taxes to be collected at the point of distribution, not sale, requiring the tax to be imposed against the "average market price of any retail sale." The CDTFA was then required to "mark up" the average price of cannabis at retail, resulting in uncertainty and volatility in the effective impact of taxation. There were numerous discussions about whether to shift tax collection to the point of sale, with some representatives of labor opposing that change.

Another point of contention was about the impact that a reduction of state cannabis taxes would have on programs funded through revenues from those taxes. Advocates for programs focused on child care and for youth prevention, as well as advocates for environmental clean-up programs, formally opposed proposals to reduce the taxes that funded those programs. Other stakeholders weighed in with strong legal opinions that changes to cannabis taxes specified in the AUMA would violate Proposition 64, which gave the Legislature only limited authority to amend provisions of the initiative relating to taxation that would result in a reduction of Tax Fund allocations.

Over the next several months, the Governor's office convened several meetings with numerous stakeholders. Language was then drafted as part of the budget process to effectuate the agreement reached between the Administration and the Legislature. The resulting trailer bill, enacted as part of the Budget Act of 2022, ultimately made a series of changes to the imposition and collection of cannabis taxes. Specifically, Assembly Bill 195 (Committee on Budget) suspended the state's cultivation tax, effective July 1, 2022. The trailer bill maintained the 15 percent cannabis excise tax, as required by Proposition 64, until June 30, 2025; however, the trailer bill moved collection of that tax from the distributor to the point-of-sale, thus eliminating the need for CDTFA to assess an estimated "mark up" for purposes of excise tax collection.

The trailer bill required the CDTFA to adjust the excise tax every two years by a rate that would generate an amount of revenue equivalent to what would have been collected from the cultivation tax. Finally, the trailer bill also set a baseline of new cannabis tax revenue for Allocation 3 entities (those entities that use cannabis revenues to operate youth programs related to substance use education, prevention, and treatment, environmental programs, and law enforcement) at $670 million in 2022-23, 2023-24, and 2024-25, which may be satisfied with tax revenues, or General Fund backfill if needed. The Budget Act of 2022 set aside $150 million General Fund to backfill any lost revenue.

Condition and Health of the Industry. In addition to effectuating statutory changes to streamline and simplify the state's cannabis tax structure, the 2022-23 Budget Act required the DCC, in consultation with the CDTFA and the Department of Finance, to submit a report to the Legislature on the condition and health of the cannabis industry in the state. The language specifically required the report to include information on the health of the Tax Fund and any future projections of Tax Fund revenues. The DCC was further required to report on the impacts of the suspension of the cultivation tax, including whether that suspension resulted in a decrease in retail cannabis prices or increased participation in the legal cannabis market.

The DCC formally submitted its report to the Legislature on March 3, 2025. The full report included a lengthy analysis and executive summary prepared by ERA Economics, a firm that provides economic consulting services, as part of its report titled *California Cannabis Market Outlook*. This analysis was accompanied by a supplemental report prepared by the DCC to meet the specific requirements of statute. Both reports were presented and discussed in a joint informational hearing held by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development on March 11, 2025.

According to the DCC's report, cannabis tax revenue historically began to rise as businesses became licensed under MAUCRSA in 2018 and continued throughout 2019. During the pandemic, cannabis tax revenues saw a temporary surge, peaking at over $800 million in Fiscal Year 2021-22. This tax revenue surge has since subsided, and tax revenues have decreased closer to pre-pandemic levels due to a variety of factors, including lower retail sales prices. Currently, the Governor's Budget projects that cannabis tax revenues will be $762 million in Fiscal Year 2025-26, approximately six percent lower than the peak revenues seen in Fiscal Year 2021-22. This figure includes the Vendor Compensation Program for equity retailers and reflects the assumption that the cannabis excise tax rate will increase to 19 percent as of July 1, 2025.

The longer report from ERA Economics discussed the impact of the recently enacted reforms of the taxation scheme for cannabis, including a finding that suspending the cultivation tax helped to lower costs for licensed businesses. The economist report explained that "economic analysis finds that market intermediaries and consumers are likely the main beneficiaries from eliminating the cultivation tax." While the economist report did not opine on whether the Legislature should prevent the anticipated increase to the excise tax rate from occurring, it did generally recommend efforts to lower the total effective tax rate on cannabis sales, including potential reforms at the local level.

Future Action on Cannabis Tax Scheme. In anticipation of a potential increase in the cannabis excise tax rate effective July 1, 2025, cannabis stakeholders have collectively voiced concerns that this adjustment could exacerbate existing challenges faced by legal operators who already struggle to compete with the illicit market while complying with myriad regulatory requirements.

This bill would propose to freeze the tax rate at 15 percent by repealing the language requiring the CDTFA to increase the rate up to 19 percent to compensate for the revenue that would have been collected through the cannabis cultivation tax, which remains suspended. However, because there is currently no agreement to appropriate funding to backfill that revenue from another source, this would mean a reduction in funding allocations from the Cannabis Tax Fund to youth programs, environmental programs, and law enforcement. These programs are arguably already suffering financial imperilment due to the draconian cuts to grant programs currently being implemented federally by the Trump Administration. While the Legislature contemplates the appropriate course of policy for cannabis taxation through the language proposed in this bill, a broader conversation is also likely to occur through the budget process.

Current Related Legislation. AB 8 (Aguiar-Curry) would, among various other provisions, revert any increases to the 15 percent cannabis excise tax rate beginning January 1, 2028, at which time cannabis products derived from industrial hemp would also be subjected to that excise tax. *This bill is pending in this committee.*

AB 1397 (Flora) would impose a low-dose hemp drink excise tax at 10 percent of the gross receipts of any retail sale of low-dose hemp drinks. *This bill is pending in this committee.*

Prior Related Legislation. AB 3248 (Essayli) of 2024 would have reduced the cannabis excise tax from 15 percent to 5 percent. *This bill died in this committee without a hearing.*

AB 195 (Committee on Budget), Chapter 56, Statutes of 2022 suspended the cannabis cultivation tax, shifted collection of the cannabis excise tax from the distributor to point-of-sale, and required the CDTFA to increase the cannabis excise tax up to 19 percent to compensate for revenue lost from suspension of the cultivation tax.

AB 2506 (Quirk/Lackey) of 2022 would have eliminated the cannabis cultivation tax and increased the excise tax by an amount necessary to compensate for any loss of revenue. *This bill died in this committee without a hearing.*

AB 2792 (Rubio/Garcia) of 2022 would have reduced the rate of the cannabis excise tax to 8 percent and made additional reforms. *This bill died in this committee without a hearing.*

AB 1948 (Bonta) of 2020 would have reduced the cannabis excise tax to 11 percent and suspended the cannabis cultivation tax. *This bill died in the Assembly Committee on Revenue and Taxation.*

AB 286 (Bonta) of 2019 would have reduced the cannabis excise tax to 11 percent and suspended the cannabis cultivation tax. *This bill was held on suspense in the Assembly Committee on Appropriations.*

AB 3157 (Lackey) of 2018 would have reduced the cannabis excise tax to 11 percent and suspended the cannabis cultivation tax. *This bill was held on suspense in the Assembly Committee on Appropriations.*

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 combined AUMA and MCRSA into a unified system for the regulation of cannabis, MAUCRSA.

ARGUMENTS IN SUPPORT:

The *California Cannabis Operators Association* (CaCOA), a co-sponsor of this bill, writes in support: "The planned excise tax increase will only worsen these outcomes, accelerating the downward spiral and deepening the industry's crisis. As the financial strain mounts, the collapse of California's once-thriving cannabis sector is taking a devastating human toll." CaCOA further argues that "raising taxes on legal products will drive more consumers away from the regulated market and toward illegal shops, websites, and delivery services where products are sold at a fraction of the price and remain untested, unsafe, and untaxed." CaCOA concludes that "AB 564 sends a clear message that California is committed to supporting a legal cannabis framework that works for legal businesses, consumers, and the state's economy."

The *United Food and Commercial Workers Western States Council* (UFCW), also a co-sponsor of this bill, writes in support: "When it comes to a vigorous legal cannabis market offering quality jobs, opportunities for entrepreneurs, and safe products, California is falling behind. Last year Michigan out-performed California's sales. If California's market was comparable to Michigan's, our cannabis industry would be generating $13 billion in annual sales instead of merely $4.6 billion." UFCW further writes: "Against this backdrop, it makes sense to press a pause button on the looming tax increase so that, in part, California can hopefully move more dramatically to curb the spreading unlawful market and protect over 5,000 union jobs that support our members and communities."

ARGUMENTS IN OPPOSITION:

A coalition of 98 organizations including *Youth Forward*, *Getting it Right from the Start*, *Child Action, Inc.*, and other nonprofit groups write collectively in opposition to this bill: "If the promise made in AB 195 is not kept, we risk losing at least $150 million per year for childcare, youth, and environmental programs. This translates into thousands fewer childcare slots for low-income children, fewer youth benefitting from substance abuse prevention programs, continuing environmental degradation of our watersheds, and other harms." The coalition further argues that "unless it results in revenue neutrality, the elimination of the Cannabis Cultivation Tax is legally vulnerable because: (1) It alters the allocation of funding to Tier 3 programs by eliminating one of the two key revenue streams that fund the Tier 3 allocations; and (2) It would be inconsistent with the voter's intent expressly stated in Proposition 64's text to provide significant funding to Tier 3 programs. We urge you to not support gutting funding for childcare, youth, and environmental programs for the sake of increasing profits for the cannabis industry."

Indigenous Justice, a nonprofit providing services to Tribal communities, writes in opposition to this bill: "Furthermore, the State of California has made commitments to repair the harms caused to Indigenous Communities, as outlined in the 2019 Executive Order N-15-19. Repealing the excise tax increase would undermine these commitments and strip critical funding from Tribal-focused grants that support cultural revitalization, land restoration, youth substance use prevention, sacred site access, and Tribal youth leadership development." Indigenous Justice further writes: "The cannabis industry must be held accountable for its role in exacerbating public health crises and environmental destruction in Tribal territories. Maintaining the excise tax rate increase is a necessary step toward equitable reparations and the protection of our future generations."

POLICY ISSUE(S) FOR CONSIDERATION:

Uncertain Legality. As efforts have persisted to reform the cannabis tax structure, questions have been raised as to what types of reforms would be deemed legally permissible. Language in Proposition 64 expressly prohibits the Legislature from changing how money in the Cannabis Tax Fund is allocated prior to July 1, 2028. Beginning on that date, the Legislature will be authorized to change those allocations by majority vote to further the purposes of Proposition 64. However, Proposition 64 prohibits any changes to the allocations from resulting in a reduction of funds to GO-Biz or the sub-accounts from the amount allocated to each account in the 2027-28 fiscal year. These provisions of Proposition 64 have been interpreted by some stakeholders as legally prohibiting any reduction of the excise tax that would result in a reduction of tax revenue for purposes of the programs funded through that revenue under MAUCRSA.

REGISTERED SUPPORT:

California Cannabis Industry Association *(Co-Sponsor)*
California Cannabis Operators Association *(Co-Sponsor)*
California NORML *(Co-Sponsor)*
Origins Council *(Co-Sponsor)*
UFCW – Western States Council *(Co-Sponsor)*
United Cannabis Business Association *(Co-Sponsor)*
Americans for Safe Access
Big Sur Farmers Association
California Minority Alliance
City of Nevada City
City of Placerville
Coachella Valley Cannabis Alliance Network
County of Humboldt
Embarc
Emerald Sky
Good Farmers Great Neighbors
Hessel Farmers Grange
Humboldt County Growers Alliance
Kiva Confections
Long Beach Collective Association
Mendocino Cannabis Alliance
Monarch Technologies
Nevada County Cannabis Alliance
NorCal Phoenix
Pacific Stone
PAX Labs
Proof Operations
San Francisco Cannabis Alliance
San Francisco Cannabis Retailers Alliance
Social Equity Los Angeles
Sonoma County Cannabis Alliance
SPARC
Stiiizy
Strong Agronomy Management

Three Trees
Trinity County Agriculture Alliance

REGISTERED OPPOSITION:

4th Second
Alliance for Boys and Men of Color
Arts for Healing and Justice Network
Asian Refugees United
Back to the Start
Big Valley Band of Pomo Indians
Breakthrough Sacramento
CactusToCloud Institute
Cal Alliance of Child and Family Services
CalPride
Calexico Wellness Center
California Alliance for Youth and Community Justice
California Health Collaborative
California Native Plant Society
California School-Based Health Alliance
California State Parks Foundation
California Trout
The Cambodian Family
Center for Empowering Refugees and Immigrants
Centro del Pueblo Indigena Migrante
Child Action, Inc.
City Ministry Network
Club Stride Inc.
Coastal Defenders
Communities United for Restorative Youth Justice
Connected to Lead
Core 6
CROP Project
East Bay Asian Youth Center
El Sol Neighborhood Educational Center
Endangered Habitats League
EPIC (Environmental Protection Information Center)
ExpandLA
Freedom 4 Youth
Fresh Lifelines for Youth
Friends of Harbors, Beaches and Parks
Friends of the Eel River
Friends of the Inyo
Future Leaders of America
Gateway Mountain Center
Getting It Right from the Start
Girls Club of Los Angeles
Grace Institute – End Child Poverty in CA
Healthy Vallejo Community Support Services, Inc.

Helpline Youth Counseling
Hermosa Coalition for Drug-Free Kids
Hills for Everyone
Hmong Innovating Politics
Indigenous Justice
Institute for Public Strategies
Klamath Forest Alliance
Kno'Qoti Native Wellness Inc.
Latino Coalition for a Healthy California
Latino Health Access
Legacy LA
Lily of the Valley Emmanuel Church of Jesus Christ
Los Angeles Neighborhood Land Trust
The Los Angeles Trust for Children's Health
Marin Residents for Public Health Cannabis Policies
Merced Lao Family Community Inc.
Mental Health California
Mid-City CAN
Mojave Desert Land Trust
Movimiento Indigena Migrante
National Council on Alcoholism and Drug Dependence of East San Gabriel and Pomona Valleys
Native Dads Network
Native Sisters Circle
Pacific Forest Trust
Parent Voices California
Planning and Conservation League
Prevention Institute
PRO Youth and Families
Project Optimism, Inc.
Raizes Collective
Resilience Orange County
Resources Legacy Fund
River Partners
RYSE Youth Center
Sacramento Area Congregations Together
Sacramento LGBT Community Center
Sacramento Youth Center
Safe Passages
Safe Place for Youth
Santa Cruz County Showing Up for Racial Justice
SAY San Diego
Somos Mayfair
Sonoma Land Trust
The Source LGBT+Center
Tarzana Treatment Center Inc.
Tahoe Youth and Family Services
Trout Unlimited
True North Organizing Network
Underground GRIT

Urban Peace Movement
Watershed Research & Training Center
Waymakers
The Wall Las Memorias
Youth Alliance
Youth Forward
Youth Leadership Institute
Youth Transforming Justice
Youth Will

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 759 (Valencia) – As Amended April 10, 2025

SUBJECT: Architects: architects-in-training.

SUMMARY: Authorizes individuals pursuing an architect license to use the title "architect-in-training" if they meet specified criteria and pay a fee to be determined by the California Architects Board (CAB or board).

EXISTING LAW:

1) Establishes the Architects Practice Act (Act) to regulate the practice of architecture in California. (Business and Professions Code (BPC) §§ 5501 *et seq.)*

2) Establishes, until January 1, 2029, the CAB within the Department of Consumer Affairs (DCA) to administer and enforce the Architects Practice Act. (BPC § 5510)

3) Defines "architect" as a person who is licensed to practice architecture in this state under the authority of the Act. (BPC § 5500)

4) Defines the practice of architecture as offering or performing, or being in responsible control of, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures. Architect's professional services may include any or all of the following: investigation, evaluation, consultation, and advice; planning, schematic and preliminary studies, designs, working drawings, and specifications; coordination of the work of technical and special consultants; compliance with generally applicable codes and regulations, and assistance in the governmental review process; technical assistance in the preparation of bid documents and agreements between clients and contractors; contract administration; and construction observation. (BPC § 5501)

5) Makes it a misdemeanor, punishable by a fine of not less than $100 nor more than $5,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, or to advertise or put out any sign, card, or other device that might indicate to the public that the person is an architect, is qualified to engage in the practice of architecture, or is an architectural designer. (BPC § 5536)

6) Requires a person to file their application for examination with the Board and pay the application fee, as specified, before taking the licensing examination. (BPC § 5550)

7) Requires an applicant for a license to practice architecture to not have committed acts or crimes constituting grounds for denial of a license, as specified, and provide evidence of having completed eight years of training and educational experience in architectural work. A five-year degree from a school of architecture approved by the CAB is equivalent to five years of training and educational experience in architectural work. (BPC § 5552)

THIS BILL:

8) Specifies that a person may apply to the CAB and obtain authorization to use the title "architect-in-training" once they have been identified as a candidate for licensure by the CAB and have successfully passed at least one division of the Architect Registration Examination (ARE), as developed by the National Council of Architectural Registration Boards.

9) Prohibits any abbreviation or derivative of the title "architect-in-training," other than "AIT," from being used.

10) Prohibits a person from using the title "architect-in-training" to independently offer or provide architectural services to the public.

11) Specifies that notwithstanding any other law, the CAB may disclose a person's authorization to use the title "architect-in-training" to a member of the public upon request.

12) Asserts that unlawful use of the title "architect-in-training" may constitute unprofessional conduct and subject the user of the title to administrative action, including, but not limited to, citation, discipline, and denial of a license.

13) Authorizes the CAB to charge a fee, not to exceed the reasonable cost to the CAB, to evaluate whether a candidate meets the requirements to use the title "architect-in-training."

14) Limits how long a person may use the title "architect-in-training" to four years after approval by the board.

15) Includes a January 1, 2036, sunset date and prohibits a person from applying to the CAB to obtain authorization to use the title "architect-in-training" on or after January 1, 2032.

16) Delays the bill's implementation to January 1, 2027.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *American Institute of Architects, California (AIA-CA)*. According to the author:

> Architectural candidates face significant challenges due to the extended timeline required to obtain a license. On average, it takes 13.3 years to complete this process, leading many aspiring architects to abandon their training and studies after just 5 years, roughly halfway through the requirements. This issue is further compounded by disparities in licensure timelines. Demographic data shows that white candidates tend to earn their licenses in less time and are more likely to be licensed within 10 years compared to Black candidates. [This bill] seeks to address these barriers and promote diversity in the architectural profession by encouraging future architects to remain on the path towards licensure by allowing candidates to use the title "Architect-in-Training." This bill provides recognition and motivation to help them persevere and achieve their professionals goals.

Background.

California Architects Board. The CAB is responsible for administering and enforcing the Architects Practice Act, which includes the licensure of architects. There are more than 21,000 licensed architects in California and approximately 10,000 candidates pursuing licensure in this state.[1]

Licensure requirements. License applicants, referred to by the CAB as candidates, must be at least 18 years of age or the equivalent of a high school graduate, pass a criminal background check, and pay various licensing fees.[2] In addition, candidates must demonstrate that they are competent to perform the services of an architect by fulfilling minimum education, experience, and examination requirements. While there are four pathways to licensure, each requires eight years of education and/or experience and completion of the National Council of Architectural Registration Boards' (NCARB) Architectural Experience Program (AXP), which demands 3,740 hours of supervised professional experience or the development of a work portfolio (for experienced design professionals).[3] Candidates must complete at least five years of education and/or architectural work experience to be eligible to begin taking the Architect Registration Examination (ARE) administered by NCARB.[4] The ARE comprises six standalone exams (divisions) that may be taken in any order. In addition, candidates must pass the California Supplemental Examination, developed by the CAB and DCA's Office of Professional Examination Services. This bill would allow a person to apply for authorization to use the "architect-in-training" title for up to four years once they have successfully passed at least one division of ARE.

Attrition. According to the NCARB, 36% of candidates stop pursuing licensure, a process that takes 13.3 years, on average, in the United States.[5] While attrition rates are comparable for men and women, there are significant racial and ethnic disparities nationally. White candidates are twice as likely to be licensed after 10 years compared to Black candidates. Among people of color, Black or African American candidates were the most likely to actively pursue licensure after 10 years, followed by Hispanic, Latino, or Spanish candidates, Asian candidates, and candidates that identify with "Another Group." Attrition rates also vary considerably by age, with older candidates having higher rates of attrition than younger candidates. The NCARB has further identified that completing the AXP "is the most common pinch point" for candidates, with Asian candidates being the most likely to stop pursuing licensure while earning professional experience hours. [6]

Future Title Task Force. In 2014, the NCARB convened a Future Title Task Force to consider possible titles for individuals on the path to licensure. The Task Force was established following concerns about the credibility of the pre-licensure title "intern." At that time, 28 jurisdictions had laws or rules that addressed intern titles. The Task Force recommended restricting the role of regulation to the title "architect," which should only apply to licensed individuals. The Task

---

[1] California Architects Board, *2022 - 2024 Strategic Plan*, at 6.
[2] California Architects Board, *Becoming a Licensed Architect*, https://www.cab.ca.gov/cand/become_arch/index.shtml.
[3] National Council of Architectural Registration Boards, *Architectural Experience Program Guidelines,* at 6.
[4] 16 CCR § 116.
[5] National Council of Architectural Registration Boards, *State of Licensure, https://www.ncarb.org/nbtn2024/state-of-licensure.*
[6] Ibid.

Force further recommended that no title held by individuals pursuing licensure needs to be regulated. According to NCARB President Dale McKinney, the Task Force "recommended that NCARB discontinue the use of the word intern, intern-architect, or any other regulatory "title" describing those pursuing licensure."[7] In justifying these recommendations, McKinney stated:

> The rationale behind these simple but far-reaching recommendations is based on the role of the licensing board community. Their responsibility is to assure that the public is not misled by titles and that a title assures the person is qualified to protect the public's health, safety, and welfare. Further, the Task Force asserted that as long as a person is not wrongly using a title to pursue or support clients, the licensure process does not need to address anything beyond the use of the title "architect."[8]

Title protection. "Architect" is a protected title reserved for architects licensed by the board. Anyone who uses the word architect, architectural, or architecture, or any abbreviations or confusingly similar variations in their title without being an architect licensed by the board is guilty of a misdemeanor. As such, no person may refer to themselves as an "architect-in-training", including those actively pursuing licensure. This bill would authorize a qualifying individual to use the title "architect-in-training" upon application and payment of a fee to the board. The proponents of this bill argue that the ability to use the "architect-in-training" title will reduce attrition, which is worse among minority candidates.

Prior legislative consideration. In 2016, AIA-CA sponsored SB 1132 (Galgiani), the final version of which was substantially similar to this bill. That bill was vetoed. In his veto message, Governor Jerry Brown stated: "In May 2015, this very same Board discouraged the use of any title that implied a person was an architect, stating 'architects are those who have met all the requirements to become licensed. Everyone else is not an architect.' I agree with this assessment."

Most recently, the Legislature considered this proposal as part of the CAB's 2024 sunset review. Committee staff recommended that the CAB describe the pros and cons of the proposal, and advise the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee on efforts to reduce barriers to entering the profession. At that time, the Board provided the following response:

> While the Board is not the source of this proposal, it does understand the sponsor's intent and believes there could be some benefit to candidates who are working their way through the licensure process. Creating an intern title protection will provide those seeking licensure the ability to identify themselves as aspiring licensees and allow jobs to more accurately recruit for the position. The Board does note that the proposal does not necessarily demonstrate a particular competency, as its use is not tied to completion of the experience requirement. This proposal will cause some additional workload for the Board (enforcement, applications, monitoring), which will necessitate a fee to monitor and regulate the protected title, but the Board believes it can manage the additional workload. Reducing barriers to the profession is a national focus for our profession. California has more alternative pathways for entry into the profession than most other

---

[7] National Council of Architectural Registration Boards, *Statement Regarding Future Use of Intern and Architect Titles.*
[8] Ibid.

> states. The Board recently revised its exam validity policy, so that candidates' exam scores are valid for a longer period of time, giving them more opportunity to complete the testing process. The national association, which administers the licensing exam, recently made available free practice tests for all divisions of the exam. For candidates who use those practice exams, there has been at least a 10% increase in the passing rate.

The proposal was ultimately left out of SB 1452 (Ashby), Chapter 482, Statutes of 2024, the CAB's sunset review bill.

Prior Related Legislation.

SB 1452 (Ashby), Chapter 482, Statutes of 2024, extended the sunset date for the CAB and the Landscape Architects Technical Committee (LATC) to January 1, 2029, and enacted technical changes, statutory improvements, and policy reforms in response to issues raised during the CAB's and the LATC's sunset review.

SB 1132 (Galgiani) of 2016 was substantially similar to this bill. *AB 1132 was vetoed.*

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *American Institute of Architects – California* writes in support:

> The process of becoming licensed architect in California is lengthy and rigorous, requiring at least five years of education, three years of supervised experience, completion of the Architectural Experience Program (ACP), and passing the Architect Registration Examinations (ARE) (6 individual exams) along with the California Supplemental Exam. This process results in an average time to licensure of just over 13 years according to the National Council of Architectural Registration Boards (NCARD). Despite these significant milestones, individuals on this path are currently prohibited from using any variation of the title "architect." Instead, they must adopt generic job titles such as "designer" or "intern," which fail to appropriately recognize their specialized expertise and commitment to the profession.
>
> [This bill] proposes a much-needed change by allowing those who have passed the first division of the ARE to us the title, "Architect-in-Training" (AIT). This aligns with existing title structures in professions such as engineering, land surveying, and geology, where "in-training" designations are widely recognized and help individuals progress toward full licensure. Furthermore, at least 28 other states already provide title options including the term "architect" for architectural licensure candidates, making California an outlier.

POLICY ISSUE(S) FOR CONSIDERATION:

Purpose. The author and sponsor contend that permission to use the "architect-in-training" title may entice those pursuing licensure to complete the arduous task. However, this bill does not identify or address the root cause(s) of attrition (e.g., difficulty of the licensing exam, duration of professional experience required).

Consumer protection. In 2014, the NCARB stopped using regulatory titles describing those pursuing licensure due to concerns that such titles may confer a false level of expertise or legal

status. Although this bill expressly prohibits anyone from using the title "architect-in-training" to independently offer or provide architectural services to the public and authorizes the CAB to take enforcement action for a violation, there is the potential for consumer harm as any enforcement action by the board would be reactive. Additionally, nothing in the bill provides for verification that an individual using the "architect-in-training" title is continuing to pursue licensure. As such, there is the potential for abuse of the title for up to four years.

Bifurcation of individuals pursuing licensure. Because the use of the "architect-in-training" title would be voluntary, the population of individuals pursuing licensure would be bifurcated into those who have elected to use the "architect-in-training" title and paid the requisite fee and those who have not. It is unclear to what extent, if at all, this bifurcation would cause consumer confusion. Moreover, it is unclear to what extent, if any, those who pay to use the "architect-in-training" title would gain a competitive advantage over their peers. For example, would an "architect-in-training" be more likely to be hired? Would an "architect-in-training" be able to negotiate a higher salary? If it becomes clear that using the "architect-in-training" title has inherent benefits, this bill may have the unintended effect of establishing a quasi-mandatory licensing fee.

IMPLEMENTATION ISSUES:

Licensing exam. This bill currently refers to the national licensing exam by name, specifically, the "Architect Registration Examination, as developed by the National Council of Architectural Registration Boards." While that is the exam required by regulation, it is not statutorily mandated. If the Board were ever to require a different exam, or if the name of the exam or the name of the organization that administers the exam were to change, the statute would be out of date, necessitating subsequent legislation.

Time-limited use of "architect-in-training" title. Applicants may not take any division of the licensing exam until they have completed five years of educational or training experience. Effectively, that means most individuals pursuing licensure would not be eligible to use the "architect-in-training" title until they have been on the path to licensure for at least five years. Considering that it takes roughly 13 years on average, nationally, to achieve licensure, it is plausible that some individuals who elect to use the "architect-in-training" title may be time-barred from doing so while still pursuing licensure.

AMENDMENTS:

To address the implementation issues above, amend this bill as follows:

On page two, after line two:

> 5500.2. (a) A person may apply to the board and obtain authorization to use the title "architect-in-training" once they have been identified as a candidate for licensure by the board and have successfully passed at least one division of the ~~Architect Registration Examination (ARE), as developed by the National Council of Architectural Registration Boards.~~ *exam in Section 5550. A person may apply to the board and obtain authorization to use the title "architect-in-training" a second time if the person has passed a division of the exam in the four years preceding the person's application.*

REGISTERED SUPPORT:

American Council of Engineering Companies of California
American Institute of Architects, California (sponsor)

REGISTERED OPPOSITION:

There is no opposition on file.

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 876 (Flora) – As Introduced February 19, 2025

SUBJECT: Nurse anesthetists: scope of practice.

SUMMARY: Codifies a definition of an "order" for purposes of the provision of anesthesia by a certified registered nurse anesthetist (CRNA); expands CRNA scope of practice; expands the settings a CRNA may provide anesthesia to include an outpatient setting, as defined; authorizes CRNA students to provide anesthesia services, as specified; prohibits requiring a CRNA to be supervised by a physician, podiatrist, or dentist; and makes other changes to CRNA practice.

EXISTING STATE LAW:

1) Regulates the practice of medicine through the licensure of physician and surgeons under the Medical Practice Act and establishes, until January 1, 2028, the Medical Board of California (MBC) to administer and enforce the act. (Business and Professions Code (BPC) §§ 2000-2529.6)

2) Makes it a crime for any person who practices or attempts to practice, or who advertises or holds themselves out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended physician and surgeon or other authorizing license. (BPC § 2052(a))

3) Prohibits a physician and surgeon from performing procedures in an outpatient setting using anesthesia, except local anesthesia or peripheral nerve blocks, or both, complying with the community standard of practice, in doses that, when administered, have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes, unless the setting is a licensed or otherwise authorized outpatient setting, as specified; excludes outpatient settings where anxiolytics and analgesics are administered in compliance with the community standard of practice in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes. (BPC § 2216)

4) Regulates health facilities, home health agencies, clinics, and referral agencies through licensure under the California Department of Public Health (CDPH). (Health and Safety Code (HSC) §§ 1200-1796.70)

5) Defines "outpatient setting" as any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. (HSC § 1248(b)(1))

6) Defines a "health facility" as any location where the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for

one or more persons, to which the persons are admitted for a 24-hour stay or longer. (HSC § 1250)

7) Defines "general acute care hospital" as a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. (HSC § 1250(a))

8) Prohibits the operation of an outpatient setting unless the setting is one of the following:

   a) An ambulatory surgical center that is certified to participate in the Medicare program under the federal Social Security Act. (HSC § 1248.1(a); 42 U.S.C. §§ 1395-1395III)

   b) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined, and located on land recognized as tribal land by the federal government. (HSC § 1248.1(b))

   c) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies. (HSC § 1248.1(c))

   d) Any primary care clinic licensed as a community clinic or free clinic and any licensed surgical clinic. (HSC § 1248.1(d))

   e) Any health facility licensed as a general acute care hospital. (HSC § 1248.1(e))

   f) Any outpatient setting to the extent that it is used by a dentist or physician and surgeon in compliance with the Dental Practice Act requirements relating to moderate and deep sedation and general anesthesia. (HSC § 1248.1(f))

   g) An outpatient setting accredited by an accreditation agency approved by the MBC. (HSC § 1248.1(g))

   h) A setting, including, but not limited to, a mobile van, in which equipment is used to treat patients admitted to a ambulatory surgical center certified to participate in Medicare, a primary care clinic licensed as a community clinic or free clinic, a licensed surgical clinic, or a health facility licensed as a general acute care hospital and in which the procedures performed are staffed by the medical staff of, or other healthcare practitioners with clinical privileges at, the facility and are subject to the peer review process of the facility but which setting is not a part of the facility. (HSC § 1248.1(h))

9) Regulates the practice of nursing through the licensure of registered nurses (RNs) under the Nursing Practice Act. (Business and Professions Code (BPC) §§ 2700-2838.4)

10) Establishes, until January 1, 2027, the Board of Registered Nursing (BRN) within the Department of Consumer Affairs (DCA) to administer and enforce the Nursing Practice Act. (BPC § 2701)

11) Defines the RN scope of practice as functions, including basic healthcare, that help people cope with or treat difficulties in daily living that are associated with their actual or potential

health or illness problems, and that require a substantial amount of scientific knowledge or technical skill. (BPC § 2725)

12) Includes within the scope of RN practice all of the following:

    a) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures. (BPC § 2725(b)(1))

    b) Direct and indirect patient care services, including the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist. (BPC § 2725(b)(2))

    c) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries. (BPC § 2725(b)(3))

    d) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with "standardized procedures," or the initiation of emergency procedures. (BPC § 2725(b)(4))

13) Defines "standardized procedures" as either of the following:

    a) Policies and protocols developed by a licensed health facility through collaboration among administrators and health professionals including physicians and nurses. (BPC § 2725(c)(1))

    b) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system that is not a licensed health facility. (BPC § 2725(c)(2))

14) Specifies that no state agency other than the BRN may define or interpret the practice of nursing for RNs or develop standardized procedures or protocols unless authorized under the Nursing Practice Act or specifically required under state or federal statute. (BPC § 2725(e))

15) Specifies that an RN is considered to be competent when they consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

    a) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team. (California Code of Regulations (CCR), Title 16, § 1443.5(1))

    b) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures. (CCR, tit. 16, § 1443.5(2))

c) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs. (CCR, tit. 16, § 1443.5(3))

d) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates. (CCR, tit. 16 § 1443.5(4))

e) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed. (CCR, tit. 16 § 1443.5(5))

f) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided. (CCR, tit. 16 § 1443.5(6))

16) Defines an approved school of nursing, or an approved nursing program, as one that has been approved by the BRN, gives the course of instruction approved by the BRN, covering not fewer than two academic years, is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education. (BPC § 2786(a))

17) Defines “nurse anesthetist” (CRNA) as a licensed RN who has met standards for certification from the BRN, which must consider the standards of the National Board of Certification and Recertification for Nurse Anesthetists, or a successor national professional organization approved by the BRN. (BPC § 2826(a))

18) Requires the BRN to certify all CRNA applicants who can show certification by the National Board of Certification and Recertification for Nurse Anesthetists or a successor national professional organization approved by the BRN. (BPC § 2830.6)

19) Authorizes a CRNA to provide anesthesia services in (1) an acute care facility if approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist, or podiatrist, and (2) in a dental office, the dentist holds a general anesthesia permit. (BPC § 2827)

20) Regulates the practice of pharmacy through the licensure of pharmacists under the Pharmacy Law and establishes, until January 1, 2026, the California State Board of Pharmacy to administer and enforce the law. (BPC §§ 4000-4427.8)

21) Defines “administer” to mean the direct application of a drug or device to the body of a patient or research subject by injection, inhalation, ingestion, or other means. (BPC § 4016)

22) Specifies that an “order,” entered on the chart or medical record of a patient registered in a hospital or a patient under emergency treatment in the hospital, by or on the order of a practitioner authorized by law to prescribe drugs, is authorization for the administration of the drug from hospital floor or ward stocks furnished by the hospital pharmacy or under a wholesale license, and is considered to be a prescription if the medication is to be furnished directly to the patient by the hospital pharmacy or another pharmacy furnishing prescribed

drugs for hospital patients, provided that the chart or medical record of the patient contains all of the required prescription information and the order is signed by the practitioner authorized by law to prescribe drugs, if the practitioner is present when the drugs are given. If the practitioner is not present when the drugs are given, the order must be signed either by the attending physician responsible for the patient's care at the time the drugs are given to the patient or by the practitioner who ordered the drugs for the patient on the practitioner's next visit to the hospital. (BPC § 4019)

23) Regulates the practice of dentistry through the licensure of dentists and dental auxiliaries under the Dental Practice Act and establishes, until January 1, 2029, the Dental Board of California (DBC) to administer and enforce the act. (BPC §§ 1600-1976)

24) Defines "deep sedation" as a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (BPC § 1646(a))

25) Defines "general anesthesia" as a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. (BPC § 1646(b))

26) Requires a dentist, to administer or order the administration of deep sedation or general anesthesia on an outpatient basis for dental patients, to possess (1) a current license in good standing, a permit in oral and maxillofacial surgery, or a special teaching permit and (2) a DBC-issued general anesthesia permit. (BPC § 1646.1(a))

EXISTING FEDERAL LAW:

1) Regulates the manufacturing, importing, exporting, distributing, and dispensing of controlled substances under the Controlled Substances Act of 1970. (Title 21, U.S. Code (USC) §§ 800-971)

2) Establishes five schedules of drugs and other substances, known as schedules I, II, III, IV, and V, based on potential for abuse, medical utility, and dependence. (21 USC §§ 811-814)

3) Defines "controlled substance" as a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V. (21 USC § 802(6))

4) Defines "administer" as the direct application of a controlled substance to the body of a patient or research subject, whether the application is by injection, inhalation, ingestion, or any other means, by (1) a practitioner (or, in their presence, by their authorized agent), or (2) the patient or research subject at the direction and in the presence of the practitioner. (21 USC § 802(2))

5) Defines "agent" as an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, but not a common or contract carrier, public

warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business. (21 USC § 802(3))

6) Defines "dispense" as delivering a controlled substance to an ultimate user or research subject by, or under the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary to prepare the substance for the delivery; defines "dispenser" as a practitioner who so delivers a controlled substance to an ultimate user or research subject. (21 USC § 802(10))

7) Defines "prescription" as an order for medication which is dispensed to or for an ultimate user but as not including an order for medication which is dispensed for immediate administration to the ultimate user, "e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription." (Title 21, Code of Federal Regulations (CFR) § 1301.11)

8) Defines "practitioner" as a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. (21 USC § 802(21))

9) Requires every person who dispenses, or who proposes to dispense, any controlled substance, to register with the U.S. Drug Enforcement Administration (DEA). (21 USC § 822(a)(2); 28 CFR § 0.100; 21 CFR § 1301.11)

10) Authorizes controlled substance registrants to possess, manufacture, distribute, or dispense the substances or chemicals to the extent authorized by their registration type. (21 USC § 822(b); 21 CFR § 1301.13)

11) Defines "mid-level practitioner" as an individual practitioner, other than a physician, dentist, veterinarian, or podiatrist, who is licensed, registered, or otherwise permitted by the United States or the jurisdiction in which they practice, to dispense a controlled substance in the course of professional practice, including health care providers such as nurse practitioners, nurse midwives, CRNAs, clinical nurse specialists and physician assistants who are authorized to dispense controlled substances by the State in which they practice. (21 CFR § 1300.1)

12) Establishes exemptions to the DEA registration requirement for: (1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of their business or employment; (2) an individual practitioner who is an agent or employee of a non-mid-level practitioner registered to dispense controlled substances when acting in the normal course of business or employment; and (3) an individual practitioner who is an agent or employee of a registered hospital or other institution when acting in the normal course of business or employment. (21 USC § 822(c); 21 CFR § 1301.22)

THIS BILL:

1) Amends the definition of a "nurse anesthetist" to mean, instead of any person, a CRNA, nurse anesthesiologist, or anesthetist.

2) Defines “acute care facility” as a general acute care hospital, acute psychiatric hospital, or other setting that is licensed and accredited under the HSC.

3) Defines “outpatient setting” as an ambulatory surgery center, clinic, facility, office, or other setting that is licensed and accredited under the HSC.

4) Defines “dental office” means the office of a dentist holding a general anesthesia permit under the Dental Practice Act.

5) Defines “anesthesia services” for purposes of an acute care facility, outpatient setting, or dental office where a CRNA has been credentialed to provide anesthesia, to include preoperative, intraoperative, and postoperative care and pain management for patients receiving anesthesia requested by a physician, dentist, or podiatrist that are provided within the scope of practice of the CRNA.

6) Authorizes a CRNA to provide direct and indirect patient care services, including administration of medications and therapeutic agents necessary to implement a treatment, for disease prevention, or a rehabilitative regimen ordered by, and within the scope of practice of, a physician, dentist, podiatrist, or clinical psychologist.

7) Specifies that an order entered on the chart or medical record of a patient is authorization for the CRNA to select the modality of anesthesia for the patient and to abort or modify the modality of anesthesia for the patient during the course of care.

8) Clarifies that ordering and administering controlled substances and other drugs preoperatively, intraoperatively, and postoperatively is not constitute a prescription, as that term is defined in Section 1300.01 of Title 21 of the Code of Federal Regulations.

9) Specifies that, in an acute care facility, outpatient setting, or dental office where a CRNA has been credentialed to provide anesthesia, anesthesia services may also encompass services performed outside of the perioperative setting, including, but not limited to:

    a) Selecting and administering medication, therapeutic treatment, medication-assisted treatment, and adjuvants to psychotherapy.

    b) Providing emergency, critical care, and resuscitation services.

    c) Performing advanced airway management.

    d) Performing point-of-care testing.

    e) Ordering, evaluating, and interpreting diagnostic laboratory and radiological studies.

    f) Using and supervising the use of ultrasound, fluoroscopy, and other technologies for diagnosis and care delivery.

    g) Providing sedation and pain management for palliative care.

    h) In accordance with the policies of the facility or office, initiating orders to registered nurses and other appropriate staff, as required, to provide preoperative and postoperative care related to the anesthesia service.

i) Ordering consults, treatments, or services relating to the patient's care.

10) Specifies that, to provide anesthesia services in an acute care facility, outpatient setting, or dental office, a trainee, including a nurse anesthesiology resident, resident registered nurse anesthetist, or student registered nurse anesthetist, must satisfy both of the following requirements:

    i) Be enrolled in an accredited doctoral program of nurse anesthesia.

    ii) Practice under the supervision of a nurse anesthetist or physician anesthesiologist.

11) Specifies that a CRNA is an advanced practice RN who is authorized to perform independent anesthesia services and is not limited to the scope of practice of a registered nurse while performing anesthesia services.

12) Prohibits requiring a CRNA from doing any of the following:

    a) Performing the duties of a perioperative or circulator RN while engaged in the role of anesthesia provider in the perioperative setting.

    b) Performing nurse anesthesia services pursuant to standardized procedures.

    c) Performing anesthesia services under the supervision of the physician, podiatrist, or dentist who requested the anesthesia to be administered.

13) Specifies that a physician, podiatrist, dentist, or other health care provider may not assume supervision of a CRNA by virtue of being in the same location as the CRNA performing anesthesia services.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Association of Nurse Anesthesiology*. According to the author, "[This bill] removes barriers that limit Certified Registered Nurse Anesthetists (CRNAs) from providing comprehensive anesthesia care, ensuring patients have greater access to safe and timely services. By explicitly authorizing CRNAs to deliver preoperative, intraoperative, and postoperative anesthesia, as well as pain management, across acute care hospitals, outpatient facilities, dental offices, and other medical settings, the bill modernizes healthcare delivery while maintaining strong regulatory oversight. It also clarifies CRNAs' authority to practice independently within the scope of their nationally accredited education and AANA guidelines, affirming their ability to provide high-quality care without unnecessary delays. By addressing provider shortages and improving efficiency, [this bill] strengthens California's healthcare system and enhances patient outcomes."

Background. In healthcare, anesthesia services are procedures involving the use of drugs or other means to induce a loss of sensation to manage pain and other forms of discomfort and the care necessary to accomplish the procedures. Anesthesia can be used as a direct treatment or to facilitate a surgical operation or other non-surgical medical procedure, such as a colonoscopy.

Anesthesia services include:

- Local or regional anesthesia that numbs a specific area of the body.

- Sedative anesthesia that relaxes the patient, ranging from calming to inducing a sleep-like state.

- General anesthesia that renders a patient unconscious and inhibits pain signals and reflexes.

Anesthesia services, particularly sedative and general anesthesia, affect a patient's nervous, respiratory, and cardiac systems, which can put the patient at risk for the loss of life-preserving protective reflexes. Patients may also experience complications resulting from preexisting tolerance to anesthesia drugs. As a result, anesthesia services require specific training to be performed safely. Among other things, anesthesia providers must be able to evaluate patient history and physical condition, monitor and manage patients during anesthesia procedures, respond to emergencies using airway management or resuscitative techniques, and assist in recovery from the anesthesia.

The RN providers of anesthesia services are CRNAs, who are advanced practice RNs specifically trained in anesthesia services and related care. The physician providers who specialize in anesthesia services are anesthesiologists. According to the Council on Accreditation of Nurse Anesthesia Educational Programs (COA):

> Anesthesia and anesthesia-related care represent those services that anesthesia professionals provide upon request, assignment, and referral by the patient's healthcare provider authorized by law, most often to facilitate diagnostic, therapeutic, and surgical procedures. In other instances, the referral or request for consultation or assistance may be for management of pain associated with obstetrical labor and delivery, management of acute and chronic mechanical ventilation, or management of acute and chronic pain through the performance of selected diagnostic and therapeutic blocks or other forms of pain management.[1]

CRNA Training. To specialize as a CRNA, an RN must obtain additional education, training, and certification in anesthesia care. An applicant seeking to practice as a CRNA must do all of the following:

1) Complete a BRN-approved, pre-licensure nurse training program, which includes a minimum of two years of education and 500 hours of clinical experience. However, COA-accredited CRNA training programs require a bachelor's degree in nursing (BSN) or a related field as a prerequisite.

2) Pass the nursing licensing examination, the National Council Licensure Examination (NCLEX).

3) Obtain an RN license from the BRN.

---

[1] *Standards for Accreditation of Nurse Anesthesia Programs - Practice Doctorate*, COA, revised January 30, 2021, page 35, https://www.coacrna.org/wp-content/uploads/2021/03/Standards-for-Accreditation-of-Nurse-Anesthesia-Programs-Practice-Doctorate-revised-January-2021.pdf.

4) Obtain at least one year of experience as a licensed RN in a critical care setting, such as an intensive care unit (ICU) or emergency room, although some programs may require more years of practice. This is a novel requirement unique to CRNAs.

5) Maintain certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS).

6) Obtain a doctoral degree from a CRNA educational program accredited by the COA. Prior to 2015, COA also accredited master's degree CRNA programs, the graduates of which are grandfathered in for purposes of licensure.[2] As of 2025, CRNA master's degree programs have been phased out. The current doctoral program requirements include:

    a. Content covering: advanced physiology/pathophysiology; advanced pharmacology; basic and advanced principles in nurse anesthesia; research; advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, diagnosis, concepts, and approaches; human anatomy; chemistry; biochemistry; physics; genetics; acute and chronic pain management; 12-lead ECG interpretation; radiology; ultrasound; anesthesia equipment; professional role development; wellness and substance use disorder; informatics; ethical and multicultural healthcare; leadership and management; business of anesthesia/practice management; health policy; healthcare finance; and integration/clinical correlation.

    b. A minimum of 2,000 clinical hours spent in the actual administration of anesthesia and other clinical time under the guidance and supervision of a qualified physician anesthesiologist or CRNA. According to the COA, examples of other clinical time include in-house call, preanesthesia assessment, postanesthesia assessment, patient preparation, operating room preparation, and time spent participating in clinical rounds.

7) Pass the CRNA certification examination, the National Certification Examination (NCE) offered by the National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA) and obtain NBCRNA certification.

8) Obtain a CRNA certificate from the BRN.

9) Maintain continuous NBCRNA certification on a four-year cycle, which requires a minimum of 60 hours of continuing education and 40 hours of professional development activities with quarterly assessments under the NBCRNA's Maintaining Anesthesia Certification (MAC) Program (previously the Continued Professional Certification Assessment (CPCA)).

While the COA establishes the minimum standards for CRNA training programs, many programs go beyond the minimum requirements and include a significantly higher number of clinical hours. According to the American Association of Nurse Anesthesiology, CRNA graduates obtain an average of 2,604 hours of clinical experience during their programs, and the average experience of RNs before they enter a CRNA educational program is 4.5 years.

---

[2] *Accreditation Policies and Procedures*, COA, updated February 2025, page 157, https://www.coacrna.org/wp-content/uploads/2025/02/Accreditation-Policies-and-Procedures-Manual-rev-Feb-2025.pdf.

CRNA Scope of Practice. The CRNA scope of practice has two components. First, as licensed RNs, they are authorized to perform health care functions that require a substantial amount of scientific knowledge or technical skill, including direct and indirect patient care; disease prevention and restorative measures; administration of medication and therapeutic agents upon order of a physician, dentist, podiatrist, or specified clinical psychologist; skin tests; immunizations; blood withdrawal; patient assessment, analysis, planning, and treatment implementation; and clinical laboratory testing.

Second, as CRNAs, they are authorized to perform anesthesia services. In acute care facilities, the facility must approve the services and the services must be provided at the discretion of the physician, dentist, or podiatrist. In dental offices where general anesthesia is administered, the dentist must hold a general anesthesia permit issued by the DBC.

CRNA Statutory Anesthesia Authority. The statutory authority for CRNAs to provide anesthesia services is vague—aside from what is implied under the RN scope of practice, there is no affirmative, specific authorization for a CRNA to provide anesthesia services, and there is no definition of anesthesia services. Instead, three sentences in the Nursing Practice Act work together and form the basis of the current understanding of CRNA authority to provide anesthesia services.

The first sentence is in the base scope of an RN, authorizing "the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist."[3] This authorizes a CRNA to administer any drugs that have been ordered by a qualified licensee.

Administer means to apply the drug directly to the patient onsite through injection, inhalation, or any other means. This includes anything from handing the patient a pill to consume, rubbing a topical cream on the skin, holding a face mask to provide gas, injection into the muscle through a syringe and needle, or giving the medication through an intravenous catheter.

Administration is distinguished from two related terms: (1) "prescription," which is an order for medication that a patient can use to obtain drugs from a pharmacy or other person authorized to dispense, and (2) "dispensing," which is supplying drugs to a patient for later use. CRNAs may not prescribe and may only dispense upon an order from an authorized prescriber or, in the case of hormonal contraceptives, under a standardized procedure.

The second sentence is in the Nurse Anesthetists Act portion of the Nursing Practice Act, which reads, "The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist."[4] Instead of saying "a CRNA is authorized to provide anesthesia services," the sentence implies the existence of the authority by placing requirements on the use of the implied authority in acute care facilities.

The third sentence follows the second sentence, and it is similarly a requirement on an implied authority rather than an affirmative authority, "If a general anesthetic agent is administered in a

---

[3] BPC § 2725(b)(2).
[4] BPC § 2827.

dental office, the dentist shall hold [a general anesthesia permit under the Dental Practice Act]."[5] This sentence implies that a CRNA is authorized to administer general anesthesia, and when doing so in a dental office, the dentist must hold a general anesthesia permit issued by the DBC.

Because there are no other prohibitions related to settings in the Nursing Practice Act, taken together, the three sentences are understood to mean that a CRNA is authorized to provide anesthesia services in any setting where anesthesia may lawfully be provided, subject to the following conditions:

1) If administering anesthesia medications therapeutic agents, the administration must be pursuant to an order issued by a physician, dentist, podiatrist, or clinical psychologist who is authorized to order anesthesia.

2) If providing anesthesia services in an acute care facility, the services must be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist, or podiatrist.

3) If providing anesthesia services in a dental office where general anesthesia is administered, the dentist must hold a general anesthesia permit issued by the DBC.

The structure of this implied authority has raised many questions among stakeholders:

1) What is the scope of "anesthesia services"?

2) What are the necessary components of an order for anesthesia medication?

3) What are the liability implications for providers issuing an order?

Definition of Anesthesia Services. As noted earlier in this analysis, there is no statutory definition specifying what is or is not included in anesthesia services for purposes of CRNA scope of practice. As a result, it falls back on the statutory RN scope of practice, CRNA training in functions falling within the RN scope of practice, the policies and procedures of the setting CRNAs are providing services, and accepted community practices and standard of care.

As the sole state agency responsible for determining the CRNA scope of practice,[6] the BRN has published the following interpretation of anesthesia services on its website: "These services are delivered during the perianesthesia time period which includes pre-operative, intra-operative, and post-operative care that encompasses presurgical testing where the patient is evaluated for their ability to tolerate an anesthetic through delivery of anesthesia and emerging from anesthesia where the patient is monitored and cared for until they are stable enough to safely transfer to other areas for care or is discharged."[7]

---

[5] *Id*.
[6] BPC § 2725(e).
[7] "Certified Registered Nurse Anesthetist," BRN, accessed April 2025, https://www.rn.ca.gov/practice/crna.shtml.

In regulation, the California Department of Public Health provides the following definition, "Anesthesia service means the provision of anesthesia of the type and in the manner required by the patient's condition with appropriate staff, space, equipment, and supplies."[8]

Order for Anesthesia. The law is silent on what must be contained in an order from a qualified licensee authorizing a CRNA to administer anesthesia. In healthcare, the term "order" refers to the mechanism for delegating a healthcare function, such as the treatment of a condition or performance of tests, to another provider. When giving an order, the ordering provider is responsible for determining the medical necessity of the order. However, there is no statute or other requirement specifying whether the provider must maintain control of or otherwise supervise the ordered provider.

In 1984, the Attorney General opined on the nature of orders in CRNA practice in an opinion upon a request from Senator Paul B. Carpenter asking, "May a Certified Registered Nurse Anesthetist lawfully administer regional anesthetics pursuant to a 'standardized procedure.'"[9] The conclusion was that a CRNA "may lawfully administer a regional anesthetic when ordered by and within the scope of licensure of a physician, dentist or podiatrist but not pursuant to a 'standardized procedure.'"

A standardized procedure is a written document developed with a health system, serving as a supervision mechanism that allows an RN to provide a service that would ordinarily be considered the practice of medicine outside the scope of practice of an RN. Distinguishing a standardized procedure from an order, the Attorney General wrote:

> It would appear anomalous for the nurse anesthetist to administer an anesthetic in accordance with a "standardized procedure" as defined, rather than in accordance with the orders of the physician who is performing the surgery. This would mean that the manner in which the anesthetic is administered by the nurse anesthetist would be governed by the "policies and protocols" developed through collaboration among administrators and health professionals, including physicians and nurses by an organized health care system. We doubt that the Legislature intended to remove the control over an integral part of the surgical procedure from the physician responsible for the surgery and place it in the hands of a nurse acting in accordance with a standardized procedure. Standardized procedures were meant to govern the nurse's actions in situations when the physician responsible for the patient's care is absent and they do not apply when the responsible physician is present and orders a different procedure. This does not mean that the physician responsible for the patient's surgery may not direct the nurse anesthetist by means of some written instructions. It does mean that the physician responsible for the surgery retains control over the actions of the nurses involved in the surgery, including the nurse anesthetist, in spite of any standardized procedures which may have been developed. This is necessary to permit the physician to react to conditions which develop in the patient's best

[8] CCR, tit. 22, § 70231.
[9] AG Opinion 67 Ops.Cal.Atty.Gen. 122 (1984).

> interest, which conditions may not have been foreseen at the time the standardized procedures for nurses were developed.[10]

The opinion notes the importance of ensuring that the physician who is responsible for a surgical operation maintains control of the care being delivered to the patient, including the care being provided by any other providers. However, the BRN further clarified the distinction in responsibilities between the physician responsible for the surgery and the anesthesia provider in a 1988 advisory letter:

> In understanding the practice of the CRNA it is helpful to recognize that performing surgery and performing anesthesia, although collaborative, are separate functions. The surgeon is responsible for performing the surgery and evaluating the patient's response to the surgical procedure, while the CRNA is responsible for selecting and administering the anesthetic agent and monitoring the patient's response thereto.
>
> In accord with policies of the employer the CRNA may initiate orders to RNs and other appropriate staff as required to provide preoperative and postoperative care related to the anesthesia experience. The Board of Registered Nursing has no requirement for the signature of the patient's physician, dentist or podiatrist on such orders since CRNA performance of this function is common and accepted practice.
>
> Just prior to surgery the CRNA performs a preanesthesia evaluation of the patient's condition. In regard to discharging the patient from an outpatient facility, following surgery the physician evalutes [sic] the patient's condition at that time and determines whether or not the patient may be discharged; the CRNA later makes a decision regarding the time of discharge based on the patient's recovery from anesthesia as well as on the CRNA's determination that the patient's condition in response to the surgical procedure has remained stable. When both responses are satisfactory the CRNA discharges the patient.
>
> In the acute care facility the CRNA evaluates the patient's responses to surgery and anesthesia to determine when the patient may be discharged from the recovery room to a nursing unit.[11]

This bill would specify that an order entered on the chart or medical record of a patient is the authorization for a CRNA to select the modality of anesthesia for the patient and to abort or modify the modality of anesthesia for the patient during the course of care.

Order vs. Supervision. As noted earlier in this analysis, there is no state law that specifies what an order must contain to authorize the provision of anesthesia services by a CRNA. This has generated controversy in the state's participation in the federal Medicare program. By default, the federal Medicare program requires hospitals, ambulatory surgical centers, and critical access

---

[10] *Id* at 23.
[11] BRN, letter to "Interested Persons" regarding "Practice of the CRNA," October 11, 1988.

hospitals to require CRNAs to be supervised by an anesthesiologist physician in order to receive reimbursement under the program.[12]

However, if state law does not require CRNA supervision, the state‘s governor may submit a letter to the federal Centers for Medicare and Medicaid Services (CMS), after consultation with the state's boards of medicine and nursing, requesting exemption from physician supervision of CRNAs. The letter must attest that the governor has consulted with boards of medicine and nursing about issues related to access to and the quality of anesthesia services in the state and has concluded that it is in the best interests of the state's citizens to opt-out of the current physician supervision requirement, and that the opt-out is consistent with state law.

In 2009, Governor Schwarzenegger submitted a letter to CMS opting out from the physician supervision requirement of CRNAs for purposes of the Medicaid program. In response, the California Society of Anesthesiologists and the California Medical Association sued the administration, arguing that the governor abused his discretion in determining that CRNAs do not require supervision by physicians under state law. The trial court dismissed the suit, and the appellate court affirmed the decision.[13]

The appellate court wrote:

> As the trial court recognized, the controlling statutory provision on the scope of practice of CRNAs in California does not require them to administer anesthesia under physician supervision. Instead, it permits CRNAs to administer anesthesia “ordered by” a physician. [citations omitted] We agree that the plain meaning of section 2725, subdivision (b)(2) does not require physician supervision of CRNA’s. [citations omitted] Consequently, we affirm the trial court‘s judgment.[14]

Current Related Legislation. AB 1215 (Flora) would clarify that dentists, podiatrists, clinical psychologists, nurse practitioners, CRNAs, nurse midwives, and other licensed healthcare professionals may serve on the medical staff. *AB 1215 is pending in this committee.*

Prior Related Legislation. AB 2526 (Gibson) of 2024 would have authorized a CRNA to administer anesthesia in a dental office without an order from a dentist or physician under specified conditions, including that the CRNA holds a general anesthesia permit issued by the DBC. *AB 2526 was held on the Assembly Appropriations Committee suspense file*.

ARGUMENTS IN SUPPORT:

The *California Association of Nurse Anesthesiology* (CANA) (sponsor) writes in support:

> CANA is proud to sponsor this important legislation, which provides much-needed clarity and stability to the practice of anesthesia in California by codifying existing law and case precedent regarding the scope of practice for Certified Registered Nurse Anesthetists (CRNAs). [This bill] builds upon the landmark

---

[12] 42 CFR § 482.52(a)(4).
[13] *California Society of Anesthesiologists et al., Plaintiffs and Appellants, v. Edmund G. Brown, Jr., as Governor, etc., Defendant And Respondent; California Association of Nurse Anesthetists, Intervener and Respondent*., 204 Cal. App. 4th 390.
[14] *Id.* at 2.

> 2012 Court of Appeal decision in California Society of Anesthesiologists v. Brown, which affirmed that CRNAs are legally authorized to administer anesthesia under the order of a physician without requiring additional supervision. This interpretation aligns with long-standing California law, the Nursing Practice Act, and the standard practice in most hospitals and surgical settings across the state.
>
> By codifying this existing authority in statute, [this bill] will:
>
> - Reinforce legal clarity for hospitals, administrators, and regulators;
> - Guard against regulatory overreach and misinterpretation;
> - Protect patient access to anesthesia services, especially in rural and underserved areas where CRNAs are often the sole providers; and
> - Promote consistency in patient safety standards across all settings where anesthesia is delivered.
>
> The recent disruption in anesthesia services in California's Central Valley—resulting in widespread cancellations of surgeries due to misinterpretation of CRNA scope—demonstrates the urgent need for this bill. [This bill] will ensure that patients are not harmed by unnecessary a century.
>
> This bill does not expand CRNA scope of practice. Rather, it simply restates and reaffirms what is already permitted under California law, judicial interpretation, and professional practice: that CRNAs are independently responsible for the full delivery of anesthesia care upon a physician's order.

A coalition including the *American Association of Nurse Anesthesiology; American Nurses Association – California; Bear Valley Community Healthcare District; California Association for Nurse Practitioners; California Association of Clinical Nurse Specialists; California Behavioral Health Association; California Nurse-Midwives Association; California Nurses Association; Central California Anesthesiology Solutions; Central Valley Anesthesia Partners; Fairchild Medical Center; Kaiser Permanente Nurse Anesthetists Association; Mayers Memorial Healthcare District; Modoc Medical Center; National University; Samuel Merritt University; Sedaze Anesthesia Consultants; Seneca Healthcare District; Southern California Infusion Therapy; United Nurses Associations of California/Union of Health Care Professionals; Valley Regional Anesthesia Associates; Western Slope Anesthesia, a Professional Nursing Corporation* writes in support:

> We, the undersigned organizations and stakeholders, write in strong support of [this bill], which codifies existing California law and practice regarding the administration of anesthesia services by Certified Registered Nurse Anesthetists (CRNAs). This bill provides clarity and consistency in the interpretation of CRNA scope of practice, ultimately ensuring uninterrupted access to essential anesthesia services across California, especially in rural and underserved areas.
>
> [This bill] does not expand the current scope of practice—it simply codifies the 2012 appellate decision in California Society of Anesthesiologists v. Brown,

> confirming that CRNAs are authorized under the Nursing Practice Act to administer anesthesia upon a physician's order, without a supervision requirement. By incorporating this well-established legal interpretation into statute, [this bill] prevents misapplication of regulatory authority and protects against the cancellation of procedures due to confusion or misinformation, such as those that occurred in Central Valley communities in 2024.
>
> This bill is timely, necessary, and long overdue. It strengthens workforce stability, reduces costly delays in care, and eliminates uncertainty for hospitals, surgical centers, and dental providers that rely on CRNAs every day. As critical access hospitals and outpatient facilities struggle with staffing shortages and regulatory ambiguity, [this bill] provides a practical and legally sound solution that affirms the current standard of care.

The *Board of Registered Nursing* writes in support that, "[This bill] would codify the way that Certified Registered Nurses Anesthetists currently function while delivering anesthesia services in alignment with their education and training. It would also preserve access to critical health care services for patients throughout California."

ARGUMENTS IN OPPOSITION:

A coalition of physician associations, including the *American Academy of Pediatrics, California American College of Obstetricians & Gynecologists - District IX, California Academy of Eye Physicians and Surgeons, California Association of Oral and Maxillofacial Surgeons, California Chapter American College of Cardiology, California Medical Association (CMA), California Orthopaedic Association, California Podiatric Medical Association, California Radiological Society, California Rheumatology Alliance, California Society of Anesthesiologists, California Society of Dermatology & Dermatologic Surgery, California Society of Pathologists, California Society of Plastic Surgeons, Osteopathic Physicians and Surgeons of California*, write in opposition:

> Proponents claim [this bill] will improve access to care, but there is no evidence that removing oversight by anesthesiologists or the involvement of other physicians increases access to care. It only increases risk. Although well intended, this bill is terribly misguided and fosters inequity by creating a two-tiered system where only affluent or urban patients have access to physician-led anesthesia care, while lower-income, ethnically diverse, and rural communities receive a lower standard. All patients deserve equity and access to a physician, regardless of where they live or their financial status.
>
> While proponents will also argue that allowing nurse anesthetists to practice with less oversight will alleviate shortages or improve access, evidence indicates that such policy changes do not result in real, measurable improvements in patient access to care. Instead, maintaining a robust, physician-led anesthesia care team ensures high safety standards and efficient care delivery.
>
> Physicians and nurses are both essential – but they are not interchangeable. The physician-led ACT Model is the right solution – there are distinct roles, different jobs, with different training. But physician leadership and involvement are essential to ensuring patient safety.

To that end, anesthesiologist-led anesthesia care is the nationally recognized best practice and is the prevailing model at all the University of California Medical Centers, Kaiser Permanente Hospitals, Stanford Medical Center, Loma Linda Medical Center, and the Veterans Administration Hospital system.

Although nurse anesthetists may be able to administer anesthesia without physician "supervision," they cannot administer anesthesia independent of physicians and surgeons. Nurse anesthetists must practice under the prescriptive order from a qualified physician, dentist, podiatrist, or clinical psychologist to undertake "the administration of medications and therapeutic agents."1 Nurse anesthetists do not have federal Drug Enforcement Agency (DEA) registration and are not authorized to administer controlled substances independently.

This bill would also revise the title of nurse anesthetist and introduces the bogus term "nurse anesthesiologist," in addition to fictitious terminology such as "nurse anesthesiology resident" and "resident registered nurse anesthetist," which are terms not recognized anywhere in healthcare, in any state law, or anywhere within the federal government. Such changes would promote medical title misappropriation, rather than promote title transparency. It is irresponsible to promote terminology that incorrectly implies the professional has a license to practice medicine.

When a non-physician uses "physician equivalent" nomenclature it increases confusion and threatens the ability of patients to make informed decisions about their care. That is why 16 other states legally require that ONLY physicians can use terms traditionally associated with physicians such as "-ologist". In a recent survey of California voters, 88% of respondents agree that California should also ensure that ONLY physicians use this terminology.2

Lastly, and perhaps most alarming, this bill would prohibit ANY physician, podiatrist or dentist supervision or oversight of a nurse anesthetist or establishment of ANY standardized procedures or protocols for nurse anesthetists practicing in ANY California licensed "acute care facility" which includes ANY "facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer."3

These facilities include a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, congregate living health facility, correctional treatment center, and hospice facility. Some of the sickest and most medically compromised Californians seek care in these acute care facilities with multiple complications and life-threatening comorbidities. It is unconscionable to us why the Legislature would PROHIBIT ANY physician, podiatrist or dentist involvement, oversight, or supervision of nurse anesthetists in these sites of service. Not only is this extremely dangerous, but also LIMITS and RESTRICTS patient access to care, which according to the proponents, would run counter to the intent of [this bill].

There are a variety of solutions to help increase access to anesthesia care without compromising patient safety. These solutions include increasing education and training slots for both anesthesiologists and nurse anesthetists, creating incentives for providers to work in underserved communities, and increasing anesthesia provider rates in the Medi-Cal program.

POLICY ISSUES FOR CONSIDERATION:

1) *Physician Supervision*. Opposition to this bill argues that this would reduce access to physician-led anesthesia care. However, the bill intends to codify the current CRNA scope of practice. If this bill passes this committee, the author may wish to continue working with the opposition and other stakeholders to ensure there is no change to the current legal practice of CRNAs.

2) *Anesthesiologist Titles*. Opposition to this bill argues that there are titles included under this bill that may create confusion among stakeholders.

3) *Additional Services*. This bill specifies that CRNAs are authorized to provide specified services "outside of the perioperative setting." Opposition to this bill has raised concerns around the definition of "outside of the perioperative setting" and the anesthesia services that are included in this authorization. If this bill passes this committee, the author may wish to work with the opposition to clarify what services are authorized in non-perioperative settings.

4) *Dental Practice*. The California Dental Association (CDA) is opposed to this bill because it believes this bill authorizes CRNAs to provide anesthesia services in a dental office where the dentist does not hold a general anesthesia permit. However, this bill does not change dental practice. A prior bill heard by this committee, AB 2526 (Gibson) of 2024, which was held on the Assembly Appropriations suspense file, would have authorized a CRNA to administer anesthesia in a dental office without an order from a dentist or physician if the CRNA obtained a general anesthesia permit under the DBC created under that bill.

   The CDA writes in opposition to this bill, in reference to AB 2526, that the CDA "recognizes the important role of CRNAs in anesthesia care and has supported previous legislative efforts to allow them to obtain dental anesthesia permits. However, [this bill] raises serious concerns about increased liability risks for dentists. Any effort to establish or clarify CRNAs' independent practice must also address their inability to obtain DEA registration, which significantly limits their autonomy and shifts unnecessary liability risks onto dentists."

   In a letter addressing AB 2526 in 2024, the CDA wrote, "CDA supports the recent amendments to [AB 2526 (Gibson)] that create an ability for CRNAs to receive a dental board general anesthesia/ deep sedation permit the same way that physician and dentist anesthesiologists currently do. The current permitting process ensures that the anesthesia provider is the health care provider responsible for holding the appropriate education and training to order and administer anesthesia as well as ensuring the appropriate facility, space, equipment, staff, and rescue medications are present. This responsibility cannot and should not be shifted to a treating dentist if that dentist is not also trained and permitted to order and administer anesthesia."

   However, this bill does not shift any responsibility or liability to or from any dentists. This bill maintains that deep sedation and general anesthesia cannot be performed in a dental

office unless the dentist is trained in anesthesia and has a general anesthesia permit issued by the DBC, and a CRNA may only administer anesthesia in a dental office where the dentist has the general anesthesia permit. This bill also specifies that ordering anesthesia must be within the dentist's scope of practice (BPC § 1646.1(a)). The new definition of "dental office" under this bill (BPC §2826(h)) affirms this permit requirement.

The concerns around DEA registration are also unclear. The federal Controlled Substances Act requires every person who dispenses any controlled substance to register with the DEA (21 U.S.C. § 822(a)(2)). The federal law defers to state law as to whether a practitioner is a dispenser for purposes of the registration requirement (21 U.S.C. § 822(c)(1), 21 CFR § 1300.01(b), "dispenser," "individual practitioner," "institutional practitioner," "mid-level practitioner"). As a result, federal law exempts CRNAs from the registration requirement because, under state law, they may only administer controlled substances pursuant to an order from a physician, dentist, or other authorized practitioner. As a result, CRNAs are exempted as either employees or "agents, " defined as an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser of a DEA registrant. (21 USC § 802(3))

This bill does not remove the requirement that CRNAs provide anesthesia services pursuant to an order. Instead, it codifies the requirement. If this bill were to authorize a CRNA to prescribe, dispense, or administer medication without an order from a registered licensee or in the regular course of their employment by a registrant, then federal law would automatically require a California CRNA to register with the DEA. There is no other change to state law required to activate the federal registration requirement. Therefore, there is no way to address the CDA's concerns within the scope of this bill.

AMENDMENTS:

1) To delete references to titles, amend the bill as follows:

   On page 2 of the bill, lines 4-6**:**

   (a) "Nurse anesthetist" means a ~~certified registered nurse anesthetist, CRNA, nurse anesthesiologist, or anesthetist~~ *person* who is a registered nurse licensed by the board who has met

2) To clarify that a dentist must hold a general anesthesia permit issued by the DBC if a CRNA provides general anesthesia in that setting:

   Page 4, lines 1-20:

   (b) In an acute care ~~facility, outpatient setting, or dental office~~ *facility or outpatient setting* where the nurse anesthetist has been credentialed to provide anesthesia, *or in a dental office where the dentist holds a permit authorized by Article 2.75 (commencing with Section 1646) of Chapter 4,* the anesthesia services shall include preoperative, intraoperative, and postoperative care and pain management for patients receiving anesthesia ~~requested~~ *ordered* by a physician, dentist, or podiatrist that are provided within the scope of practice of the nurse anesthetist. A nurse anesthetist is authorized to provide direct and indirect patient care services, including administration of medications and therapeutic agents

necessary to implement a treatment, for disease prevention, or a rehabilitative regimen ordered by, and within the scope of practice of, a physician, dentist, podiatrist, or clinical psychologist. An order entered on the chart or medical record of a patient shall be the authorization for the nurse anesthetist to select the modality of anesthesia for the patient and to abort or modify the modality of anesthesia for the patient during the course of care. Ordering and administering controlled substances and other drugs preoperatively, intraoperatively, and postoperatively shall not constitute a prescription, as that term is defined in Section 1300.01 of Title 21 of the Code of Federal Regulations.

3) To delete dental settings from non-perioperative settings; clarify that non-perioperative refers to the perioperative period, and not settings generally; and that any anesthesia services are specific to nursing scope of practice, amend the bill as follows:

Page 4, lines 21-32:

(c) In an acute care ~~facility, outpatient setting, or dental office~~ *facility or outpatient setting* where the nurse anesthetist has been credentialed to provide anesthesia, anesthesia services may also encompass services performed outside of the perioperative ~~setting,~~ *period in accordance with Section 2725,* including, but not limited to:

(1) Selecting and administering medication, therapeutic treatment, medication-assisted treatment, and adjuvants to ~~psychotherapy.~~ *psychotherapy in accordance with paragraph (2) of subdivision (b) of Section 2725.*

(2) Providing emergency, critical care, and resuscitation services.

(3) Performing advanced airway management.

(4) Performing point-of-care testing.

4) To delete other services, including fluoroscopy per the American Society of Radiologic Technologists, but clarify the orders CRNAs may issue order to other RNs if within their scope of practice:

Pages 4-6:

~~(5) Ordering, evaluating, and interpreting diagnostic laboratory and radiological studies.~~

~~(6) Using and supervising the use of ultrasound, fluoroscopy, and other technologies for diagnosis and care delivery.~~

~~(7) Providing sedation and pain management for palliative care.~~

~~(8)~~ *(5)* In accordance with the policies of the facility or office, initiating orders *for functions authorized under Section 2725 and this article* to registered nurses and other appropriate staff, as required, to provide preoperative and postoperative care related to the anesthesia service.

~~(9) Ordering consults, treatments, or services relating to the patient's care.~~

~~(d) To provide anesthesia services in an acute care facility, outpatient setting, or dental office, a trainee, including a nurse anesthesiology resident, resident registered nurse anesthetist, or student registered nurse anesthetist, shall satisfy both of the following requirements:~~

~~(1) Be enrolled in an accredited doctoral program of nurse anesthesia.~~

~~(2) Practice under the supervision of a nurse anesthetist or physician anesthesiologist.~~

~~**SEC. 3.** Section 2828 of the Business and Professions Code is amended to read:~~

~~**2828.** (a) In an acute care facility, a nurse anesthetist who is not an employee of the facility shall, nonetheless, be subject to the bylaws of the facility and may be required by the facility to provide proof of current professional liability insurance coverage. Notwithstanding any other provision of law, a nurse anesthetist shall be responsible for their own professional conduct and may be held liable for those professional acts.~~

~~(b) A nurse anesthetist is an advanced practice registered nurse who is authorized to perform independent anesthesia~~ ~~services and is not limited to the scope of practice of a registered nurse while performing anesthesia services. A nurse anesthetist shall not be required to do any of the following:~~

~~(1) Perform the duties of a perioperative registered nurse or nurse circulator while engaged in the role of anesthesia provider in the perioperative setting.~~

~~(2) Perform nurse anesthesia services pursuant to standardized procedures.~~

~~(3) Perform anesthesia services under the supervision of the physician, podiatrist, or dentist who requested the anesthesia to be administered.~~

~~(c) By virtue of being in the same location as a nurse anesthetist performing anesthesia services, a physician, podiatrist, dentist, or other health care provider shall not assume supervision of the nurse anesthetist.~~

5) To clarify that the changes under this bill are declarative of existing law:

On page 6, insert:

SEC. 3. *Section 2833.6 of the Business and Professions Code is amended to read:*

2833.6. ~~This chapter is not intended to address the scope of practice of, and nothing in this chapter~~ *Nothing in this article* shall be construed to restrict, expand, alter, or modify the existing scope of practice of, a nurse ~~anesthetist.~~ *anesthetist and is declaratory of existing law and advisory opinion as set forth in California Society of Anesthesiologists v. Brown (2012) 204 Cal.App.4th 390.*

REGISTERED SUPPORT:

California Association of Nurse Anesthesiology (sponsor)
American Association of Nurse Anesthesiology
American Nurses Association - California
Bear Valley Community Healthcare District
Board of Registered Nursing
California Association for Nurse Practitioners
California Association of Clinical Nurse Specialists
California Behavioral Health Association
California Nurse-Midwives Association
California Nurses Association
Central California Anesthesiology Solutions
Central Valley Anesthesia Partners
Fairchild Medical Center
Kaiser Permanente Nurse Anesthetists Association
Mayers Memorial Healthcare District
Modoc Medical Center
National University
Samuel Merritt University
Sedaze Anesthesia Consultants
Seneca Healthcare District
Southern California Infusion Therapy
United Nurses Associations of California/Union of Health Care Professionals
Valley Regional Anesthesia Associates
Western Slope Anesthesia, a Professional Nursing Corporation
Numerous individuals

REGISTERED OPPOSITION:

American Academy of Pediatrics, California
American College of Obstetricians & Gynecologists - District IX
American Society of Radiologic Technologists (unless amended)
California Academy of Eye Physicians and Surgeons
California Association of Oral and Maxillofacial Surgeons
California Chapter American College of Cardiology
California Dental Association
California Medical Association
California Orthopaedic Association
California Podiatric Medical Association
California Radiological Society
California Rheumatology Alliance
California Society of Anesthesiologists
California Society of Dermatology & Dermatologic Surgery
California Society of Pathologists
California Society of Plastic Surgeons
Osteopathic Physicians and Surgeons of California

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 967 (Valencia) – As Introduced February 20, 2025

SUBJECT: Physicians and surgeons: licensure: expedite fee.

SUMMARY: Requires the Medical Board of California (MBC) to expedite the licensure process for any applicant who pays an additional fee.

EXISTING LAW:

1) Establishes the DCA within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)

2) Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction, including healing arts boards under Division 2. (BPC § 101)

3) States that boards, bureaus, and commissions within the DCA must establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate, upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public. (BPC § 101.6)

4) Requires boards within the DCA to expedite, and authorizes boards to assist, the initial licensure process for an applicant who has served as an active duty member of the Armed Forces of the United States and was honorably discharged or who, beginning July 1, 2024, is enrolled in the United States Department of Defense SkillBridge program. (BPC § 115.4)

5) Requires boards within the DCA to expedite the licensure process and waive any associated fees for applicants who hold a current license in another state and who are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders. (BPC § 115.5)

6) Requires boards within the DCA to expedite, and authorizes boards to assist, the initial licensure process for applicants who have been admitted to the United States as a refugee, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or have a special immigrant visa. (BPC § 135.4)

7) Establishes the MBC within the DCA to regulate physicians and surgeons under the Medical Practice Act. (BPC §§ 2000 *et seq.*)

8) Requires the MBC to develop a process to give priority review status to applicants who can demonstrate that they intend to practice in a medically underserved area or serve a medically underserved population. (BPC § 2092)

9) Requires the MBC and other specified healing arts boards to expedite the licensure process for applicants who demonstrate that they intend to provide abortions within the scope of practice of their license. (BPC § 870)

THIS BILL:

1) Requires the MBC to expedite the licensure process for an applicant who submits an application that is accompanied by an expedite fee.

2) Provides that the expedite fee shall be fixed by the MBC at an amount equal to the cost of expediting the licensure process for those applicants, not to exceed $250.

3) Expressly provides that the bill does not change any existing licensure requirements for license applicants and does not require applicants applying for expedited licensure pursuant to another provision of current law to pay a fee.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Medical Association*. According to the author:

> AB 967 tackles the urgent need to expand California's primary care workforce by establishing an optional fee for out-state-physicians to quickly obtain a medical license to practice here. With our population aging and becoming increasingly more diverse, the demand for healthcare is growing faster than our current system can handle. This bill takes direct action to increase our physician workforce, especially in underserved communities, ensuring that everyone can access quality, culturally competent care. AB 967 is about keeping Californians healthy by getting more doctors where they're need most.

Background.

Medical Board of California. The MBC is primarily responsible for licensing and regulating physicians and surgeons, whose certificates authorize the plenary practice of all recognized fields of medicine. The MBC also has jurisdiction over special program registrants and organizations and special faculty permits, which allow those who are not MBC licensees but who meet certain licensure exemption criteria to perform duties in specified settings. The MBC also has authority over licensed midwives, medical assistants, and registered polysomnographic professionals. The MBC additionally approves accreditation agencies that accredit outpatient surgery settings and issues fictitious name permits to physicians practicing under a name other than their own.

Health Care Workforce Inequities. There has long been an acknowledged decline in the number of accessible primary care physicians in California, which has disproportionately impacted communities with concentrated populations of immigrant families and people of color. A recent study found that between 2010 and 2019, the number of primary care physicians in proportion to population remained largely unchanged nationally, and that counties with a high proportion of minorities saw a decline during that period.[1] Additionally, physicians who are accessible to immigrant communities often do not possess the linguistic or cultural competence to appropriately treat all patients.[2]

---

[1] Liu M, Wadhera RK. *Primary Care Physician Supply by County-Level Characteristics*, 2010-2019.
[2] https://latino.ucla.edu/wp-content/uploads/2019/08/The_Patient_Perspective-UCLA-LPPI-Final.pdf

Expedited Licensure. The DCA consists of 36 boards, bureaus, and other entities responsible for licensing, certifying, or otherwise regulating professionals in California. As of March 2023, there are over 3.4 million licensees overseen by programs under the DCA, including health professionals regulated by healing arts boards under Division 2 of the Business and Professions Code. Each licensing program has its own unique requirements, with the governing acts for each profession providing for various prerequisites including prelicensure education, training, and examination. Most boards additionally require the payment of a fee and some form of background check for each applicant.

The average length of time between the submission of an initial license application and approval by an entity under the DCA can vary based on a number of circumstances, including increased workload, delays in obtaining an applicant's criminal history, and deficiencies in an application. Boards typically set internal targets for application processing timelines and seek adequate staffing in an effort to meet those targets consistently. License processing timelines are then regularly evaluated through the Legislature's sunset review oversight process.

The first expedited licensure laws specifically related to the unique needs of military families. The Syracuse University Institute for Veterans and Military Families found that up to 35 percent of military spouses are employed in fields requiring licensure. Because each state possesses its own licensing regime for professional occupations, military family members are required to obtain a new license each time they move states, with one-third of military spouses reportedly moving four or more times while their partner is on active duty. Because of the barriers encountered by military family members who seek to relocate their licensed work to a new state, it is understood that continuing to work in their field is often challenging if not impossible.

In an effort to address these concerns, Assembly Bill 1904 (Block) was enacted in 2012 to require boards and bureaus under the DCA to expedite the licensure process for military spouses and domestic partners of a military member who is on active duty in California. Two years later, Senate Bill 1226 (Correa) was enacted to similarly require boards and bureaus under the DCA to expedite applications from honorably discharged veterans, with the goal of enabling these individuals to quickly transition into civilian employment upon retiring from service.

Statute requires entities under the DCA to annually report the number of applications for expedited licensure that were submitted by veterans and active-duty spouses and partners. For example, in Fiscal Year 2022-23, the MBC received 14 applications from military spouses or partners and 101 applications from honorably discharged veterans subject to expedited processing. In 2023, the federal Servicemembers Civil Relief Act (SCRA) imposed new requirements on states to recognize qualifying out-of-state licenses for service members and their spouses. This new form of enhanced license portability potentially displaces the need for expedited licensure for these applicants.

A decade after the first expedited licensure laws were enacted for military families, the Legislature enacted Assembly Bill 2113 (Low) in 2020 to require licensing entities under the DCA to expedite licensure applications for refugees, asylees, and Special Immigrant Visa holders. The intent of this bill was to address the urgency of allowing those forced to flee their homes to restart their lives upon acceptance into California with refugee status. It is understood that the population of license applicants who have utilized this new expedited licensure program across all DCA entities is, to date, relatively small.

Subsequently in 2022, the Legislature enacted Assembly Bill 657 (Cooper) to add another category of applicants eligible for expedited licensure. This bill required the MBC, OMBC, the BRN, and the PAB to expedite the license application for an applicant who demonstrates that they intend to provide abortions. This bill was passed in the wake of the Supreme Court's decision to overturn *Roe v. Wade*, which led to concerns that with approximately half of all states likely to seek to ban abortion, patients in those states would come to California to receive abortion services, creating a swell in demand for abortion providers. Assembly Bill 657 was passed to ensure that there is an adequate health care provider workforce to provide urgent reproductive care services.

This bill would establish another process for expedited licensure that would be accessible to any applicant who pays an additional fee as part of their application. The MBC would be required to establish a fee at an amount equal to the cost of expediting the licensure process for applicants, but the fee would be capped at no more than $250. The author believes that this new expedited licensure process would be utilized by physicians and surgeons who are already licensed in other states and are seeking to practice in California but who can often face delays in the application process that prevent them from engaging in care. By allowing those applicants to have their applications processed more expeditiously, the author hopes that communities in California will see a meaningful increase in access to primary care.

Current Related Legislation. AB 742 (Elhawary) would require state licensing boards to prioritize applicants seeking licensure who are descendants of American slaves. *This bill is pending in the Assembly Committee on Judiciary.*

Prior Related Legislation. AB 2862 (Gipson) of 2024 would have required state licensing boards under the DCA to prioritize African American applicants seeking licenses, especially applicants who are descended from a person enslaved in the United States. *This bill died in the Senate Committee on Business, Professions, and Economic Development*.

AB 657 (Cooper), Chapter 560, Statutes of 2022 required specified boards under the DCA to expedite applications from applicants who demonstrate that they intend to provide abortions.

AB 2113 (Low), Chapter 186, Statutes of 2020 required entities under the DCA to expedite applications from refugees, asylees, and special immigrant visa holders.

SB 1226 (Correa), Chapter 657, Statutes of 2014 required entities under the DCA to expedite applications from honorable discharged veterans.

AB 1904 (Block), Chapter 399, Statutes of 2012 required entities under the DCA to expedite applications from military spouses and partners.

ARGUMENTS IN SUPPORT:

The *California Medical Association* writes in support of this bill as its sponsor: "AB 967 ensures that physicians can be recruited to move to California and have certainty that they will have an active license to practice when they relocate. Additionally, CMA will continue to collaborate with Assemblymember Valencia and relevant stakeholders to find a fee amount that is accessible and reasonable for all out-of-state physician applicants and the Medical Board of California."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

POLICY ISSUE(S) FOR CONSIDERATION:

Creation of Additional Expedited Licensure Processes. When expedited licensure was first established in California, it was intended to address unique issues relating to military families who move frequently and can often not afford to wait to qualify for a new license each time they relocate to a new state. The addition of refugee and asylee applicants was intended to respond to a growing international refugee crisis by providing similar benefits to a small number of applicants whose relocation to California was presumably abrupt and who would need to rebuild their professions. In that same spirit, the extension of expedited licensure to abortion care providers was aimed at preparing for a potential influx of demand for those services in the wake of the Supreme Court's decision to overturn longstanding protections for reproductive rights.

Several pieces of legislation have been subsequently introduced to establish new expedited licensure requirements for additional populations of applicants. Each of these proposals has arguably been meritorious, as were each of the measures previously signed into law. However, there is potentially a cause for concern that as the state contemplates adding more categories of license applicants to the growing list of applications that must be expedited by entities within the DCA, the value of expediting each applicant type becomes diluted and non-expedited applications could become unduly delayed.

If the Legislature intends to extend expedited licensure requirements to new demographics of applicants—which the author of this bill has argued cogently in favor of doing—attention should be paid to the impact that all these proposals ultimately have in their totality. The Legislature should also subsequently revisit the need for expedited licensure requirements that were established in particular contexts and determine if they are still needed, which could be achieved by the addition of sunset clauses.

Equity Considerations. Historically, legislation proposing to create new laws requiring expedited licensure in California has been targeted to address the unique needs of either specific categories of applicants (such as military spouses or refugees) or specific patient populations (including those in underserved communities or those seeking reproductive care). While the author's intent appears to be similarly targeted toward applicants who are licensed as physicians in other states and who plan to relocate to California to provide primary care, there is currently no language in the bill limiting its applicability to those applicants. As written, this bill would allow any applicant to pay to have their license application expedited, with no requirement that they have been previously licensed elsewhere and regardless of what patients they intend to serve or what type of medicine they intend to practice.

Furthermore, because the only prerequisite to qualify for the new expedited licensure would be payment of a fee, there should be consideration that this could propagate inequities within the medical profession. If the fee is set at a relatively high amount, then presumably only those physicians who have chosen more lucrative specialties or those who plan to provide care to more affluent communities would be able to easily afford to have their licenses expedited. Meanwhile, if the fee is set at a level that most applicants would find affordable, it may result in nearly every license being "expedited," therefore diluting the value of all forms of expedited licensure in the state. The author may wish to narrow the bill to more directly address its stated intent.

AMENDMENTS:

1) To specifically apply the eligibility for expedited licensure under the bill to physicians seeking to relocate to California to provide direct patient care, amend subdivision (a) in Section 1 of the bill as follows:

(a) The board shall expedite the licensure process for an applicant who submits an application that is accompanied by all of the following:

(1) ~~The board shall fix the~~ Payment of an expedite fee fixed by the board at an amount equal to the cost of expediting the licensure process for applicants applying under subdivision (a), ~~but the fee shall~~ not to exceed two hundred fifty dollars ($250).

(2) Proof of an active and unrestricted license issued by another state, district, or territory of the United States to practice medicine.

(3) Documentation demonstrating that the applicant intends to provide direct patient care in this state within 90 days of the date of the application, including, but not limited to, a letter from an employer or health care entity indicating all of the following:

(A) The applicant has accepted employment or entered into a contract to provide direct patient care.

(B) The applicant's starting date.

(C) The location where the applicant will be providing direct patient care.

2) To provide that the MBC should not prioritize expedited licensure obtained through payment of a fee over applicants who qualify for other expedited licensure processes, amend Section 1 of the bill to add the following language:

(c)(2) Applications submitted under this section shall not take priority over applications for expedited licensure under any of the sections described in this subdivision.

3) To allow the Legislature to revisit the expedited licensure requirements of this bill in the future to determine if those requirements are still needed, add a new subdivision providing that the bill's provisions will sunset in four years unless extended by the Legislature.

REGISTERED SUPPORT:

California Medical Association *(Sponsor)*
Sutter Health

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 985 (Ahrens) – As Amended March 24, 2025

SUBJECT: Anesthesiologist assistants.

SUMMARY: Establishes the Anesthesiologist Assistant Practice Act to allow certified anesthesiologist assistants to assist supervising anesthesiologists in developing and implementing an anesthesia care plan for a patient.

EXISTING LAW:

1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)

2) Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction, including healing arts boards under Division 2. (BPC § 101)

3) Makes it unlawful for any healing arts licensee to publically communicate a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services in connection with the professional practice or business for which they are licensed. (BPC § 651)

4) Establishes the Medical Board of California (MBC) within the DCA, which regulates physicians and surgeons under the Medical Practice Act. (BPC §§ 2000 *et seq.*)

5) Establishes the Osteopathic Medical Board of California (OMBC) within the DCA, which regulates physicians and surgeons under the Osteopathic Act who possess the same privileges as licensees regulated by the MBC. (BPC § 2450)

6) Restricts use of the titles "doctor" or "physician" to persons licensed under the Medical Practice Act or the Osteopathic Initiative Act, with specified exceptions. (BPC § 2054)

7) Authorizes unlicensed medical assistants to perform certain technical supportive services under the supervision of a physician or another specified practitioner. (BPC § 2069)

8) Establishes the Board of Registered Nursing (BRN) within the DCA, which regulates registered nurses (RNs) under the Nursing Practice Act. (BPC §§ 2700 *et seq.*)

9) Defines the RN scope of practice, which includes basic healthcare that requires a substantial amount of scientific knowledge or technical skill. (BPC § 2725)

10) Restricts the use of the title "registered nurse" to persons licensed under the Nursing Practice Act. (BPC § 2732)

11) Defines "nurse anesthetist" (CRNA) as a licensed RN who has met standards for certification from the BRN, which must consider the standards of the National Board of Certification and Recertification for Nurse Anesthetists, or a successor national professional organization approved by the BRN. (BPC § 2826)

12) Authorizes a CRNA to provide anesthesia services in (1) an acute care facility if approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist, and (2) in a dental office, the dentist holds a general anesthesia permit. (BPC § 2827)

13) Makes it unlawful for any person to make or disseminate any statement in the advertising of services, professional or otherwise, which is untrue or misleading. (BPC §§ 17200 *et seq.*)

14) Defines "outpatient setting" as any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. (Health and Safety Code (HSC) § 1248)

15) Provides for the certification of nurse assistants by the Department of Public Health (CDPH). (HSC §§ 1337 *et seq.*)

16) Establishes a "sunrise review" process for the Legislature to evaluate proposals to create any state board or category of licensed professional. (Government Code (GOV) §§ 9148 *et seq.*)

17) Requires a plan for the establishment and operation of any proposed state board or new category of licensed professional to be developed by the author or sponsor of the legislation prior to consideration by the Legislature, including, but not limited, to all of the following:

    a) A description of the problem that the creation of the specific state board or new category of licensed professional would address, including the specific evidence of need for the state to address the problem.

    b) The reasons why this proposed state board or new category of licensed professional was selected to address this problem, including the full range of alternatives considered and the reason why each of these alternatives was not selected, including no action, the use of a current state board or agency or the existence of a current category of licensed professional to address the problem, existing regulation or administration, and addressing the problem by federal or local agencies.

    c) The specific public benefit or harm that would result from the establishment of the proposed state board or new category of licensed professional, the specific manner in which the proposed state board or new category of licensed professional would achieve this benefit, and the specific standards of performance which shall be used in reviewing the subsequent operation of the board or category of licensed professional.

    d) The specific source or sources of revenue and funding to be utilized by the proposed state board or new category of licensed professional in achieving its mandate.

    e) The necessary data and other information required shall be provided to the Legislature with the initial legislation and forwarded to the policy committees in which the bill will be heard.

    (GOV § 9148.4)

THIS BILL:

1) Enacts the Anesthesiologist Assistant Practice Act.

2) Defines "anesthesiologist" as a physician and surgeon who has successfully completed a training program in anesthesiology accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or equivalent organizations and is licensed under the Medical Practice Act.

3) Provides that a person may only use the title "anesthesiologist assistant" if they meet both of the following requirements:

   a) Have graduated from an anesthesiologist assistant program recognized by the Commission on Accreditation of Allied Health Education Programs.

   b) Hold an active certification by the National Commission for Certification of Anesthesiologist Assistants.

4) Makes it an unfair business practice for any person who does not meet these requirements to use the title "anesthesiologist assistant" or any other term that implies or suggests that the person is certified as an anesthesiologist assistant.

5) Requires an anesthesiologist assistant to work under the direction and supervision of an anesthesiologist and requires the supervising anesthesiologist to do both of the following:

   a) Be physically present on the premises and immediately available to the anesthesiologist assistant when medical services are being rendered.

   b) Oversee the activities of, and accept responsibility for, the medical services being rendered by the anesthesiologist assistant.

6) Authorizes an anesthesiologist assistant to assist their supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Society of Anesthesiologists*. According to the author:

> California and the U.S. is currently experiencing an access to care crisis of epidemic proportions. Adding to this crisis is the severe shortage of anesthesia providers, including anesthesiologists and other non-physician anesthesia providers such as nurse anesthetists. All Californians deserve access to safe physician-led anesthesia care. AB 985 (Ahrens) successfully accomplishes this objective by adding an additional class of anesthesia providers to the health care workforce that are recognized to practice in 19 other states, the District of Columbia, the Veterans Administration and in Medicare. By providing title act protection to these nationally certified Anesthesiologist Assistants, patients throughout California will have immediate access to the safest form of anesthesia care being provided under the supervision of state licensed anesthesiologists, who are medical doctors specializing in anesthesiology.

Background.

Access to Anesthesiology Services. Anesthesia is a form of health care practice used to manage pain and discomfort during surgical or diagnostic procedures by inducing a temporary loss of sensation or awareness. It can range from local anesthesia, which numbs a small area, to general anesthesia, which renders a patient fully unconscious. Because the majority of anesthesia and sedation procedures involve significant risks to patients, such as adverse effects on the nervous system, heart rate, blood pressure, and respiratory functions, it is critical that the health professionals responsible for administering anesthesia are highly trained.

There are currently two categories of health professionals that typically provide anesthesia services in California. Anesthesiologists licensed by the MBC or the OMBC are medical doctors who specialize in administering anesthesia, monitoring patient vital signs during procedures, and managing pain before, during, and after surgery. Certified Registered Nurse Anesthetists (CRNAs) are advanced practice nurses licensed by the BRN who are trained to perform many of the same functions, including delivering various types of anesthesia and ensuring patient safety throughout the perioperative period. Both professionals play a critical role in safeguarding patient well-being and managing complex physiological responses to anesthesia.

Studies have repeatedly demonstrated that there is a shortage of anesthesiology providers both nationally and within California, which has been attributed to various factors including insufficient graduate medical education funding, an aging and retiring workforce, and a steady increase in demand for surgical services over the next decade due to population growth, particularly among the elderly.[1] A long-acknowledged physician workforce shortage continues to disproportionately impact rural communities with concentrated populations of immigrant families and people of color.[2] Labor analysis has found that facilities in rural communities with fewer available physicians are more likely to employ CRNAs than other parts of the state; however, the CRNA workforce has also been found to be insufficient to meet demand.[3]

This bill is intended to address the shortage of anesthesia providers by authorizing the practice of anesthesiologist assistants in California. While there is currently no state law recognizing this category of professional, the author has provided information demonstrating that similar providers are recognized to practice in numerous other states and can currently work within the Veterans Administration in California facilities. The intent of this bill is to enable certified anesthesiologist assistants to work in California to help bolster the anesthesia provider workforce that is currently not being adequately addressed by physician anesthesiologists or CRNAs.

Sunrise Review. This bill proposes to establish a new category of regulated professional. As such, this bill is required to undergo what is known as the "sunrise process." As laid out in Section 9148.4 of the Government Code, sunrise review is required prior to consideration by the Legislature of legislation creating a new state board or legislation creating a new category of licensed professional. The sunrise process includes a questionnaire and a set of evaluative scales to be completed by the group supporting regulation.

---

[1] Menezes, John *et al.* "Anesthesiologist Shortage in the United States: A Call for Action." *Journal of Medicine, Surgery, and Public Health*, vol. 2, 2024.
[2] Liu M, Wadhera RK. *Primary Care Physician Supply by County-Level Characteristics*, 2010-2019.
[3] Daugherty, Lindsay *et al*. "An Analysis of the Labor Markets for Anesthesiology." *Rand health quarterly* vol. 1,3 18, 2011.

The author and sponsor of this bill have provided the committee with a completed sunrise questionnaire in support of this proposal. The questionnaire is an objective tool for collecting and analyzing information needed to arrive at accurate, informed, and publicly supportable decisions regarding the merits of regulatory proposals. New regulatory and licensing proposals are generally intended to assure the competence of specified practitioners in different occupations. However, these proposals have resulted in a proliferation of licensure and certification programs, which are often met with mixed support. Proponents argue that regulation benefits the public by assuring competence and an avenue for consumer redress. Critics argue that regulation benefits a profession more than it benefits the public. Sunrise helps distill those arguments by: (1) placing the burden of showing the necessity for new regulations on the requesting groups; (2) allowing the systematic collection of opinions both pro and con; and (3) documenting the criteria used to decide upon new regulatory proposals.[4]

The primary effect of the language in the bill would be protection of the title "anesthesiologist assistant." Title protection is one of the forms of regulation of professional services that can be imposed by the Legislature to protect patients and consumers by reserving the use of words, terms, initials, and titles for individuals who have met certain requirements to demonstrate competence. While title protection is typically included as an element of licensure, the Legislature will sometimes grant recognition to persons who obtain a voluntary certification or registration relating to an unlicensed profession by providing them with exclusive use of specified titles. In many cases, this title protection is limited to the use of terms such as "certified" or "licensed" in association with terms related to the profession. However, some specific terms, such as "dietician" or "athletic trainer," are reserved for individuals who have obtained a voluntary certification or met other requirements despite there being no requirement to obtain a license to practice that profession.

This bill would provide that the term "anesthesiologist assistant" would be reserved for use only by individuals who have both graduated from an anesthesiologist assistant program recognized by the Commission on Accreditation of Allied Health Education Programs and who hold an active certification by the National Commission for Certification of Anesthesiologist Assistants. Unlawful use of a title is typically enforced by regulatory entities, including healing arts boards, consistent with the process for enforcement against unlicensed practice. While the bill does not specify a regulatory entity that would enforce this restriction, the bill would declare that it is an unfair business practice for an unqualified individual to use the title "anesthesiologist assistant." Additionally, Section 17200 of the Business and Professions Code broadly prohibits unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising.

This bill would additionally authorize anesthesiologist assistants to assist "in developing and implementing an anesthesia care plan for a patient." Any services provided by the anesthesiologist assistant would be required to be under the direction and supervision of an anesthesiologist, who would be required to be physically present on the premises and immediately available to the anesthesiologist assistant when medical services are being rendered. Additionally, the anesthesiologist would ultimately be responsible for overseeing the activities of, and accept responsibility for, the medical services being rendered by the anesthesiologist assistant.

---

[4] https://abp.assembly.ca.gov/sites/abp.assembly.ca.gov/files/reports/SunriseProcessDescriptionAsm.pdf

Current Related Legislation. AB 876 (Flora) would codify certain terms for purposes of the provision of anesthesia by CRNAs and make other changes to CRNA practice. *This bill is pending in this committee.*

AB 1215 (Flora) would clarify that dentists, podiatrists, clinical psychologists, nurse practitioners, CRNAs, nurse midwives, and other licensed health care professionals may serve on medical staff. *This bill is pending in this committee.*

Prior Related Legislation. AB 2526 (Gipson) of 2024 would have authorized a CNRA to administer general anesthesia or deep sedation in the office of a licensed dentist to dental patients, if certain conditions are met. *This bill died on suspense in the Assembly Committee on Appropriations.*

AB 765 (Wood) of 2023 would have prohibited any person who is not a licensed physician from using various medical specialty titles, including the title "anesthesiologist." *This bill died on suspense in the Assembly Committee on Appropriations.*

AB 890 (Ridley-Thomas) was substantially similar to this bill. *This bill died on suspense in the Assembly Committee on Appropriations.*

ARGUMENTS IN SUPPORT:

The *California Society of Anesthesiologists* (CSA) is sponsoring this bill. According to CSA: "Certified Anesthesiologist Assistants (CAAs) have been practicing in the U.S. for over 50 years and are authorized to work in 20 states plus Guam and the District of Columbia. They are also able to practice within the Veterans Administration system nationwide with direct anesthesiologist supervision, demonstrating their value in a variety of health care settings. There are over 4,000 practicing CAAs in the U.S. who serve as valuable mid-level providers within the ACT – implementing this model would bring California in line with national best practices, immediately expanding patient access to anesthesia services while maintaining strong oversight and safety standards."

ARGUMENTS IN OPPOSITION:

The *United Nurses Association of California* opposes this bill, writing: "AB 985 attempts to insert a new scope of practice that seemingly overlaps with that of CRNAs, as the bill provides that an anesthesiologist assistant shall work under the direction and supervision of an anesthesiologist, and further requires that the anesthesiologist be 'physically present on the premises' and 'immediately available.' In other words, it is not clear what gap the anesthesiologist assistant is filling that cannot already be performed by CRNAs. As such, this bill is likely to sow confusion, undermine clearly established patient health care protocols, and complicate the delivery of health care."

IMPLEMENTATION ISSUES:

While the law proposed by this bill would be formally titled the "Anesthesiologist Practice Act," the majority of the bill functions more like a title act, with language reserving use of the term "anesthesiologist assistant" for qualified individuals holding an active certification by the National Commission for Certification of Anesthesiologist Assistants. Rather than being enforced by a board, this title protection would be enforceable as an unfair business practice.

While typically title acts do not provide for a specific scope of practice, however, this bill does include language generally allowing anesthesiologist assistants to "assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient." It is not clear whether this assistance would fall within the range of supportive services generally authorized for medical assistants under the Medical Practice Act or whether anesthesiologist assistants would be authorized to engage in broader activities.

The sunrise questionnaire completed by the author and sponsor of this bill states that "the medical board is responsible for detailing the specific scope of practice for CAAs." However, this bill does not recognize the MBC as having a formal role in overseeing the practice of anesthesiologist assistants. The sunrise questionnaire does list a series of examples of tasks that an anesthesiologist assistant could potentially perform, and there are specific services that students enrolled in an anesthesiologist assistant program recognized by the Commission on Accreditation of Allied Health Education Programs are required to learn to obtain certification. The author may wish to consider adding language to the bill more specifically describing the scope of practice that anesthesiologist assistants would be provided in addition to the provisions establishing title protection.

REGISTERED SUPPORT:

California Society of Anesthesiologists *(Sponsor)*
California Medical Association
California Orthopedic Association

REGISTERED OPPOSITION:

United Nurses Associations of California/Union of Health Care Professionals

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1002 (Gabriel) – As Amended March 28, 2025

SUBJECT: Contractors: failure to pay wages: discipline.

SUMMARY: Authorizes the Attorney General (AG) to bring a civil action for the suspension, revocation, or denial of a contractor license on the basis that the defendant committed wage theft, and requires the court to issue an order directing the Contractors State License Board (CSLB or board) to suspend or deny a license, if the AG establishes that a defendant has committed wage theft.

EXISTING LAW:

1) Establishes, until January 1, 2029, the CSLB under the Department of Consumer Affairs (DCA) to implement and enforce the Contractors State License Law (License Law), which includes the licensing and regulation of contractors and home improvement salespersons. (Business and Professions Code (BPC) §§ 7000 *et seq.*)

2) Authorizes the board to appoint a registrar of contractors to be the executive officer and secretary of the CSLB. (BPC § 7011)

3) Exempts from the License Law a work or operation on one undertaking or project by one or more contracts if the aggregate price for labor, materials, and all other items is less than $1,000 that work or operation being considered of casual, minor, or inconsequential nature, and the work or operation does not require a building permit. (BPC § 7048)

4) Requires all licensees to notify the registrar in writing of any unsatisfied final judgment imposed on the licensee that is substantially related to the construction activities of a licensee, or to the qualifications, functions, or duties of the license. (BPC § 7071.17(b)(1), (h))

5) Specifies that if a licensee fails to notify the registrar in writing of any unsatisfied final judgment imposed on the licensee within 90 days, the license must be automatically suspended, as specified. (BPC § 7071.17(b)(1))

6) Requires the board to suspend a license upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment. (BPC § 7071.17(h))

7) Asserts that the failure of a licensee to notify the registrar of an unsatisfied final judgment, as specified, is cause for disciplinary action. (BPC § 7071.17(l))

8) Requires the CSLB to promulgate regulations covering the assessment of civil penalties that consider the gravity of the violation, the good faith of the licensee or applicant for licensure being charged, and the history of previous violations. Except as otherwise provided, prohibits the CSLB from assessing a civil penalty that exceeds $8,000. Specifies that the CSLB may assess a civil penalty up to $30,000 for specified violations (e.g., willful or deliberate disregard and violation of state and local building laws; aiding or abetting an unlicensed

person to violate the License Law; entering into a contract with an unlicensed person; and committing workers' compensation fraud). (BPC § 7099.2)

9) Specifies that willful or deliberate disregard and violation of the building laws of the state, or of any of the following, constitutes a cause for disciplinary action against a licensee:

   a) BPC §§ 8550–8556 relating to structural pest control.

   b) Civil Code §§ 1689.5–1689.15 relating to home solicitation contracts or offers.

   c) The safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state.

   d) The Subletting and Subcontracting Fair Practices Act.

   e) Any provision of the Health and Safety Code or Water Code relating to the digging, boring, or drilling of water wells.

   f) Any provision of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the Government Code relating to excavations and subsurface installations.

   g) Section 374.3 of the Penal Code or any substantially similar law or ordinance that is promulgated by a local government agency relating to illegal dumping.

   h) Any state or local law relating to the issuance of building permits.

   (BPC § 7110)

10) Requires the registrar to initiate disciplinary action against a licensee within 18 months from the date of the registrar's receipt of a certified copy of the Labor Commissioner's finding of a willful or deliberate violation of the Labor Code by a licensee or upon transmission to the CSLB of copies of any citations or other actions taken by the Division of Occupational Safety and Health, as specified. (BPC § 7110.5)

11) Asserts that the doing of any willful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured constitutes a cause for disciplinary action. (BPC § 7116)

12) Specifies that willful or deliberate failure by any licensee or agent or officer thereof, to pay any moneys, when due for any materials or services rendered in connection with their operations as a contractor, when they have the capacity to pay or when they received sufficient funds therefor as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased constitutes a cause for disciplinary action, as does the false denial of any such amount due or the validity of the claim thereof with intent to secure for themselves, their employer, or other person, any discount upon such indebtedness or with intent to hinder, delay, or defraud the person to whom such indebtedness is due. (BPC § 7120)

13) Requires a licensee to report to the registrar in writing within 90 days after the licensee has knowledge of any civil action resulting in a final judgment, executed settlement agreement,

or final arbitration award in which the licensee is named as a defendant or cross-defendant that meets specified criteria. (BPC § 7071.20)

14) Establishes the Division of Labor Standards Enforcement, under the direction of the Labor Commissioner, within the Department of Industrial Relations and sets forth its powers and duties regarding the enforcement of labor laws. (Labor Code (LAB) §§ 79 *et seq.*)

15) Authorizes the Labor Commissioner to investigate employee complaints and to provide for a hearing in any action to recover wages, penalties, and other demands for compensation, as specified. (LAB § 98)

16) Requires the Labor Commissioner to immediately, upon expiration of the period for review, as specified, deliver a certified copy of the finding of the violation to the registrar of the CSLB upon a finding by the Labor Commissioner that a willful or deliberate violation of any of the provisions of the Labor Code, within the jurisdiction of the Labor Commissioner, has been committed by a person licensed as a contractor in the course of such licensed activity. (LAB § 98.9)

17) Requires an employer to discontinue business in this state, unless the employer has obtained a bond from a surety company admitted to do business in this state and has filed a copy of that bond with the Labor Commissioner, if a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after a period of 30 days after the time to appeal therefrom has expired and no appeal therefrom is pending. (LAB § 238)

18) Specifies that in any criminal proceeding against a person who has been issued a license to engage in a business or profession by a state agency pursuant to provisions of the Business and Professions Code or the Education Code, or the Chiropractic Initiative Act, the state agency which issued the license may voluntarily appear to furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public, or may be ordered by the court to do so, if the crime charged is substantially related to the qualifications, functions, or duties of a licensee. (Penal Code § 23)

THIS BILL:

1) Authorizes the AG to bring a civil action for the temporary suspension or permanent revocation of a contractor's license on the basis that the contractor has failed to pay its workers the full amount of wages that the workers are entitled to under state law, or on the basis that the contractor has not fulfilled a wage judgment or is in violation of an injunction or court order regarding the payment of wages to its workers.

2) Authorizes the AG to bring a civil action to bar the licensure, or deny the relicensure, of any contractor, officer, director, associate, partner, manager, responsible manager, or other qualifying individual of a contractor on the basis that the person or entity has failed to pay workers the full amount of wages that the workers are entitled to under state law or on the basis that the person or entity has not fulfilled a wage judgment or is in violation of an injunction or court order regarding the payment of wages to its workers.

3) Requires the AG to notify the registrar of contractors at least 30 days prior to filing a civil complaint. Specifies that the AG's failure to provide notice to the registrar of contractors does not constitute a defense to the action.

4) Authorizes the board to intervene in any court proceedings brought pursuant to this bill within 60 days of the filing of the initial complaint. After that time, intervention shall be by leave of court upon good cause shown. If the board elects not to intervene, the election must be deemed consent by the board to comply with any order of the court issued pursuant to this bill and to be subject to the court's jurisdiction to enforce the order, if necessary.

5) Specifies that this bill does not preclude the board from independently or concurrently proceeding administratively against the contractor's license and obtaining administrative remedies for any violations not alleged in the AG's complaint, whether or not the board has intervened.

6) Specifies that the board is not precluded nor required to investigate a license for violations of the License Law, as specified.

7) Requires the court to issue an order directing the board to suspend a license or bar an initial licensure or relicensure if the AG establishes that a defendant has failed to pay workers the full amount of wages that the workers are entitled to under state law, or that a defendant has not fulfilled a wage judgment or is in violation of an injunction or court order regarding the payment of wages to its workers. The court may order the AG to provide proof of notice to the board before issuing its order.

8) Gives the court discretion to determine the duration of any suspension or bar pursuant to the interests of justice.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by *California Attorney General Rob Bonta*. According to the author:

> This bill is essential to protecting workers' wages and the economic security and dignity of every Californian. Bad faith efforts to repeatedly exploit our workforce and withhold hard-earned wages from Californians are unacceptable. We must take decisive action to keep our industries accountable and ensure that every worker in California receives the full pay they've earned. [This bill] sends a clear message that wage theft is not a tolerated business practice.

Background. The CSLB is responsible for the implementation and enforcement of the License Law, which governs the licensure, practice, and discipline of contractors in California. A license is required for construction projects valued at $1,000 or more, including labor and materials. The CSLB issues licenses to business entities and sole proprietors. Each license requires a qualifying individual (a "qualifier") who satisfies the experience and examination requirements for licensure and directly supervises and controls construction work performed under the license.

The CSLB is authorized to take disciplinary action against licensed and unlicensed contractors who have violated the License Law and is empowered to use an escalating scale of penalties, ranging from citations and fines (referred to as civil penalties) to license suspension and revocation. Current law authorizes the board to take disciplinary action against a licensee for violations of specified laws that fall outside the scope of the License Law. As it relates to this bill, the willful or deliberate disregard and violation of this state's labor laws constitutes a cause of action for disciplinary action against a licensee. Although the Board does not independently investigate wage and hour violations, the board is a member of the Labor Enforcement Task Force (LETF), a coalition of governmental agencies whose mission is "to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers; to create an environment in which legitimate businesses can thrive; and to support the collection of all California taxes, fees, and penalties due from employers."[1] According to the Board, the LETF inspects construction sites weekly to investigate license, wage, tax, and workplace safety compliance.[2] The Labor Commissioner's office, also known as the Division of Labor Standards Enforcement, and the Division of Occupational Safety and Health within the Department of Industrial Relations are responsible for investigating labor violations and workplace safety and health hazards. By law, the Labor Commissioner is required to notify the Board when a licensed contractor is found to have willfully or deliberately violated any provision of the Labor Code within the jurisdiction of the Labor Commissioner. Upon receipt of such a finding, the CSLB must initiate disciplinary action against a licensee within 18 months.

According to the proponents of this bill, "numerous companies in California have been the subject of multiple investigations that found violations of the Labor Code, including wage theft. Many of these have been settled through financial compensation but, for some companies, the penalty has apparently not proven to serve as a sufficient deterrent." In February 2024, the California Department of Justice filed a civil suit against West Coast Drywall & Company, Inc., a company with about 7,000 workers, alleging ongoing wage and hour violations, specifically that the company "failed to pay employees wages owed, overtime wages, provide accurate and complete itemized wage statements, reimburse for tools and equipment, and provide mandated breaks for its field employees since at least August of 2019."[3] In 2012, the United States Department of Labor investigated the company and determined that they failed to pay overtime to drywall employees and painters, resulting in approximately $9,000 in back wages for 101 employees.[4] The company agreed to comply with the federal Fair Labor Standards Act, but a subsequent investigation by the United States Department of Labor revealed that the company again failed to pay workers overtime, instructed employees to falsify timecards, and asked workers to sign untrue statements that they were fully compensated.[5] The company settled and agreed to pay nearly $1 million in back wages and damages for overtime violations.

---

[1] Department of Industrial Relations, *Labor Enforcement Task Force Report to the Legislature 2023*.
[2] Contracts State License Board, *2022-2024 Strategic Plan*, at 11.
[3] California Department of Justice Office of the Attorney General, *Attorney General Bonta Files Lawsuit Against Southern California Construction Company for Violating Labor Laws and Failing to Pay Wages Owed*, https://oag.ca.gov/news/press-releases/attorney-general-bonta-files-lawsuit-against-southern-california-construction
[4] United States Department of Labor, *US Labor Department sues SoCal drywall company to recover back wages, damages for approximately 1,500 employees; halt chronic overtime violations*, https://www.dol.gov/newsroom/releases/whd/whd20160810.
[5] United States Department of Labor, *California Drywall Company Pays $944,000 In Back Wages and Damages for Overtime Violations*, https://www.dol.gov/newsroom/releases/whd/whd20180110.

This bill would authorize the AG to file a civil suit against a licensed contractor to seek as a remedy the suspension, revocation, or denial of a license. This bill would require the AG to notify the board 30 days before filing a civil complaint, authorize the board to intervene in any court proceedings within 60 days of initial filing, and require the court to issue an order directing the board to suspend a license or bar licensure if the AG establishes that the contractor failed to pay its workers the full amount of wages that they are entitled to. The proponents assert that this bill would "be an important tool to address and prevent the exploitation of workers."

Current Related Legislation. *AB 485 (Ortega)* requires state agencies to deny a new license or permit, or the renewal of an existing license or permit, for employers with outstanding wage theft judgments and have not obtained a surety bond or reached an accord with the affected employee to satisfy the judgment. *That bill is pending in the Assembly Appropriations Committee.*

Prior Related Legislation.

AB 2210 (Aguiar-Curry), Chapter 128, Statutes of 2020, extended from 180 days to 18 months the time that CSLB has to bring disciplinary action against a contractor for a contractor's willful or deliberate violation of the Labor Code assessed by the Labor Commissioner.

SB 315 (Lieu), Chapter 392, Statutes of 2014, extended the period from 30 days to 180 days during which the CSLB must initiate disciplinary action against a licensee upon a finding by the Labor Commissioner of a willful and deliberate labor code violation.

SB 588 (De León), Chapter 803, Statutes of 2015, required an employer with an unsatisfied final judgment for non-payment of wages to cease business operations in California after 30 days unless the employer obtains a surety bond or reaches an accord with the unpaid worker.

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *Office of Attorney General Rob Bonta*, writes in support:

> CSLB has existing license suspension and revocation authority over its licensees in the construction industry where consumer protection is an important enforcement priority, and [this bill] would extend this enforcement authority to DOJ to combat serious and repeat wage theft and other wage and hour violations as well.
>
> For example, the U.S. Department of Labor (DOL) filed its most recent lawsuit against West Coast Drywall & Company, Inc. for wage theft on August 10, 2016, following a previous enforcement action for failure to pay overtime in 2012. DOL settled its 2016 case on January 10, 2017, with West Coast paying $944,000 in back wages and damages to 1,069 employees working as drywall installers and painters, in addition to $50,500 in civil penalties for violations of the Fair Labor Standards Act.
>
> Subsequently, California Attorney General Rob Bonta filed the state lawsuit against the same Southern California company for wage theft violations that allegedly began in 2019 or even earlier. In DOJ's case, West Coast failed to pay employees wages owed, overtime wages, provide accurate and complete itemized wage statements, reimburse for tools and equipment, and provide mandated breaks for its field employees since at least August of 2019 and, according to the Attorney General's complaint, continuing to at least 2024.

> Currently, the DOJ does not have the independent authority to seek suspension or revocation of, or the attachment of conditions to, a defendant's contractor license when suing a licensed contractor for labor violations. Serious and repeat wage and hour violators like West Coast Drywall demonstrate that existing civil remedies are insufficient to deter illegal behavior that harms California's workers and the economy overall.
>
> [This bill] would allow DOJ to seek CSLB license, suspension or revocation, or the attachment of license conditions, and obtain these remedies, after giving the CSLB notice of the relevant complaint, and providing the CSLB the option of intervening in the action. [This bill] does not establish any new remedies; it merely permits DOJ, working with the CSLB, to obtain licensing remedies that only the CSLB can currently obtain. This bill also affirmatively retains judicial discretion over the final remedy.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

POLICY ISSUE(S) FOR CONSIDERATION:

Delegation of board authority. The board currently has the sole authority to take disciplinary action (e.g., license probation, suspension, and revocation) against a contractor's license. This bill would authorize the AG to effectively circumvent the board to suspend, revoke, or deny a license by allowing the AG to file a civil action against a contractor for that purpose and requiring the court order the CSLB to suspend or deny a license. The board would have no discretion to determine the appropriate level of enforcement action to take.

Departure from precedent. Under current law, if the Division of Labor Standards and Enforcement or the Division of Occupational Safety and Health finds that a contractor has violated a provision of the Labor Code, then the Labor Commissioner is required by law to notify the CSLB, and the CSLB must initiate disciplinary action against a licensee within 18 months. The proposal in this bill departs from this precedent by authorizing the AG to file a civil case to suspend or revoke, or bar the issuance or renewal of, a contractor's license, and by requiring the court to issue an order mandating that the board take *specific* action against a license.

Ability to pay back wages. The board, as a condition of probation, may require that a licensee comply with a court order to pay back wages to injured employees. However, if the board is required to revoke a license, the board has no leverage to ensure that the employees are made whole. The court could stay the ruling to revoke a license, but it is unclear that they would.

Notification to the board. The board is authorized to take disciplinary action against a licensed contractor for violating the state's labor laws, but can only do so to the extent that the board is aware that such violations have occurred. While existing law requires the Labor Commissioner to report findings of violations to the board, neither the courts, AG, nor licensees are required to report settlements or civil judgments related to wage violations, unless they have not been satisfied.

IMPLEMENTATION ISSUES:

Inconsistency. Subdivision (a) of the bill authorizes the AG to file a civil action against a contractor for the "the temporary suspension or permanent revocation of a contractor's license," and subdivision (b) authorizes the AG to bring a civil action to "bar the licensure, or deny the relicensure, of any contractor, officer, director, associate, partner, manager, responsible manager, or other qualifying individual of a contractor." However, subdivision (e) specifies that if the AG establishes that a violation occurred, then the court must "issue an order directing the board to suspend a license or bar an initial licensure or relicensure." Subdivision (e) does not authorize the court to issue an order for the permanent revocation of a license as contemplated in subdivision (a).

Breadth. While it has been expressed that it is the author's intent for the AG's authority to seek license suspension, revocation, or denial to be constrained to those contractors who have a history of wage violations, the bill currently does not specify that limitation.

REGISTERED SUPPORT:

Attorney General Rob Bonta (sponsor)
California Rural Legal Assistance Foundation, INC.
California State Association of Electrical Workers
California State Pipe Trades Council
Inland Empire Labor Council, AFL-CIO
Legal Aid at Work
Public Counsel
Western Center on Law & Poverty, INC.
Western States Council Sheet Metal, Air, Rail and Transportation
Worksafe

REGISTERED OPPOSITION:

There is no opposition on file.

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1101 (Nguyen) – As Introduced February 20, 2025

SUBJECT: Plastic Bulk Merchandise Containers: proof of ownership.

SUMMARY: Requires any person or entity purchasing or transporting five or more plastic bulk merchandise containers for their recycling, shredding, or destruction to obtain the email address of the seller or the seller's authorized representative.

EXISTING LAW:

1) Defines "plastic bulk merchandise container" to mean a plastic crate or shell used by a product producer, distributor, or retailer, or an agent of the product producer, distributor, or retailer for the bulk transportation, storage, or carrying of retail containers of milk, eggs, or bottled beverage products. (Business and Professions Code (BPC) § 22755(a))

2) Requires any person or entity purchasing or transporting plastic bulk merchandise containers, who is in the business of recycling, shredding, or destruction of, or in the business of transporting for the purpose of recycling, shredding, or destruction of, plastic bulk merchandise containers, to obtain a proof of ownership record or bill of lading from a person selling or delivering five or more plastic bulk merchandise containers that shows that the person selling or delivering the containers has lawful possession or ownership of the containers. The person or entity must also verify the seller's identity by a driver's license or other government-issued photo identification. The proof of ownership record must include all of the following information:

    a) The name, address, telephone number, and signature of the seller or the seller's authorized representative.

    b) The name and address of the buyer or consignee if not sold.

    c) A description of the product including number of units.

    d) The date of transaction.

    (BPC § 22755(b))

3) Requires the aforementioned information to be kept for one year from the date of purchase or delivery (BPC § 22755(c))

4) Specifies that any person who violates the requirements above is guilty of a misdemeanor. (BPC § 22755(d))

THIS BILL:

1) Requires the proof of ownership record to include the email address of the seller or the seller's authorized representative.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Grocers Association*. According to the author:

> [This bill] will add more transparency to the existing proof-of-ownership record requirements surrounding the purchase of plastic bulk merchandise containers. Currently, any individual or entity selling these containers has to include a proof-of-ownership record that includes the seller's name, address, and phone number. This bill will also require the email address of the seller be included.

Background. Plastic bulk merchandise containers are used to transport and store goods. Existing law requires businesses that buy or transport containers for recycling, shredding, or destroying, to obtain proof of ownership from the seller or delivery person and verify their identity when buying or transporting more than five containers at a time. The proof of ownership record must include the seller's name, address, phone number, and signature of the seller or the seller's authorized representative. This bill would add the seller or delivery person's email address.

Prior Related Legislation.

AB 2289 (Ruskin), Chapter 461, Statutes of 2006, requires businesses that recycle, shred, or destroy plastic bulk merchandise containers, prior to purchasing five or more containers, to obtain proof of ownership from the seller and verify their identity.

AB 1583 (Roger Hernández), Chapter 300, Statutes of 2012, as it relates to this bill, requires businesses that transport plastic bulk merchandise containers for the purpose of recycling, shredding, or destruction to obtain a proof of ownership record or bill of lading from a person selling or delivering five or more containers.

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *California Grocers Association* writes in support:

> Plastic bulk merchandise containers—such as reusable totes and bins—are a vital component of grocery logistics and supply chain operations. Unfortunately, these containers are often targeted for theft and illicit resale, leading to significant financial losses and operational disruption for grocers and distributors alike. By requiring the inclusion of an email address in proof of ownership records, [this bill] strengthens traceability and accountability throughout the container reuse and recycling chain. This modest yet important change will help law enforcement and recyclers better identify legitimate ownership, reduce fraud, and discourage black-market activity associated with stolen containers.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

California Grocers Association (sponsor)

REGISTERED OPPOSITION:

There is no opposition on file.

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1130 (Berman) – As Introduced February 20, 2025

SUBJECT: Medical Board of California: appointments: removal.

SUMMARY: Clarifies that any member of the Medical Board of California (MBC) may be removed by the authority that appointed that member for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct.

EXISTING LAW:

1) Enacts the Medical Practice Act, which provides for the licensure and regulation of physicians and surgeons. (Business and Professions Code (BPC) §§ 2000 *et seq*.)

2) Establishes the MBC within the Department of Consumer Affairs (DCA), a board comprised of 15 appointed members, including five public members and eight physician members appointed by the Governor, one public member appointed by the Senate Committee on Rules, and one public member appointed by the Speaker of the Assembly. (BPC § 2001)

3) Provides that all members of the MBC must have been residents of California for five years preceding their appointment; requires all non-public members of the MBC to be actively licensed physicians; prohibits any member from owning any interest in any medical school; and requires that four of the physician members hold faculty appointments in a clinical department of an approved medical school in California. (BPC § 2007)

4) Authorizes the MBC to appoint panels of at least four of its members for the purpose of fulfilling its disciplinary obligations, and requires that a majority of the panel members be physicians. (BPC § 2008)

5) Establishes four-year terms for members of the MBC and provides that each appointing authority has the power to fill its vacancies for the unexpired term. (BPC § 2010)

6) Provides that the appointing power may remove any member of the MBC for neglect of duty, incompetency, or unprofessional conduct. (BPC § 2011)

7) Provides that for boards under the DCA, the appointing authority has power to remove from office at any time any member of any board appointed by that appointing authority for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. (BPC § 106)

THIS BILL:

1) Expressly provides that the appointing powers may only remove members of the MBC that were appointed by that appointing authority.

2) Replaces specific causes for removal with reference to current law generally allowing for board members to be removed for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

> Patients and consumers in California rely on active, thoughtful memberships on each of the regulatory boards established to protect the public. Existing law makes it clear that if a board member is not meeting the high expectations of these responsibilities, they may be removed. However, the Medical Practice Act is not clear that each appointing authority may only remove its own appointed members for specified causes. Clarifying this provision will ensure that there is no uncertainty about the rights and autonomy of the separate, coequal branches of government with power to make appointments to this important board.

Background.

Medical Board of California. The first Medical Practice Act in California was enacted in 1876. Early iterations of the MBC consisted of members either appointed directly by professional medical societies or who were appointed from lists of names provided by these societies. In 1901, the Act was completely rewritten and a Board of Examinations was established, comprised of nine members; the membership was increased to 11 in 1907. In 1976, significant changes were made to the Act to create MBC much as it exists today, as well as adjustments to MBC's composition. The prior board's 11 members originally included only one non-physician member; the MBC's membership was increased to 19 members, including seven public members. The MBC underwent more structural change in 2008 with the elimination of its Divisions of Licensing and Medical Quality and the creation of a unified board.

Today, the MBC is comprised of 15 members: eight physicians and seven public members. All eight professional members and five of the public members are appointed by the Governor. One public member of the MBC is appointed by the Senate Committee on Rules and one public member is appointed by the Speaker of the Assembly. Current law requires that four of the physician members hold faculty appointments in a clinical department of an approved medical school in the state, but no more than four members may hold full-time appointments to the faculties of such medical schools. The MBC meets about four times per year.

Removal of Board Members. Each practice act establishing a licensing board under the Business and Professions Code provides for the composition of that board. This typically includes the appointment of specified members by the Governor, Speaker of the Assembly, and Senate Rules Committee. Allowing for both the executive and legislative branches of government to appoint members to regulatory boards is an important component of board membership compositions, as it improves independence, oversight, and transparency within each body.

However, early iterations of the statutes initially provided that only the Governor had the authority to remove members of boards, even those appointed by legislative leadership. Over the past several years, legislation has been enacted to clarify that each appointing authority has its own authority to remove board members. However, the Medical Practice Act remains somewhat unclear, as statutory language suggests that any appointing authority may remove any member, not just its own.

The Constitution of California provides that "the powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." This is broadly interpreted to prevent each branch of government from inappropriately dictating the actions of another branch outside what is authorized by the Constitution.

This bill would confirm that each appointing authority may only remove its own appointed members from the MBC. This clarification ensures that the Medical Practice Act respects the separation of powers doctrine and the role played by both the executive and legislative branches of government. The bill would also remove specific causes for removal and instead cross-reference existing law that already provides for these conditions.

Current Related Legislation. AB 408 (Berman) would authorize the MBC to establish a physician health and wellness program that aligns with national best practices for helping physicians with substance use disorders and other conditions receive treatment. *This bill is pending in this committee.*

Prior Related Legislation. AB 2688 (Berman) of 2024 was substantially similar to this bill. *This bill died on the Senate Floor inactive file*.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1341 (Hoover) – As Amended March 24, 2025

SUBJECT: Contractors: discipline: unlicensed architecture, engineering, or land surveying.

SUMMARY: Specifies that the unlicensed practice of architecture, engineering, and land surveying by a licensed contractor constitutes cause for disciplinary action by the Contractors State License Board (CSLB or board).

EXISTING LAW:

1) Establishes, until January 1, 2029, the Contractors State License Board (CSLB) under the Department of Consumer Affairs (DCA) to implement and enforce the Contractors State License Law (License Law), which includes the licensing and regulation of contractors and home improvement salespersons. (Business and Professions Code (BPC) §§ 7000 *et seq.*)

2) Authorizes the Board to appoint a registrar of contractors to be the executive officer and secretary of the CSLB. (BPC § 2011)

3) Exempts from the License Law a work or operation on one undertaking or project by one or more contracts if the aggregate price for labor, materials, and all other items is less than $1,000 that work or operation being considered of casual, minor, or inconsequential nature, and the work or operation does not require a building permit. (BPC § 7048)

4) Specifies that willful or deliberate disregard and violation of the building laws of the state constitutes a cause for disciplinary action against a licensee. (BPC § 7110)

5) Requires the CSLB to promulgate regulations covering the assessment of civil penalties that consider the gravity of the violation, the good faith of the licensee or applicant for licensure being charged, and the history of previous violations. Except as otherwise provided, prohibits the CSLB from assessing a civil penalty that exceeds $8,000. Specifies that the CSLB may assess a civil penalty up to $30,000 for specified violations (e.g., willful or deliberate disregard and violation of state and local building laws; aiding or abetting an unlicensed person to violate the License Law; entering into a contract with an unlicensed person; and committing workers' compensation fraud). (BPC § 7099.2)

6) Establishes within DCA, a California Architects Board to implement and enforce the Architects Practice Act, which includes the licensing and regulation of architects. (BPC § 5510)

7) Specifies that it is a misdemeanor, punishable by a fine of not less than $100 nor more than $5,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, or to advertise or put out any sign, card, or other device that might indicate to the public that the person is an architect, is qualified to engage in the practice of architecture, or is an architectural designer. (BPC § 5536(a))

8) Specifies that it is a misdemeanor, punishable by a fine of not less than $100 nor more than $5,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to prepare plans, specifications, or instruments of service. (BPC § 5536(b))

9) Prohibits a licensed contractor from performing design services, except as specified, unless those services are performed by or under the direct supervision of a licensed architect, or a licensed professional or civil engineer, insofar as the professional or civil engineer practices the profession for which they are licensed. (BPC § 5537.2(a))

10) Prohibits a structural engineer, contractor, professional engineer, civil engineer, landscape architect, and land surveyor from using the title "architect," unless they hold an architect license. (BPC §§ 5537.1, 5537.2(c), 5537.4, 5537.5, 5537.6, 5537.7)

11) Establishes within DCA, a Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) to implement and enforce the Professional Engineers Act, Professional Land Surveyors' Act, and the Geologist and Geophysicist Act, which includes the licensing and regulation of civil, electrical, and mechanical engineers, land surveyors, geologists, and geophysicists. (BPC § 6710)

12) Specifies that to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as specifically excepted, who practices, or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, must submit evidence that they are qualified to practice, and shall be licensed accordingly as a civil engineer, electrical engineer or mechanical engineer by the BPELSG. (BPC § 6730)

13) Requires any person practicing, or offering to practice, land surveying in this state to submit evidence that they are qualified to practice and must be licensed under the Professional Land Surveyors' Act. Specifies that it is unlawful for any person to practice, offer to practice, or represent themselves, as a land surveyor in this state, or to set, reset, replace, or remove any survey monument on land in which they have no legal interest, unless they have been licensed or specifically exempted from licensing Professional Land Surveyors' Act. (BPC § 8725).

14) Specifies that any person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying who, either in a public or private capacity, does or offers to do any one or more of the following:

    a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering.

    b) Determines the configuration or contour of the earth's surface, or the position of fixed objects above, on, or below the surface of the earth by applying the principles of mathematics or photogrammetry.

c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

d) Makes any survey for the subdivision or resubdivision of any tract of land.

e) By the use of the principles of land surveying determines the position for any monument or reference point that marks a property line, boundary, or corner, or sets, resets, or replaces any monument or reference point.

f) Geodetic surveying or cadastral surveying, as specified.

g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in (a) to (f) above.

h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other representation that they practice or offer to practice land surveying in any of its branches.

i) Procures or offers to procure land surveying work for themselves or others.

j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.

k) Coordinates the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

l) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in (a) to (f) above.

m) Creates, prepares, or modifies electronic or computerized data in the performance of specified activities.

n) Renders a statement regarding the accuracy of maps or measured survey data.

(BPC § 8726(a))

THIS BILL:

1) Identifies provisions of the Architects Practice Act, Professional Engineers Act, and Professional Land Surveyors' Act as building laws of the state, which willful and deliberate disregard of constitutes a cause for disciplinary action against a licensee of the CSLB.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is co-sponsored by the *California Land Surveyors Association*, the *California and Nevada Civil Engineers and Land Surveyors Association*, the *American Council of*

Engineering Companies of California, and the *American Institute of Architects California*. According to the author:

> It is the responsibility of the state to ensure that those who practice land surveying, engineering, and architecture have received the appropriate license and training. Industry experts have identified a rise in the unlicensed practice of these disciplines among contractors. Existing law already charges the Contractors' State License Board with disciplining contractors for violations of the state building laws. AB 1341 simply clarifies that the unlicensed practice of land surveying, engineering, and architecture are included as violations of the state building laws. Ensuring the integrity of these disciplines not only protects consumers but also promotes fairness among each profession.

Background.

Contractors State License Board. The CSLB is responsible for the implementation and enforcement of the License Law, which governs the licensure, practice, and discipline of contractors in California. A license is required for construction projects valued at $1,000 or more, including labor and materials. The CSLB issues licenses to business entities and sole proprietors. Each license requires a qualifying individual (a "qualifier") who satisfies the experience and examination requirements for licensure and directly supervises and controls construction work performed under the license.

The CSLB is authorized to take disciplinary action against licensed and unlicensed contractors who have violated the License Law (but not other professional practice acts) and is empowered to use an escalating scale of penalties, ranging from citations and fines (referred to as civil penalties) to license suspension and revocation. Willful and deliberate disregard for the building laws of the state, or of a local jurisdiction, is ground for disciplinary action by the board. However, "building laws of the state" is undefined. This bill would expressly authorize the CSLB to take disciplinary action against a licensed contractor for the unlicensed practice of architecture, engineering, or land surveying, which is a violation of the respective practice acts for those professions.

Unlicensed Practice of Land Surveying. In 2019, the BPELSG reported that it had witnessed a spike in unlicensed activity, largely stemming from the advancement and democratization of technologies (I.e. Global Positioning System (GPS) and Ground Penetrating Radar (GPR) used to render land surveying and geophysical services. At the time, the BPELSG reported that the concern was not so much that laypersons were utilizing these tools, but that unlicensed individuals were interpreting resulting data and making subsequent recommendations, which constitute the practice of land surveying and geophysics in California. The Board reported conducting outreach at industry events and formed a relationship with the California Facilities Safe Excavation Board. However, the Board continues to receive complaints about unlicensed activity and encounter businesses with no knowledge of the state's licensing requirements. Professional stakeholders contend that certain entities—such as public agencies, developers, and contractors—often perform activities that technically constitute licensed land surveying or civil engineering within their wider scope of work on a project.

In its 2023-24 Sunset Review Report, the BPELSG stated that it is currently seeking ways to enhance the effectiveness of its Enforcement Unit in addressing complaints related to unlicensed practice. While administrative citations are useful for public disclosure, they are often not effective in motivating violators to actually cease activity. The internet is increasingly used for

advertising these unlicensed services, complicating enforcement. Additionally, businesses that may be licensed under other DCA entities, such as CSLB licensees, can often absorb the cost of administrative fines related to unlicensed land surveying or civil engineering activity with otherwise minimal impact on their professional licensure. While the Board has authority, through administrative citation, to order individuals advertising in phone directories to disconnect telephone services regulated by the Public Utilities Commission (PUC), many unlicensed individuals operate through mobile telephone services, which are not regulated by the PUC. The Board states they are exploring new strategies, such as collaborating with online platforms to educate users about licensure requirements and remove illegal listings.

Throughout the BPELSG's 2024 Sunset Review process, sponsors of this legislation worked with this Committee, and the Senate Committee on Business, Professions, and Economic Development to explore additional ways that Board staff might better combat unlicensed activity and uplift responsible actors, including the potential for increased and additional fines. These discussions resulted in substantive reforms that were contained in the AB 3252 (Berman, Chapter 558, Statutes of 2024), including expanding prohibitions related to the impersonation of a licensed engineer, land surveyor or geologist to also include the false use of "in-training" titles, requiring licensees to disclose the existence of professional liability insurance coverage in all client contracts, and additional business disclosure requirements to increase transparency. Nevertheless, meaningful enforcement against unlicensed activity by the BPELSG—particularly by businesses that are otherwise licensed by another state entity—remains difficult.

Considering that a large number of complaints related to unlicensed activity involve individuals or businesses licensed by the CSLB, the sponsors have put forward this legislation to provide an additional tool for state regulators to deter unlicensed land surveying and civil engineering activity. Under this bill, through clarifying what "building laws of the state" mean for purposes of enforcement, CSLB licensees can be disciplined for willful violation of engineering, land surveying, or architecture licensing requirements.

Prior Related Legislation. *AB 3253 (Berman), Chapter 588, Statutes of 2024*, extended the sunset date for the BPELSG until January 1, 2029, expanded the BPELSG's authority to take enforcement action against certain unlicensed activities, and made various other technical changes in response to issues raised during the sunset review process.

ARGUMENTS IN SUPPORT:

As co-sponsors of this bill, the *California Land Surveyors Association*, the *California and Nevada Civil Engineers and Land Surveyors Association*, the *American Council of Engineering Companies of California*, and the *American Institute of Architects California* write in support:

> The work performed by land surveyors includes the setting of legal property boundaries and locating with high precision the geospatial location of fixed works in the context of construction and engineering design and is therefore critical to the integrity of engineering design and the construction or modification of any building or infrastructure in the state.
>
> [The Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG)] skillfully establishes training requirements and oversees the competence and performance of its licensees. Most enforcement actions pursued by BPELSG are related to the conduct of a licensee, but there is an unfortunate and sustained increase in the amount of

> unlicensed land surveying. The advancement of technologies such as the Global Positioning System (GPS) and Ground Penetrating Radar (GPR) are used by laypersons to perform unlicensed land surveying services. While these tools can be used in a variety of productive ways by licensed land surveyors, they are often inconsistent and inaccurate when used by laypersons.
>
> [...]
>
> While the Board can easily enforce standards of practice against licensees, it has inadequate tools to enforce against those who ignore the licensing requirement entirely. This not only puts the public at risk and causes cost overruns for public agencies, but it harms the licensees who are appropriately trained, pay their licensing fees, and dedicate themselves to meeting the professional standards imposed by the state. These problems are well documented in the last few sunset review processes for BPELSG.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

IMPLEMENTATION ISSUES:

Investigation Process. Under this bill, "willful or deliberate disregard and violation" of engineering, land surveying, or architecture licensing requirements would constitute a cause for disciplinary action by the CSLB against a licensee. However, it is unclear whether the CSLB would need to initiate its own investigation to substantiate such a violation, or if the disciplinary action can be triggered upon the BPELSG or California Architects Board (CAB) citing a CSLB licensee for unlicensed activity according to their own practice acts. Should this bill move forward, the author may wish to consider clarifying how the BPELSG and CAB might collaborate with the CSLB to notify them of known practice violations by CSLB licensees to streamline the investigation and disciplinary processes.

Relevant Code Sections. According to the author and sponsors, this bill is intended to address activities that CSLB licensees may be practicing that are beyond their scope as contractors. As drafted, however, the bill erroneously references code sections in the Architects Practice Act, Professional Engineers Act, and Professional Land Surveyors' Act related to the application of the respective chapters, rather than what actions constitute unlicensed practice under each Act. In correspondence to the committee, the BPESLG and the CAB have identified alternative code sections that would allow the CLSB to practically carry out the intent of the legislation. The BPESLG also recommended the addition of a relevant code section from the Geologist and Geophysicist Act for parity with the other professions it regulates.

AMENDMENTS:

To incorporate technical feedback provided by the BPESLG and the CAB, amend the bill as follows:

On page 2 after line 22:

> (i) As used in this section, "building laws of the state" includes, without limitation, all of the following:

(1) Section ~~5536.~~*5536, 5536.1(c), and 5536.4.*

(2) ~~Section 6730.~~ *Section 6787*

(3) Section 7872

~~(3) Sections 8725 and 8726~~. *(4) Section 8792*

REGISTERED SUPPORT:

American Council of Engineering Companies of California (co-sponsor)
American Institute of Architects California (co-sponsor)
Board for Professional Engineers, Land Surveyors, and Geologists
California & Nevada Civil Engineers and Land Surveyors Association (co-sponsor)
California Geotechnical Engineers Association
California Land Surveyors Association (co-sponsor)

REGISTERED OPPOSITION:

There is no opposition on file.

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301, Edward Franco / B. & P. / (916) 319-3301