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 29, 2025
9 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	AB 260	Aguiar-Curry	Sexual and reproductive health care.
2.	AB 671	Wicks	Accelerated restaurant building plan approval.
3.	AB 714	Fong	California Private Postsecondary Education Act of 2009: exemptions: commercial driving licenses.
4.	AB 762	Irwin	Disposable, battery-embedded vapor inhalation device: prohibition.
5.	AB 968	Boerner	Pharmacists: self-administered FDA-approved nonhormonal contraceptives.
6.	AB 1027	Sharp-Collins	Cannabis: testing: quality assurance.
7.	AB 1271	Bonta	Communications: broadband internet service providers.
8.	AB 1332	Ahrens	Medicinal cannabis: shipments.
9.	AB 1482	Castillo	Bowie's Law: animals: adoption, shelter overcrowding, and breeding.
10.	AB 1501	Business and Professions	Physician assistants and podiatrists.
11.	AB 1502	Business and Professions	Veterinary medicine: California Veterinary Medical Board.
12.	AB 1503	Business and Professions	Pharmacy.
13.	AB 1504	Business and Professions	California Massage Therapy Council.

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 260 (Aguiar-Curry) – As Amended March 17, 2025

NOTE: This bill is double referred and previously passed the Assembly Committee on Health on a 12-1-2 vote.

SUBJECT: Sexual and reproductive health care.

SUMMARY: Protects the authority of a licensed health care professional to prescribe, furnish, order, or administer mifepristone and other medication abortion drugs; authorizes a pharmacist to dispense those drugs without the name of the prescriber or the name and address of the pharmacy on the prescription label, subject to certain requirements; and makes additional technical and conforming changes to recognize the constitutional right to receive abortion care in California.

EXISTING LAW:

1) Provides that the State of California shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. (California Constitution, Article I, § 1.1)

2) Enacts the Reproductive Privacy Act. (Health and Safety Code (HSC) §§ 123460 *et seq.*)

3) Finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, including whether to choose to bear a child or to choose to obtain an abortion. (HSC § 123462)

4) Defines "abortion" as any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth. (HSC § 123464)

5) Prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (HSC § 123466)

6) Protects individuals from civil or criminal liability based solely on their actions to aid or assist a pregnant person in exercising their rights under the Reproductive Privacy Act with the pregnant person's voluntary consent. (HSC § 123467)

7) Provides that a law of another state is contrary to the public policy of California if the law authorizes a person to bring a civil action against a person who receives or seeks an abortion; performs, provides, or induces an abortion; or engages in related acts. (HSC § 123467.5)

8) Expressly provides that an abortion is unauthorized if performed by someone other than the pregnant person or a health care provider authorized to perform an abortion pursuant to state law, or if the fetus is considered viable, and the continuation of the pregnancy posed no risk to life or health of the pregnant person, in the good faith medical judgment of the physician. (HSC § 123468)

9) Provides that California law governs in any action in the state against a person who provides or receives reproductive health care services if the provider was located in California or any other state where the care was legal at the time of the challenged conduct. (HSC § 123468.5)

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

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

12) Prohibits a licensee of a healing arts board from obstructing a patient in obtaining a legally prescribed or ordered drug or device, including emergency contraception drug therapy and self-administered hormonal contraceptives. (BPC § 733)

13) Prohibits a licensed health facility from denying, removing, or restricting the staff privileges of a licensee of a healing arts board on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that was based solely on the application of another state's law that interferes with a person's right to receive sensitive services, including sexual and reproductive health care, that would be lawful in California. (BPC § 805.9)

14) Prohibits healing arts boards from denying an application for licensure or disciplining a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that was based solely on the application of another state's law that interferes with a person's right to receive sensitive services, including sexual and reproductive health care, that would be lawful in California, regardless of the patient's location. (BPC § 850.1)

15) Requires the 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)

16) Prohibits specified healing arts boards from denying an application for licensure or suspending or revoking a license solely because the licensee performed an abortion in accordance with the Reproductive Privacy Act and their respective practice act, including abortions performed in other states that have banned or restricted abortion. (BPC § 2253)

17) Establishes the California State Board of Pharmacy (BOP) within the DCA to administer and enforce the Pharmacy Law. (BPC §§ 4000 *et seq.*)

18) Defines "pharmacist" as a person to whom a license has been issued by the BOP which is required for any person to manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to dispense or compound a prescription. (BPC § 4036)

19) Declares that "pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities." (BPC § 4050)

20) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:

    a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient's provider or prescriber.

d) Administer immunizations pursuant to a protocol with a prescriber.

e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, subject to specified requirements.

f) Administer drugs and biological products that have been ordered by a prescriber.

(BPC § 4052)

21) Authorizes a pharmacist to perform the following procedures or functions in certain licensed health care facilities in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

a) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

b) Ordering drug therapy-related laboratory tests.

c) Administering drugs and biologicals by injection pursuant to a prescriber's order.

d) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(BPC § 4052.2)

22) Authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by both the BOP and the Medical Board of California in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities, and sets additional requirements for the furnishing of self-administered hormonal contraceptives by pharmacists. (BPC § 4052.3)

23) Authorizes a pharmacist to initiate, adjust, or discontinue drug therapy for a patient under a collaborative practice agreement with any health care provider with appropriate prescriptive authority. (BPC § 4052.6)

24) Requires pharmacists to dispense prescriptions in containers that are labeled with specified information, including the trade name or generic name of the drug, the directions for use of the drug, the name of the patient or patients, the name of the prescriber, the date of issue, and the name and address of the pharmacy, among other required information. (BPC § 4076)

THIS BILL:

1) Repeals various obsolete provisions of law referencing criminal abortions and other constitutionally invalidated restrictions on abortion access.

2) Protects a healing arts practitioner who is authorized to prescribe, furnish, order, or administer dangerous drugs from a civil or criminal action or disciplinary or other administrative proceeding solely on the basis that the practitioner prescribed, furnished, ordered, or administered brand name or generic mifepristone or any drug used for medication abortion for a use that is different from the use for which that drug has been approved for marketing by the United States Food and Drug Administration (FDA) or that varies from an approved risk evaluation and mitigation strategy, except if the state deems it necessary to address an imminent health or safety concern regarding brand name or generic mifepristone.

3) Declares that the authority of a healing arts practitioner to prescribe, furnish, order, or administer brand name or generic mifepristone or any drug used for medication abortion is the practice of medicine, and the laws of another state or federal actions that interfere with the ability of a practitioner to prescribe, furnish, order, or administer brand name or generic mifepristone or any drug used for medication abortion if that action is lawful under the laws of the state, are against the public policy of California.

4) Prohibits healing arts boards from denying a license or taking disciplinary action against a licensee solely on the basis that the licensee manufactured, transported, distributed, delivered, received, acquired, sold, possessed, furnished, dispensed, repackaged, or stored brand name or generic mifepristone or any drug used for medication abortion that is lawful under the laws of the state, including in circumstances where that protected activity resulted in criminal conviction or discipline in another state.

5) Similarly prohibits an individual or state or local officer from commencing a criminal, civil, professional discipline, or licensing action concerning the manufacture, transport, distribution, delivery, receipt, acquisition, sale, possession, furnishment, dispensation, repackaging, or storage of brand name or generic mifepristone or any drug used for medication abortion that is lawful under the laws of the state.

6) Authorizes a pharmacist to, at their discretion, dispense brand name or generic mifepristone or any drug used for medication abortion without the name of the prescriber or the name and address of the pharmacy otherwise required to be listed on the prescription label, if the label contains a prescription number or other means of identifying the prescription.

7) Requires a pharmacist who dispenses, furnishes, or otherwise renders brand name or generic mifepristone or any drug used for medication abortion to maintain a log with the prescription numbers and the information otherwise required to be listed on the prescription label; provides that these records shall not be open to inspection by law enforcement without a valid, court-issued subpoena but that the investigation of an activity that is punishable as a crime under the laws of California is not prohibited, provided that records are not shared with an individual or entity from another state.

8) Requires a pharmacist to inform the patient that the pharmacist is dispensing brand name or generic mifepristone or any drug used for medication abortion under the labeling exemption.

9) Authorizes the California Department of Public Health (CDPH) to adopt regulations specific to mifepristone and other medication abortion drugs, including exempting those drugs from certain requirements if the drugs are no longer approved by the FDA.

10) Prohibits the CDPH from taking criminal, civil, professional discipline, or licensing action against a clinic or health facility for manufacturing, transporting, or engaging in certain acts relating to mifepristone or other medication abortion drugs.

11) Requires the Department of Health Care Services (DHCS) to update provider enrollment requirements and procedures for remote service providers who offer reproductive health care services exclusively thorough telehealth modalities.

12) Prohibits a health care service plan contract or a group or individual disability insurance policy that covers prescription drugs from limiting or excluding coverage for brand name or generic mifepristone, regardless of its FDA approval status.

13) Declares that certain provisions of the bill are severable and that if any provision is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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

COMMENTS:

Purpose. This bill is co-sponsored by *Attorney General Rob Bonta*, *Lieutenant Governor Eleni Kounalakis*, *State Treasurer Fiona Ma*, *Planned Parenthood Affiliates of California*, *ACCESS Reproductive Justice*, *Reproductive Freedom for All*, *Black Women for Wellness Action Project*, *TEACH*, *California Latinas for Reproductive Access*, *Unite for Reproductive and Gender Equity*, *Essential Access Health*, *American College of Obstetricians and Gynecologists, National Health Law Program*, *Hey Jane*, and the *Abortion Coalition for Telemedicine*. According to the author:

> For years, California has promoted access to reproductive health care without unnecessary burdens or restrictions on patients or providers. However, recent lawsuits and actions by the federal government are exploring ways to limit states' ability to provide medication abortion drugs, posing a threat to Californians' constitutional right to reproductive freedom. AB 260 enhances access to medication abortion in California by protecting health care providers, facilities, and patients who access abortion medication, while also expanding overall access to reproductive health care. This bill ensures that the fundamental right to choose to have an abortion, secured by the California Constitution, remains protected. When access to the fundamental right to health care is under attack across the nation, this bill proactively seeks to ensure that the existing standard of practice for medication abortion remains legal in California.

Background.

Abortion Rights in California. In 2002, the Legislature enacted the Reproductive Privacy Act, which recognized that every woman in California possesses the fundamental right to choose to bear a child or to obtain an abortion. Under the Reproductive Privacy Act, the state is prohibited from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

The only restriction on abortion recognized by the Reproductive Privacy Act is when, in the good faith medical judgment of a physician, the fetus is viable and there is no risk to the life or health of the pregnant woman associated with the continuation of the pregnancy. Currently in California, medical providers who can perform abortions within their scope of practice are physicians and, under physician supervision, nurse practitioners, certified nurse-midwives, and physician assistants.

The Reproductive Privacy Act codified the right to choose whether to have an abortion as a form of exercising the implicit right to privacy under the Fourteenth Amendment of the United States Constitution, as previously affirmed by the Supreme Court of the United States in *Roe v. Wade*, which found that Texas's criminal abortion statute violated the Due Process Clause. The Court ruled in *Roe* that during the first trimester, "the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician." The Court ruled that during the second trimester, a state may only choose to "regulate the abortion procedure in ways that are reasonably related to maternal health," but that states may ban abortion altogether during the third trimester, "except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."[1] This holding was later expanded upon in the Court's 1992 decision in *Planned Parenthood v. Casey*, which declared state laws to be unconstitutional if they placed an "undue burden" on access to abortion before fetal viability.[2]

However, recent judicial activism within the Court nationally imperiled the constitutional protections previously recognized in *Roe*. In 2021, the Texas Legislature passed Senate Bill 8, referred to as the Texas Heartbeat Act. That bill criminalized abortion after the detection of embryonic or fetal cardiac activity, essentially banning abortion after approximately six weeks. The constitutionality of the Texas Heartbeat Act was challenged in *Whole Woman's Health v. Jackson*, which sought to enforce the *Roe* precedent and overturn Senate Bill 8. However, the Court declined to enjoin the Texas Heartbeat Act, which many pro-choice advocates viewed as portending a future decision by the Court to overturn or severely diminish the constitutional rights guaranteed under *Roe*.

Subsequently, on December 1, 2021, the Court heard oral arguments in *Dobbs v. Jackson Women's Health Organization*, a case regarding a 2018 law in the State of Mississippi that banned abortion after 15 weeks of pregnancy. *Dobbs* was a direct challenge to the legal precedents set in *Roe* and *Casey* and was the first time the Court ruled on the constitutional right to pre-viability abortion since *Roe*. On June 24, 2022, the Court published its ruling that abortion is *not* a right protected under the Constitution of the United States. This decision effectively overturned *Roe* and left the question of whether to ban abortion and other forms of reproductive care up to individual states.[3]

Immediately following the Court's decision, State Senate President pro Tempore Toni Atkins sponsored Senate Constitutional Amendment 10, which placed a proposition on the 2022 ballot titled *Constitutional Right to Reproductive Freedom*. Proposition 1 explicitly made abortion and access to contraceptives a constitutional right in California. The ballot proposition passed with over 66 percent of voters in favor, formally enshrining the protections of *Roe* into the state's constitution and securing essential reproductive rights for pregnant people in California.

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[1] *Roe v. Wade*, 410 U.S. 113 (1973)
[2] *Planned Parenthood v. Casey*, 505 U.S. 833 (1992)
[3] *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022)

While California law protects a pregnant person's right to choose in a manner consistent with *Roe*, the Guttmacher Institute initially estimated that 26 states would likely seek to ban abortion with *Roe* overturned, resulting in 36 million women and other people who may become pregnant losing access to abortion care nationwide.[4] This included 13 states with so-called "trigger ban" statutes, designed to immediately take effect following the Court's invalidation of *Roe*, and a number of additional states with pre-*Roe* laws restricting abortion still in place.[5]

In spite of efforts by numerous states to ban or significantly restrict access to abortion, some medical professionals may still choose to provide abortions in defiance of those state laws, potentially including professionals licensed in California who may travel to other states to provide those health care services. Additionally, many residents of states that have limited abortion access may travel to states like California, where their rights remain undiminished.[6] Following news reports that the impending decision in *Dobbs* was likely to overturn the protections of *Roe*, Governor Gavin Newsom announced that California would "maintain and improve availability of safe and accessible reproductive health care services and prepare for a potential influx of people from other states seeking reproductive health care and abortion services." This announcement included $1 million to launch a state-sponsored website, abortion.ca.gov, which provides both California residents and travelers from other states with information about their reproductive rights and how to seek abortion services in California.

Several states have acted to impose their abortion laws even when the services are performed in states that have remained consistent with the protections of *Roe*. The legislatures in Arkansas, South Carolina, Texas, Ohio, Missouri, and Alabama, for example, have all proposed or enacted laws to criminalize residents seeking or assisting those seeking abortions out-of-state. These state laws are arguably unconstitutional; in 2023, the United States Department of Justice filed a statement of interest in two consolidated lawsuits seeking to protect the right to interstate travel, including the right to travel to another state to obtain an abortion that is legal in the destination state. On the day that the *Dobbs* decision was officially published, the governors of California, Oregon and Washington announced a "Multi-State Commitment to defend access to reproductive health care, including abortion and contraceptives, and committed to protecting patients and doctors against efforts by other states to export their abortion bans to our states."

To prepare for an anticipated surge in demand for abortion services following the Court's decision in *Dobbs*, including from patients traveling from restrictive states, the Legislature enacted Assembly Bill 657 (Cooper) in 2022, sponsored by the American College of Obstetricians and Gynecologists – District IX. AB 567 requires specified healing arts boards to expedite the licensure process for applicants who intend to provide abortions. To qualify, the applicant must provide a letter declaring the applicant's intention to provide abortions and a letter from an employer or health care entity indicating that the applicant has accepted employment or entered into a contract to provide abortions, the applicant's starting date, the location where the applicant will be providing abortions, and that the applicant will be providing

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[4] https://www.guttmacher.org/article/2021/10/26-states-are-certain-or-likely-ban-abortion-without-roe-heres-which-ones-and-why

[5] https://www.guttmacher.org/article/2022/06/13-states-have-abortion-trigger-bans-heres-what-happens-when-roe-overturned

[6] https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care

abortions within the scope of practice of their license in accordance with the Reproductive Privacy Act.

The Legislature also enacted Assembly Bill 2626 (Calderon) in 2022 to provide reassurance to California health care professionals that they would not be subjected to discipline for continuing to provide abortion care and other reproductive services following the ruling in *Dobbs*. That bill reiterated that licensing boards may not subject licensed health care professionals to serious discipline for performing an abortion that is legal under California law, protecting the license of those who provide abortions in states that have banned abortion or to patients who have traveled from those states to California to seek care. While California licensing boards do not have direct jurisdiction over care provided in other states, they are notified when a licensee was either convicted of a crime in another state or subjected to discipline by another state's licensing board. When notified, the California boards may decide whether to take disciplinary action. AB 2626 prohibited boards from suspending or revoking a license solely because the licensee performed an abortion in accordance with California law.

In 2023, Assembly Bill 1707 (Pacheco) was enacted to further protect health care professionals who perform abortions and other forms of care prohibited in other states that patients would have a right to receive in California. Specifically, the bill prohibited healing arts boards from denying or disciplining a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in California, including sexual and reproductive health care and gender affirming care. The bill also enacted similar prohibitions against discipline against health professionals by the CDPH and licensed health facilities.

In April 2024, Governor Newsom joined the California Legislative Women's Caucus and other legislative leaders and health care advocates to announce plans to sponsor "urgency legislation to allow Arizona abortion providers to temporarily provide abortion care to patients from Arizona who travel to California for care." The language in Senate Bill 233 (Skinner) was intended to be a "stopgap" to allow for Arizona physicians to provide their patients with abortion services prior to the date when an 1864 abortion ban was expected to be repealed. SB 233 went into effect immediately following its enactment on May 23, 2024 and subsequently became inoperative on December 1, 2024.

Access to Medication Abortion. Along with procedural abortions, medication can be administered to end a pregnancy. In September 2000, the FDA first approved the drug mifepristone for purposes of inducing a medication abortion during the early stages of pregnancy. Typically used in combination with misoprostol, mifepristone works by blocking the hormone progesterone, which causes the uterine lining to break down, thereby terminating the pregnancy. Prior to the drug's formal approval, the FDA's Advisory Committee for Reproductive Health Drugs found mifepristone to be safe and effective in inducing abortions early in pregnancy.[7]

The FDA has subsequently reaffirmed the safety and efficacy of mifepristone. In March 2016, the FDA approved an updated label for the drug that reflected widely recommended medication abortion protocols, which strengthened access in states with restrictions on medication abortion

[7] "FDA panel finds mifepristone safe and effective." *Reproductive freedom news* vol. 5,13 (1996).

drugs. A generic version of mifepristone was approved by the FDA in April 2019. In January 2023, the FDA made modifications to the Mifepristone Risk Evaluation and Mitigation Strategy Program, further strengthening access to medication abortion while maintaining safety standards.

Despite repeated confirmation by experts that mifepristone is a safe and effective option for early abortion care, anti-choice activists have recently succeeded in creating uncertainty around the future of medication abortion access. In April 2023, a federal judge in Texas issued a ruling that sought to suspend the FDA's approval of mifepristone, dubious arguing that the FDA had exceeded its authority in approving mifepristone without considering safety risks during the initial approval process. Governor Gavin Newsom publicly responded to this decision, declaring that the ruling "by an extremist judge pursuing a radical political agenda, ignores facts, science, and the law – putting the health of millions of women and girls at risk." The Governor also announced that California had secured an emergency stockpile of mifepristone "to ensure California providers can continue to provide medication abortions without disruption."

The case reached the Supreme Court of the United States, where it was initially considered to be likely that the Texas judge's ruling would be upheld. In anticipation of this decision, it was announced that the Governor and legislative leaders would pursue actions to protect the ability of California pharmacists to dispense mifepristone "even if the Supreme Court suspends the drug's FDA approval," along with additional safeguards and privacy protections. However, shortly after that announcement, the Court ruled to stay the ruling of the Texas judge, providing temporary assurance that access to mifepristone would remain in place.

The Court once again considered challenges to the FDA's approval of mifepristone for medication abortion when it heard arguments in *Food and Drug Administration, et al., v. Alliance for Hippocratic Medicine* in early 2024. California joined 22 other states in filing an amicus curiae brief on behalf of the FDA's review process and its longstanding approval of mifepristone. The Court ultimately ruled that the coalition of anti-abortion activists did not have standing, with Justice Brett Kavanaugh writing an opinion that held that the FDA's approval of mifepristone did not require doctors with religious objections to abortion to prescribe that medication.[8]

While efforts to undermine access to mifepristone have been repeatedly unsuccessful in the courts, anti-choice activists have continued to pursue actions to limit or punish the use of that medication. In late 2024, Texas Attorney General Ken Paxton sued a New York physician for prescribing abortion medication to a Texas resident through telehealth. This litigation invokes a number of legal questions about the ability of states to shield practitioners and patients from draconian laws limiting access to abortion care through laws like those recently enacted in California.

This bill would seek to provide further reassurance that mifepristone will remain available in California and that health care professionals and their patients will be protected even if actions taken by activists, the courts, or the Trump Administration seek to prohibit or restrict medication abortion. The bill would unequivocally state that the authority of a healing arts practitioner to prescribe, furnish, order, or administer brand name or generic mifepristone or any drug used for medication abortion is the practice of medicine, and the laws of another state or federal actions that interfere with the ability of a practitioner to prescribe, furnish, order, or administer brand

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[8] *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. ___ (2024).

name or generic mifepristone or any drug used for medication abortion if that action is lawful under the laws of the state, are against the public policy of California. The bill would additionally protect healing arts licensees who prescribe, furnish, order, administer, or dispense mifepristone and related drugs from criminal, civil, professional discipline, or licensing action.

Prescription Drug Container Labeling. Current law prohibits a pharmacist from dispensing a prescription unless they do so with a container that meets certain labeling requirements. Absent a small number of exemptions, every prescription drug container must be labeled with the following information:

- The drug's trade name, or its generic name and manufacturer;
- Directions for the use of the drug;
- The name of the patient or patients;
- The name of the prescriber or other practitioner operating under a standardized procedure or protocol;
- The date of issue;
- The name and address of the pharmacy and the prescription number or other means of identifying the prescription;
- The strength and quantity of the drug or drugs dispensed;
- The expiration date of the effectiveness of the drug dispensed;
- The condition or purpose for which the drug was prescribed, if indicated;
- A physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except in certain cases.
- A notice that states "Caution: Opioid. Risk of overdose and addiction" when the medication is an opioid dispensed to a patient for outpatient use.

In addition, the California Patient Medication Safety Act directed the BOP to promulgate further regulations to require a "standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California." The resulting language enacted in 16 C.C.R. § 1707.5 specifies that drug container label information must be clustered into one area of the label comprising at least 50 percent of the label, and that each item must be printed in at least a 12-point sans serif typeface. The regulations provide template language and recommend formatting to provide added emphasis.

This bill would allow for a pharmacist to choose to dispense brand name or generic mifepristone or any drug used for medication abortion without the name of the prescriber or the name and address of the pharmacy, as currently required, if the prescription is labeled with a prescription number or other means of identifying the prescription. This language is in part connected to the lawsuit brought by Texas Attorney General Ken Paxton against the physician in New York, whose prescribing of mifepristone was identified through the discovery of prescription bottles in the patient's home. Legislation establishing a similar exemption from prescription container labeling requirements was signed into law by New York Governor Kathy Hochul in February 2025. The author believes that similar language is necessary to ensure that California health care practitioners are also fully protected from attempted prosecution.

Current Related Legislation. AB 54 (Krell) would establish the Access to Safe Abortion Care Act, which would prohibit a manufacturer, distributor, authorized health care provider, pharmacist, or individual from being subject to civil or criminal liability, or professional disciplinary action, for accessing, mailing, shipping, receiving, transporting, distributing,

dispensing, or administering mifepristone or misoprostol on or after January 1, 2020, in accordance with state law, applicable and accepted standards of care, and good faith compliance with the provisions of the bill. *This bill is pending in the Assembly Committee on Judiciary.*

Prior Related Legislation. SB 233 (Skinner), Chapter 11, Statutes of 2024 established a temporary registration program to allow for physicians licensed to practice medicine in Arizona to perform abortions or provide abortion-related care in California to patients traveling from Arizona for that care.

SB 385 (Atkins), Chapter 178, Statutes of 2023 expanded the training options for physician assistants seeking to perform abortions by aspiration techniques.

AB 1707 (Pacheco), Chapter 258, Statutes of 2023 prohibited licensed health care professionals, clinics, and health facilities from being denied a license or subjected to discipline on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state based solely on the application of a law that interferes with a person's right to receive sensitive services that would be lawful in California.

AB 1369 (Bauer-Kahan), Chapter 837, Statutes of 2023 authorized an out-of-state physician to practice medicine in California without a California license if the practice is limited to delivering health care via telehealth to a patient who has an immediate life-threatening disease or condition.

AB 1666 (Bauer-Kahan), Chapter 42, Statutes of 2022 declared that another state's law authorizing a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions, is contrary to the public policy of this state.

AB 657 (Cooper), Chapter 560, Statutes of 2022 required specified healing arts boards to expedite the license application for an applicant who demonstrates that they intend to provide abortions.

AB 2626 (Calderon), Chapter 565, Statutes of 2022 prohibited specified licensing boards from suspending, revoking, or denying a license solely for performing an abortion that is lawful in California in accordance with the licensee's practice act.

AB 1242 (Bauer-Kahan), Chapter 627, Statutes of 2022 prohibited law enforcement and specified corporations from providing information to out-of-state entities regarding a lawful abortion under California law.

AB 2091 (Bonta), Chapter 628, Statutes of 2022 protected the private information of individuals who seek or consider an abortion, including a prohibition against the sharing of reproductive health care information in response to subpoenas related to out-of-state anti-abortion statutes.

SCA 10 (Atkins), Res. Chapter 97, Statutes of 2022 enacted a constitutional amendment to provide that the state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to have an abortion.

AB 1264 (Petrie-Norris), Chapter 741, Statutes of 2019 clarified that an "appropriate prior examination" does not require a synchronous interaction between a provider and a patient for purposes of prescribing, furnishing, or dispensing self-administered hormonal contraceptives.

SB 1301 (Kuehl), Chapter 385, Statutes of 2002 enacted the Reproductive to Privacy Act to prohibit the state's denial or interference with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when necessary to protect the life or health of the woman.

ARGUMENTS IN SUPPORT:

The co-sponsors of this bill submitted a letter collectively expressing support for the bill, including *Attorney General Rob Bonta*, *Lieutenant Governor Eleni Kounalakis*, *State Treasurer Fiona Ma*, *Planned Parenthood Affiliates of California*, *ACCESS Reproductive Justice*, *Reproductive Freedom for All*, *Black Women for Wellness Action Project*, *TEACH*, *California Latinas for Reproductive Access*, *Unite for Reproductive and Gender Equity*, *Essential Access Health*, *American College of Obstetricians and Gynecologists, National Health Law Program*, *Hey Jane*, and the *Abortion Coalition for Telemedicine*. The coalition letter states: "When access to the fundamental right to health care is under attack across the nation, this bill proactively codifies the existing standard of practice for medication abortion so that it remains legal in California, regardless of federal actions. AB 260 reassures Californians that their rights to essential health care and bodily autonomy are – and will remain – protected. It is for these reasons that we are proud to co-sponsor this legislation."

Planned Parenthood Affiliates of California (PPAC), one of the bill's co-sponsors, also writes separately in support of the bill: "Medication abortion, and broad access to it, allows individuals to receive safe and effective abortion care in a least invasive manner. Any federal threats to restrict medication abortion and the drugs used are not only dangerous and risky, but also a direct attack on the state's constitutional right to reproductive freedom. Mifepristone, a drug used in combination with a second drug – misoprostol – to terminate a pregnancy through medication abortion, was approved by the FDA in 2000. Accordingly, scientists have studied the safety of mifepristone for over 25 years, and these decades of evidence show that medication abortion and the drugs used in the process are safe and effective." PPAC further writes: "AB 260 protects medication abortion by establishing that the current standard of care for the use of mifepristone will remain legal in this state, protecting providers that legally provide mifepristone, requiring the continuation of existing coverage for medication abortion, and expanding access to reproductive health care through telehealth. Proactively taking steps to protect care will help to ensure that there will not be an interruption of access to medication abortion care in California."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

Attorney General Rob Bonta *(Co-Sponsor)*
Lieutenant Governor Eleni Kounalakis *(Co-Sponsor)*
State Treasurer Fiona Ma *(Co-Sponsor)*
Planned Parenthood Affiliates of California *(Co-Sponsor)*
ACCESS Reproductive Justice *(Co-Sponsor)*
Reproductive Freedom for All *(Co-Sponsor)*
Black Women for Wellness Action Project *(Co-Sponsor)*
TEACH *(Co-Sponsor)*
California Latinas for Reproductive Access *(Co-Sponsor)*
Unite for Reproductive and Gender Equity (URGE) *(Co-Sponsor)*

Essential Access Health *(Co-Sponsor)*
American College of Obstetricians and Gynecologists *(Co-Sponsor)*
National Health Law Program *(Co-Sponsor)*
Hey Jane *(Co-Sponsor)*
The Abortion Coalition for Telemedicine *(Co-Sponsor)*
California Medical Association
California Nurse Midwives Association
California Pan - Ethnic Health Network
California Pharmacists Association
Parent Voices California

REGISTERED OPPOSITION:

1 Individual

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 671 (Wicks) – As Amended April 24, 2025

NOTE: This bill is double referred and passed the Assembly Local Government Committee on April 23, 2025, by a vote of 10-0-0.

SUBJECT: Accelerated restaurant building plan approval.

SUMMARY: Requires a local building department or permitting department to allow a qualified professional certifier to certify compliance with appliance building, health, and safety codes for a tenant improvement plan related to a restaurant.

EXISTING LAW:

1) Defines an "architect" as a person who is licensed to practice architecture in this state. (Business and Professions Code (BPC) § 5500)

2) Defines a "professional engineer" as a person engaged in the professional practice of rendering service or creative work requiring education, training, and experience in engineering sciences and the application of special knowledge of the mathematical, physical, and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design of public or private utilities, structures, machines, processes, circuits, buildings, equipment or projects, and supervision of construction to secure compliance with specifications and design for any such work. (BPC § 6701)

3) Establishes the California Building Standards Commission (CBSC) within the Department of General Services and requires the CBSC to administer the processes related to the adoption, approval, publication, and implementation of California's building codes, which serve as the basis for the design and construction of buildings in California. (Health and Safety Code (HSC) §§ 18901 et seq.)

4) Requires any building standard adopted or proposed by state agencies to be submitted to, and approved or adopted by, the BSC before codification. Prior to submission to the BSC, building standards must be adopted in compliance with the Administrative Procedure Act. Building standards adopted by state agencies and submitted to the commission for approval must be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards, which shall, to the satisfaction of the commission, justify the approval in terms of specified criteria. (HSC § 18930(a))

5) Specifies that where no state agency has the authority to adopt building standards applicable to state buildings and requires the BSC to adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California. (HSC § 18934.5)

6) Establishes the Permit Streamlining Act, which, among other things, establishes time limits within which state and local government agencies must either approve or disapprove permits authorizing a development. (Government Code §§ 65920–65964.5)

7) Allows the governing body of a local agency to authorize its enforcement agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions, as specified. (HSC § 19837)

8) Requires a local agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions upon the request of an applicant for a nonresidential permit for the remodeling or tenant improvements of a building, as specified, where there is an "excessive delay" in checking the plans and specifications that are submitted as a part of the application. (HSC § 19837)

9) Defines, for a nonresidential permit for a building other than a hotel or motel that is three stories or less, "excessive delay" to mean the building department or building division of the local agency has taken more than 50 days after submitting a complete application to complete the structural building safety plan check of the applicant's set of plans and specifications that are suitable for checking. (HSC § 19837)

10) Establishes the California Retail Food Code (CRFC) to provide for the regulation of retail food facilities, establishing health and sanitation standards at the state level through the CRFC and assigning enforcement to local agencies of the 58 county environmental health departments and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon). (HSC § 113700 *et seq.*)

11) Defines a "food facility" as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level but excludes various entities from the definition, including a cottage food operation and a church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs no more than three days in any 90 day period. (HSC §113789)

12) Establishes requirements for satellite food services, including requiring: that a satellite food service only be operated by a fully enclosed permanent food facility that meets the requirements for food preparation and service and that is responsible for servicing the satellite food service operation; that the permit holder of the permanent food facility submit to the enforcement agency written standard operating procedures prior to conducting the service, as specified; that all food preparation be conducted within a food compartment or fully enclosed facility; and that service areas have overhead protection that extends over all food handling areas. (HSC §114067)

13) Requires a person proposing to build or remodel a food facility to submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and to receive plan approval before starting any new construction or remodeling of a facility for use as a retail food facility (HSC § 114380).

14) Requires the enforcement agency to approve or reject the plans to build or remodel a food facility within 20 working days after receipt and to notify the applicant of the decision.

Unless the plans are approved or rejected within 20 working days, they are deemed approved. (HSC § 114380)

15) Requires the food facility, if a determination is made by the enforcement agency that a structural condition poses a public health hazard, to remedy the deficiency to the satisfaction of the enforcement agency. (HSC § 114380)

16) Prohibits a food facility from opening for business without a valid permit. (HSC § 114381)

17) Requires the enforcement agency to issue a permit for a food facility when an investigation has determined that the proposed facility and its method of operation meet the specifications of the approved plans or conform to the requirements, as specified. (HSC § 114381)

18) Specifies that a food facility permit is nontransferable and that the permit is only valid for the person, location, type of food sales, or distribution activity and, unless suspended or revoked for cause, for the time period indicated. (HSC § 114381)

19) Subjects violators who operate a food facility without the necessary permits to closure of the food facility and a penalty not exceeding three times the cost of the permit. (HSC § 114387)

THIS BILL:

1) Defines a "qualified professional certifier" as a licensed architect or professional engineer, as defined in existing law, who meets both of the following conditions:

   a) Has at least five years of experience in commercial building design or plan review.

   b) Maintains professional liability insurance in an amount not less than $2 million per occurrence.

2) Defines "restaurant" as a retail food establishment that prepares, serves, and vends food directly to the consumer.

3) Defines "tenant improvement" to mean a change to the interior of an existing building.

4) Requires a local building department or local permitting department to allow, upon request from an applicant for a permit for a tenant improvement relating to a restaurant, a qualified professional certifier to certify, at the applicant's own expense, compliance with applicable building, health, and safety codes for the tenant improvement.

5) Requires a tenant improvement relating to a restaurant to comply with building standards approved by the CBSC and local building standards in effect at the time the application for a permit is submitted.

6) Requires a qualified professional certifier to prepare an affidavit, under penalty of perjury, attesting that the tenant improvement plans and specifications comply with all applicable laws and regulations.

7) Deems a certified plan approved for permitting purposes if, within 20 business days of receiving a completed application, including the affidavit specified above, the local building

department or local permitting department does not approve or deny the application, provided that all fees and required documents have been submitted.

8) Specifies that if a complete application is denied within the 20 business day period, the applicant may resubmit corrected plans addressing the deficiencies identified in the denial. The local building department or local permitting department must approve or deny each subsequent resubmission within 10 business days of receipt.

9) Requires each local building department or local permitting department to conduct a random audit of no less than 20% of all tenant improvements submitted per week for certification.

10) Requires audits to be initiated within five business days following permit issuance and to include a review of the submitted plans for compliance with applicable laws.

11) Requires that, if an audit reveals material noncompliance, the local building department or local permitting department provide a plan check correction notice within 10 days of the audit's initiation.

12) Allows repeated violations by a qualified professional certifier to result in suspension or revocation of certification privileges granted under this bill.

13) Provides that certification under this bill does not exempt a tenant improvement from other mandatory construction inspections, including, but not limited to, fire, health, and structural inspections conducted during or after construction.

14) Provides that this bill does not limit the authority of the local health department to conduct food facility inspections as required under the CRFC.

15) Provides that any false statement in a certification submission made under this bill is grounds for disciplinary action by the California Architects Board or the Board of Professional Engineers, Land Surveyors, and Geologists, as applicable.

16) Authorizes local jurisdictions to impose reasonable administrative penalties, including fines, for willful noncompliance with the requirements of this bill.

17) Provides that this bill does not prohibit a local building department or local permitting department from charging permit fees for applications utilizing a qualified professional certifier.

18) Provides that qualified professional certifiers are liable for any damages arising from negligent plan review.

19) Makes various findings and declarations.

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

COMMENTS:

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

> California's restaurants reflect the state's diversity, agricultural abundance, and tradition of culinary innovation. Often family-owned, they play a critical role in providing first jobs, career advancement opportunities, and pathways to business ownership for immigrant entrepreneurs and historically underserved communities. But despite restaurants' vital role in local economies and communities, frequent and common delays in municipal building plan review processes mean the process of opening a restaurant in California is often time- and cost-prohibitive. [This bill] responsibly reduces barriers to opening a restaurant in California by establishing a professional certification program to streamline the municipal review process. The program allows qualified architects and engineers to certify restaurant retrofits—often completed by small restaurants—that convert an existing facility to a new use. The framework incorporates randomized audits to ensure compliance and does not exempt restaurants from mandatory construction inspections, such as fire, health, and structural checks. Thus, the legislation facilitates timely restaurant openings while maintaining vital public safety standards, similar to programs in other major cities, such as New York, Washington, D.C., and Chicago. With [this bill], California will similarly simplify the review process for restaurant owners, lessening the burden on many small businesses and community hubs so they can open faster.

Background.

California Retail Food Code. The CRFC includes the structural, equipment, and operational requirements for all California retail food facilities, which 62 local environmental health regulatory agencies enforce. By law, any person proposing to build or remodel a food facility must submit building plans to the enforcement agency for review and receive plan approval before starting any new construction or remodeling of a facility for use as a retail food facility. Plans must be approved or rejected within 20 working days after receipt by the enforcement agency. Plans that are not approved or denied within 20 working days are automatically approved. A local building department cannot issue a building permit for a food facility until it has received plan approval from the enforcement agency.

California Building Code. The California Building Standards Code contains building standards and regulations adopted by the CBSC to protect the health and safety of people and property. The code regulates the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures in the state, and includes standards for building safety, fire safety standards, energy efficiency standards, and standards for green buildings. The code is published every three years, though intervening code adoption cycles produce supplements 18 months into each triennial period. Improvements to existing buildings are subject to current building code requirements. Local government building and planning departments enforce the code.

Professional Certification Programs. This bill is modeled after professional certification programs in Chicago, New Jersey, Phoenix, and New York City, which allow the specified design professionals, such as architects and engineers, to certify that the plans they file comply with all applicable laws and regulations. Self-certification programs generally eliminate plan review by local building and permitting departments, where design professionals take full responsibility for ensuring plans' compliance with all applicable codes. However, each program's requirements differ slightly. For example, Chicago's Self-Certification Permit Program requires architects and engineers to complete additional training offered by the

Department of Buildings (DOB) and register with the DOB. The DOB maintains a public list of registered self-certification professionals on its website. In Phoenix, a peer review by a city-approved electrical or structural peer reviewer must be completed before submittal.

This bill would authorize third-party qualified professional certifiers, licensed architects or professional engineers with five years of experience in commercial building design or plan review and maintain professional liability insurance, to self-certify restaurant tenant improvement plans. Local building and permitting departments would have 20 business days to approve or reject plans. Inaction would result in the plans being deemed approved by default. Moreover, if a local building or permitting department requires revisions, resubmitted plans must be reviewed within 10 business days. According to the author's office, streamlining the permitting process "will provide opportunities for entrepreneurship and business ownership, including for minority groups," who comprise more than half of restaurant and foodservice employees, according to the National Restaurant Association.[1]

Current Related Legislation. *AB 253 (Ward)* would allow an applicant for specified residential building permits to employ a private professional provider to check plans and specifications if the building department cannot complete or estimates being unable to complete the check within 30 days. *That bill is pending in the Senate Local Government Committee.*

Prior Related Legislation. *AB 2433 (Quirk-Silva) of 2024* would have required a local agency to complete plan check services, or to employ a private professional to perform the plan checking services, for a building permit within 30 business days of a request from an applicant. *AB 2433 was held in the Senate Local Government Committee.*

SB 144 (Runner), Chapter 23, Statutes of 2006, repealed and reenacted the California Uniform Retail Food Facilities Law as the California Retail Food Code, which included a requirement that plans must be approved or rejected within 20 working days.

ARGUMENTS IN SUPPORT:

A coalition of organizations and restaurants, including the *California Restaurant Association, California Asian Pacific Chamber of Commerce, Uovo, Sushi Nozawa, Matu, Jon & Vinny's, Hiho, Steadfast LA*, collectively write in support:

> The restaurant community is one of California's largest small business employers and a cornerstone of the state's tourism economy. To meet guest expectations, attract new customers, and enhance the dining experience, restaurant owners frequently invest in tenant improvements – such as adding outdoor patios – to create inviting spaces for customers to enjoy California's renowned weather and scenic views.
>
> However, restaurant owners currently face months-long delays in the building plan review process, creating significant financial and operational hardships. These prolonged wait times cause employment opportunities to evaporate, disrupt restaurant openings, delay service, and burden small business owners who depend on timely improvements to remain competitive.

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[1] National Restaurant Association, *Restaurant Employee Demographics Data Brief – April 2025*, at 2.

> Recognizing this challenge, major cities including New York City, Chicago, and Washington, D.C. have successfully implemented self-certification programs that allow licensed professionals to verify code compliance. The self-certification of plans has successfully reduced wait times while also ensuring compliance with building and safety standards.
>
> [This bill] expedites the building plan review process for restaurant build-outs without compromising safety. The bill specifically clarifies that self-certification does not exempt projects from required inspections, including fire, health, and structural evaluations. It also mandates that local building departments conduct random audits of self-certified projects to ensure compliance.
>
> [This bill] simplifies the tenant improvement plan review process for restaurant owners while maintaining safety standards. This will enable restaurants to open more quickly and to employ more people sooner, which will help support economic growth in their communities.

ARGUMENTS IN OPPOSITION:

The *California Building Officials* write in opposition:

> While we understand that [this bill] is limited in scope to restaurant tenant-improvements, in the name of public safety, the person designing the plans should not be the one offering final approval. We appreciate the perimeters and limitations you have outlined with your measure, but self-certification is an unsavory practice that leads to large-scale concerns in the short- and long-term life of a commercial structure. Local jurisdictions, at a minimum, need to offer approvals and assurances that state and local building, fire, and life safety codes have been met. Allowing someone who has been hired to draw plans with an economic incentive for their expedited approval is not a responsible practice – regardless of the scale of the development project.

POLICY ISSUE(S) FOR CONSIDERATION:

Shifting of responsibility. This bill shifts responsibility for plan checks from experienced plan reviewers employed by a local jurisdiction to third-party qualified professional certifiers who may not have the same level of expertise and who have a financial interest in certifying plans.

IMPLEMENTATION ISSUES:

Potential for costly errors and delays. Although this bill is intended to expedite the permitting process, restaurateurs may face significant costs and delays downstream to the extent that corrections are necessary after construction has begun or been completed.

Qualifications of a "qualified professional certifier." This bill would allow any licensed architect or professional engineer who has at least five years of experience in commercial building design or plan review and maintains a $2 million professional liability insurance policy to submit tenant improvement plans according to this bill. However, what constitutes "commercial building design or plan review" is unclear. Qualified professional certifiers could have vastly different levels of experience due to the vagueness of the criterion. Moreover, there does not appear to be

any mechanism for local building or permitting departments or consumers to verify that a qualified professional certifier has met the eligibility requirements enumerated in this bill.

Enforcement. Under this bill, any false statement in a certification submission would be cause for disciplinary action by the California Architects Board and the Board for Professional Engineers, Land Surveyors, and Geologists, but it is unclear how either board would know to take appropriate disciplinary action.

Suspension or revocation of certification privileges. This bill specifies that "Repeated violations by a qualified professional certifier may result in suspension or revocation of certification privileges granted under [this bill]." However, because there is no registration or other affirmative mechanism granting the privileges from the local departments, it is unclear how the local departments would suspend or revoke the privileges. It is also unclear how they would determine whether the violations merit suspension or revocation of the privileges.

REGISTERED SUPPORT:

Steadfast LA
California Asian Pacific Chamber of Commerce
Uovo
Sushi Nozawa
Matu
Jon & Vinny's
Hiho
California Restaurant Association
California Travel Association

REGISTERED OPPOSITION:

California Building Officials

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 714 (Fong) – As Introduced February 14, 2025

NOTE: This bill is double referred and passed the Assembly Higher Education Committee on April 8, 2025, by a vote of 9-0-1.

SUBJECT: California Private Postsecondary Education Act of 2009: exemptions: commercial driving licenses.

SUMMARY: Provides that an existing exemption from the California Private Postsecondary Education Act of 2009 for institutions that do not award degrees and that solely provide educational programs for total charges of $2,500 or less does not apply to institutions that provide any training or curriculum for a Class A, B, or C commercial driving license (CDL).

EXISTING LAW:

1) Establishes the California Private Postsecondary Education Act, subject to repeal on January 1, 2027. (Education Code (EDC) §§ 94800-94950)

2) Establishes the Bureau for Private Postsecondary Education (BPPE) within the Department of Consumer Affairs to regulate private postsecondary educational institutions. (EDC § 94875)

3) Defines "institution" as any private postsecondary educational institution, including its branch campuses and satellite locations. (EDC § 94843)

4) Defines "private postsecondary educational institution" as a private entity with a physical presence in California that offers postsecondary education to the public for an institutional charge. (EDC § 94858)

5) Requires the BPPE to adopt regulations establishing minimum operating standards for private postsecondary educational institutions. (EDC § 94885)

6) Prohibits a person from opening, conducting, or doing business as a private postsecondary educational institution in this state without obtaining an approval to operate from the BPPE. (EDC § 94886)

7) Authorizes the BPPE to grant approval to operate only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards; requires the BPPE to deny an application for an approval to operate if the application does not satisfy those standards. (EDC § 94887)

8) Provides that a standard approval to operate shall be valid for five years. (EDC § 94889)

9) Requires the BPPE to grant an accredited institution an approval to operate by means of its accreditation. An approval to operate by means of accreditation is coterminous with the term of accreditation. (EDC § 94890)

10) Exempts 11 types of institutions from the BPPE-approval requirement and any requirement on institutions under the California Private Postsecondary Education Act. (EDC § 24874)

11) Specifies that institutions that do not award degrees and that solely provide educational programs for total charges of $2,500 or less when no part of the total charges is paid from state or federal student financial aid programs are exempt from the California Private Postsecondary Education Act. The BPPE may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its website. (EDC § 94874(f))

12) Prohibits institutions that are operating in this state and subject to approval or registration requirements from engaging in specified business practices. (EDC § 94897)

THIS BILL:

1) Makes any institution that provides any training or curriculum for Class A, B, or C commercial driving licenses ineligible for the existing exemption from the BPPE-approval requirement for institutions that do not award degrees and that solely provide educational programs for total charges of $2,500 or less.

2) Finds and declares the following:

   a) California's highways and freeways are some of the busiest thoroughfares in the nation;

   b) California's highways and freeways collectively serve as some of the busiest goods movement corridors in the country; and,

   c) According to the National Safety Council's (NSC) Injury Facts, there were 421 fatal truck accidents in California in 2022, the second most fatalities in the country, behind only Texas.

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

COMMENTS:

Purpose. This bill is sponsored by *160 Driving Academy*. According to the author:

> Every day, millions of Californians share the road with large trucks that, while crucial to our economy, pose risks we must continually try to mitigate. In 2022, we experienced 436 traffic fatalities involving large trucks – the second highest in the nation and averaging more than one per day. This is unacceptable and we must continue to identify and address all potential causes – including weaknesses in driver training. Currently programs that offer commercial driving training for less than $2,500 are exempt from regulation intended to ensure quality of education. [This bill] closes an unintended legal loophole, increases road safety, and protects students and drivers. This bill will remove commercial driving programs from being exempted from basic regulation. The Bureau

for Private Postsecondary Education's founding statute proclaims that protection of the public shall be the bureau's highest priority. [This bill] allows the Bureau to better fulfill its mandate, improve commercial driving training, and protect Californians by reducing large truck fatalities.

Background.

The Bureau for Private Postsecondary Education. The BPPE is responsible for oversight of private postsecondary educational institutions that have a physical presence in California and for enforcing the California Private Postsecondary Education Act, which seeks to protect students from predatory, substandard, or other institutions that do not ultimately provide students with a meaningful degree. Specifically, the Act directs the BPPE to, in part, review and approve private postsecondary educational institutions; establish minimum operating standards to ensure educational quality; provide an opportunity for student complaints to be resolved; enforce the prohibition against false advertising and inappropriate recruiting and requirement for disclosure of specific information about the educational programs being offered, graduation and job placement rates, and licensing information, and ensure private postsecondary educational institutions offer accurate information to prospective students about school and student performance. The BPPE also investigates and combats unlicensed activity, conducts research and outreach to students and postsecondary educational institutions, and administers the Student Tuition Recovery Fund, which provides relief to students financially harmed by an institution under the bureau's oversight via closure or discontinuation of educational programs.

U.S Department of Transportation's Federal Motor Carrier Safety Administration's (FMCSA) Entry-Level Driver Training (ELDT). The FMCSA's ELDT regulations establish the baseline for training for entry-level drivers of commercial motor vehicles. The regulations apply to individuals who obtain a commercial learner's permit on or after February 7, 2022, and seek to:

1) Obtain a Class A or Class B CDL for the first time;
2) Upgrade an existing Class B CDL to a Class A CDL; or
3) Obtain a School Bus (S), Passenger (P), or Hazardous Materials (H) endorsement.

According to the Department of Motor Vehicles, a Class A CDL is required for any legal combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the vehicles being towed is in excess of 10,000 pounds.[1] A Class B CDL is required for any single vehicle with a GVWR of more than 26,000 pounds, any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR, or a 3-axle vehicle weighing over 6,000 pounds.

Entry-level drivers subject to the ELDT regulations must select a training provider that is listed on the FMCSA's Training Provider Registry. Companies wishing to provide entry-level driving training must register and self-certify that they meet all FMCSA requirements that apply to curricula, instructors, facilities, vehicles, assessments, driver training certifications, document and record retention, and FMCSA audits. If the FMCSA finds that a provider does not meet all of the requirements, FMCSA may remove the provider from the list of registered training providers. Registered providers must submit certification of a driver's completion of entry-level

[1] California Department of Motor Vehicles, *Commercial Driver's License Classes and Certifications.*

driver training to the Training Provider Registry by midnight of the scenic business day after the driver completes training. States are required to verify that certification information has been submitted to the Training Provider Registry before allowing a driver to take the required DCL skills or knowledge test.[2]

The FMCSA does not require a minimum number of instruction hours for either the theory or behind-the-wheel training, but the training provider must cover all of the topics in the curriculum and determine whether trainees are proficient in all elements of the behind-the-wheel training. However, applicants for a Class A or B license in California must, in addition to the federal requirements, complete at least 15 hours of behind-the-wheel training and submit a California Commercial Driver Behind the Wheel Training Certification to the DMV.

According to CDL Training Today, most CDL training programs require 160 hours of training, with private truck driving schools costing between $3,000 and $7,000. For example, the sponsor of this bill, 160 Driving Academy, offers a 160-hour training course for $4,950. However, a brief internet search indicates that some providers offer accelerated training programs in just 10 days[3] or in 40 hours.[4]

Exempt institutions may, but are not required to, verify their exemption with the BPPE. Because the verification of exemption process is voluntary, it is unclear how many registered training providers offer CDL programs for less than $2,500. The BPPE believes there are about 125 institutions offering CDL training in California. The BPPE has approved 42 providers and verified the exemption of 16 others, leaving about 67 others that are neither approved nor verified exempt. This bill would make CDL training providers ineligible for the existing exemption for institutions that do not award degrees and that solely provide educational programs for $2,500 or less, no matter the cost of their CDL training programs.

Current Related Legislation. *SB 372 (Arreguín)* would exempt from the California Private Postsecondary Education Act of 2009 an institution that was incorporated in California in 1877, operated continuously as an independent nonprofit institution, and was previously exempt from the Act until 2022. *That bill is pending in the Senate Education Committee.*

Prior Related Legislation. *SB 1449 (Newman) of 2024* would have expanded on the existing exemption for law schools from regulation under the California Private Postsecondary Education Act of 2009 and oversight by the BPPE by authorizing exempt law schools to execute a contract with BPPE to handle complaint processing. *SB 1449 (Newman) was held on suspense in the Assembly Committee on Appropriations.*

SB 802 (Roth), Chapter 552, Statutes of 2021, revises definitions, clarifies that institutions cannot qualify for the trade or fraternal organization exemption by sponsoring their own educational programs, allows the BPPE to extend the accreditation deadlines under certain conditions, clarifies the bureau's authority to suspend an institution's educational programs and approval to operate, expands the types of changes requiring bureau approval to include changes to educational programs related to clock and credit hours or distance learning, and those relating to an institution's participation in certain federal student aid programs.

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[2] Federal Motor Carrier Safety Administration, *Training Provider Registry*.
[3] Premier Truck Driving School, https://www.premiertruckdrivingschool.com/.
[4] Trucking School in Red Bluff, https://www.premiertruckschool.com/.

AB 70 (Berman), Chapter 153, Statutes of 2020, prohibits the BPPE from approving an exemption or handling complaints for a nonprofit institution that the Attorney General determines does not meet specified criteria of a nonprofit corporation.

AB 868 (Berman), Chapter 260, Statutes of 2017, created an exemption for an institution owned, controlled, operated, and maintained by a community-based organization that satisfies specified criteria.

SB 1192 (Hill), Chapter 593, Statutes of 2016, extended the sunset for the BPPE and made numerous changes.

AB 509 (Perea) Chapter 558, Statutes of 2015, created an exemption from the California Private Postsecondary Education Act for a bona fide organization, association, or council that offers pre-apprenticeship training programs, on behalf of one or more Division of Apprenticeship Standards-approved apprenticeship programs.

SB 1247, Chapter 840, Statutes of 2014, in part, prohibited an institution that is approved to participate in veterans' financial aid programs that is not an independent institution of higher education from claiming an exemption to the California Private Postsecondary Education Act.

SB 619 (Fuller), Chapter 309, Statutes of 2011, created an exemption for flight schools if they do not require the upfront payment of tuition or fees, and do not require students to enter into a contract of indebtedness in order to receive training.

AB 797 (Conway) of 2011 would have exempted cosmetology schools, as defined, from the Act. *That bill was held in the Assembly Committee on Higher Education.*

AB 48 (Portantino) Chapter 310, Statutes of 2009, established the Bureau for Private Postsecondary Education and the California Private Postsecondary Educational Act.

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, *160 Driving Academy* writes in support:

> [This bill] directly improves commercial truck safety for all California residents attending commercial driving programs by closing an unintended loophole that exempts certain commercial driving programs from regulation by BPPE– the governing body for Commercial Driving programs in the State...Today, BPPE maintains an exemption that any training provider does not require licensing or oversight from the BPPE if the provider charges less than $2,500 to a consumer. This exemption is intended for extreme short-term training such as SAT, MCAT or Microsoft Word training. The BPPE was not intended to apply to such high-risk vocations where significant technical training, repetitive instruction and reinforced learning is required, such as Commercial Driver training.
>
> The industry standard for minimum training hours for a Commercial Driver's License in just about every state is 160 hours. It would be impossible to complete the minimum CDL training required training as mandated by the Federal ELDT training rules in less

than 160 hours. Per the BPPE, the average tuition for *licensed* CDL training providers is $6,000 to $7,000 due to the training intensity required. However, numerous CDL training providers across California are exploiting the BPPE loophole and charging unknowing consumers $2,500 or less. The curriculum, safety requirements, level and quality of training covered in these $2,5000 programs is highly suspect and creates downstream significant safety risks for unsuspecting employers and the motoring public.

This BPPE loophole for Commercial Driver training exposes the public to safety risks and must be addressed with legislation to ensure that commercial drivers are trained through programs that are safe and properly regulated.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

POLICY ISSUE(S) FOR CONSIDERATION:

Need for the bill. The proponents of this bill argue that it is necessary to improve road safety, but it is unknown to what extent the current exemption has contributed to traffic fatalities involving large trucks.

REGISTERED SUPPORT:

160 Driving Academy (Sponsor)
California Association of Highway Patrolmen
California Chamber of Commerce
California Teamsters Public Affairs Council
California Trucking Association

REGISTERED OPPOSITION:

There is no opposition on file.

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 762 (Irwin) – As Amended March 28, 2025

NOTE: This bill is double referred and previously passed the Assembly Committee on Environmental Safety and Toxic Materials on a 4-1-2 vote.

SUBJECT: Disposable, battery-embedded vapor inhalation device: prohibition.

SUMMARY: Prohibits the sale of disposable, battery-embedded vapor inhalation devices, as defined, and authorizes the California Department of Tax and Fee Administration (CDTFA) and the Department of Cannabis Control (DCC) to enforce this prohibition through the revocation or suspension of the respective licenses issued by those departments.

EXISTING LAW:

1) Enacts the Cigarette and Tobacco Products Tax Law, which, among other provisions, requires distributors engaged in the sale of cigarettes or tobacco products to apply for and obtain a license from the CDTFA. (Revenue and Taxation Code §§ 30001 *et seq.*)

2) Enacts the Cigarette and Tobacco Products Licensing Act of 2003 to provide for the licensing of manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. (BPC §§ 22970 *et seq.*)

3) Establishes the California Department of Public Health (CDPH) within the California Health and Human Services Agency, which houses a California Tobacco Control Branch charged with leading state and local health program to promote a tobacco-free environment. (Health and Safety Code (HSC) §§ 131000 *et seq.*)

4) Requires the Attorney General to establish and maintain on the Attorney General's website a list of tobacco product brand styles that lack a characterizing flavor, known as the Unflavored Tobacco List. (HSC § 104559.1)

5) Prohibits a tobacco retailer from selling flavored tobacco product or tobacco product flavor enhancer, as defined, and authorizes the CDPH, the Attorney General, or a local law enforcement agency to assess civil penalties for violations of that prohibition; requires the CDPH to notify the CDTFA of repeat violations and requires the CDTFA to assess a civil penalty and suspend or revoke the violating retailer's license. (HSC § 104559.5)

6) Requires the CDPH to establish a program to reduce the availability of tobacco products to persons under 21 years of age through authorized enforcement activities, as specified, pursuant to the Stop Tobacco Access to Kids Enforcement Act (STAKE Act). (BCP § 22952)

7) Authorizes specified enforcing agencies to assess civil penalties against any person, firm, or corporation that violates the prohibition against sales of tobacco products, instruments, or paraphernalia to persons under the age of 21. (BPC § 22958)

8) Provides for specified application requirements for a retailer to obtain a license from the CDTFA to engage in the sale of cigarettes or tobacco products and specifies causes for denial of a license, including the violation of specified laws. (BPC § 22973.1)

9) Requires the forfeiture of unlawful flavored tobacco products or tobacco product flavor enhancers and requires the CDTFA to suspend or revoke the license of a retailer or wholesaler following multiple cases of forfeiture, as specified. (BPC § 22974.2; § 22978.3)

10) Requires the CDTFA to revoke the license of any retailer or any person controlling the retailer that has been convicted of specified felonies or had any permit or license revoked under the Cigarette and Tobacco Products Tax Law. (BPC § 22974.4)

11) Specifies additional causes for suspension or revocation of a retailer's license to engage in the sale of cigarettes or tobacco products by the CDTFA, including violations of laws relevant to the scope of the license. (BPC § 22980.3)

12) 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. (BPC §§ 26000 *et seq.*)

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

14) Requires the DCC to convene an advisory committee to advise state licensing authorities on the development of standards and regulations for legal cannabis, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis. (BPC § 26014)

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

16) Authorizes the DCC to suspend, revoke, place on probation, or otherwise discipline licensees for specified acts or omissions constituting grounds for disciplinary action. (BPC § 26031)

17) Prohibits a cannabis retailer or microbusiness from selling alcoholic beverages or tobacco products on their premises. (BPC § 26054)

18) Effective July 1, 2024, prohibits the package or label of a cannabis cartridge and an integrated cannabis vaporizer from indicating that the cartridge or vaporizer is disposable or implying that it may be thrown in the trash or recycling streams. (BPC § 26120)

19) Requires a cannabis cartridge or integrated cannabis vaporizer to bear a universal symbol and defines "integrated cannabis vaporizer" as a singular device that contains both cannabis oil and an integrated electronic device that creates an aerosol or vapor. (BPC § 26122)

20) Enacts the Responsible Battery Recycling Act of 2022, which requires producers of specified batteries to establish a stewardship program for the collection and recycling of those batteries. (Public Resources Code §§ 42420 *et seq.)*

THIS BILL:

1) Defines "disposable, battery-embedded vapor inhalation device" as a vaporization device that is not designed or intended to be reused, and includes any vaporization device that is either not refillable or not rechargeable, as specified.

2) Exempts certain devices used for health care purposes from this definition.

3) Prohibits the sale, distribution, or offer for sale of a new or refurbished disposable, battery-embedded vapor inhalation device on and after January 1, 2026.

4) Authorizes state or local enforcement of this prohibition, including through the imposition of civil penalties.

5) Provides that violations of the prohibition constitute an infraction punishable by a fine of not more than $500.

6) Authorizes the CDTFA to revoke or suspend a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003 for the unlawful sale of a disposable, battery-embedded vapor inhalation device containing a tobacco product.

7) Authorizes the CDTFA to revoke or suspend a license issued pursuant to MAUCRSA for the unlawful sale of a disposable, battery-embedded vapor inhalation device containing a cannabis product.

8) Clarifies that any penalty provided by the bill is in addition to the other authorized penalties.

9) Provides that the costs incurred by a state agency in carrying out the provisions of the bill shall be recoverable by the Attorney General, upon the request of the agency, from the liable person or persons.

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

COMMENTS:

Purpose. This bill is co-sponsored by *Californians Against Waste*, the *California Product Stewardship Council*, *CALPIRG*, and *ReThinkWaste*. According to the author:

> Single-use vapes have surged in popularity due to their convenience. More than 12 million disposable vapes containing nicotine, cannabis, melatonin, and other combustible substances are sold every month in the U.S. These vapes are classified as acute single-use hazardous waste by the EPA and are not able to be recycled with other plastic waste. The lack of a standardized recycling process has led a rapidly-increasing number of vapes to be landfilled. With designs that prevent the refilling of vape liquid and recharging of the lithium-ion battery, these devices have an intended lifespan of about one week. The lithium-ion batteries in vapes are highly flammable, cannot be removed, and post costly safety issues at every point of the waste stream. These devices are thrown in the trash, and sent to material recovery facilities where they can ignite, posing safety risks to workers. Local governments end up shouldering the cost of extinguishing and cleaning up dangerous battery fires, putting firefighters in harm's way. We do not throw away our phones or laptops after one week of use, and we should not treat other lithium-ion devices any differently.

Background.

Regulation of Batteries. The Hazardous Waste Control Law provides the Department of Toxic Substances Control with responsibility for overseeing the management of hazardous waste in California. The Electronic Waste Recycling Act of 2003 provides for a program for consumers to return, recycle, and ensure the safe and environmentally sound disposal of electronic waste, which was expanded in 2022 to include covered battery-embedded products. The Legislature also enacted Assembly Bill 2440 (Irwin), the Responsible Battery Recycling Act of 2022, which requires producers of covered batteries to establish a stewardship program for the collection and recycling of those covered batteries.

Regulation of Cannabis. 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 the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established 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 establishments altogether.

In 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). 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 the DCC, 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.

Regulation of Cigarette and Tobacco Sales. According to the federal Centers for Disease Control and Prevention, smoking causes cancer, heart disease, stroke, lung diseases, diabetes, and chronic obstructive pulmonary disease. The government has an established policy goal in preventing tobacco use, and there are multiple federally funded campaigns to not just educate consumers about tobacco health considerations, but to discourage smoking and encourage cessation. In California, the CDPH's California Tobacco Control Program states that its focus is to make tobacco "less desirable, less acceptable and less accessible." The California Department of Education similarly provides assistance to schools, school districts, and county offices of education regarding the prevention and cessation of tobacco use.

The Cigarette and Tobacco Products Tax Law provides for the licensure of distributors engaged in the sale of cigarettes or tobacco products from the CDTFA. The Cigarette and Tobacco Products Licensing Act of 2003 provides for the licensure manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Current law provides that specific violations of the law are cause for the CDTFA to deny an application for an initial or renewed license, and that a license can be suspended or revoked for specified causes.

The Stop Tobacco Access to Kids Enforcement Act (STAKE Act) prohibits the sale of tobacco products to individuals under 21 years old and requires tobacco retailers to post age restriction warning signs. It also enforces compliance through undercover youth decoy operations, imposes fines for violations, and mandates licensing requirements for sellers. The STAKE Act further prohibits advertising of tobacco products on any outdoor billboard located within 1,000 feet of any public or private elementary school, junior high school, or high school, or public playground.

In 2020, the Legislature enacted Senate Bill 793 (Hill), which prohibits retailers from selling flavored tobacco products or a tobacco product flavor enhancers, with some exceptions. This ban applied to combustible cigarettes and cigars as well as electronic cigarettes and other vaping products. Senate Bill 793 was challenged unsuccessfully in court, and a referendum was placed on the 2022 ballot in California that resulted in nearly two-thirds of voters choosing to uphold the legislation. In 2024, the Legislature enacted Assembly Bill 3218 (Wood), which requires the Attorney General to establish and maintain a website containing a list of tobacco product brand styles that lack a characterizing flavor, known as the Unflavored Tobacco List.

Disposable, Battery-Embedded Vapor Inhalation Devices. Vaping has grown rapidly in recent years to become the most popular form of tobacco use. According surveys conducted by the CDPH, 4.4 percent of adults reported using vape products, a rate more than double that of cigarette smokers, making vaping the most common form of tobacco use among adults.[1] This is similarly the case for tobacco use by youths, with 5.9 percent of youth reporting current use of vape products according to the CDPH's surveys.[2]

Vaping is also a very popular way to consume cannabis products. According to a 2020 report, yearly revenue from the sales of cannabis vapes has exceeded $1 billion, and that market has continued to grow. According to analysis provided by ERA Economics in 2025 as part of the DCC's *Condition and Health of the Cannabis Industry in California* report, sales of vapes increased from $309 million to $354 million between the second quarters of 2021 and 2024. The majority of cannabis vaping products are cartridges that are inserted into reusable vaporizers or vape pens. However, at the time of the 2020 report, approximately 10 percent of vaping products were believed to be vaporizers that combine both the cannabis product and a built-in electronic device that creates the aerosol or vapor, essentially constituting a single-use, all-in-one product.[3]

Concerns have been raised in recent years about the use of integrated vaporizers containing embedded batteries. According to the California Department of Resources Recycling and Recovery (CalRecycle), batteries are hazardous waste when they are discarded because of the metals and other toxic or corrosive materials they contain. Battery-embedded devices pose significant environmental and safety hazards, particularly when improperly disposed of in household trash. These devices often contain lithium-ion batteries, which can overheat, ignite, or even explode if punctured or compressed in trash compactors or landfills. This creates serious fire risks for sanitation workers, waste management facilities, and surrounding communities. A 2021 report by the federal Environmental Protection Agency identified 64 waste facilities that had experienced 245 fires caused by, or likely caused by, lithium metal or lithium-ion batteries, some of which were substantially destructive.[4]

In 2022, it was discovered that the state's largest manufacturer of cannabis vaping products, which at the time sold approximately 25 percent of cannabis vapes in California, was selling its integrated vaping products with "DISPOSABLE THC PEN" prominently displayed on the packaging. In response to allegations of misleading and potentially hazardous labeling and advertising practices, in 2022 the Legislature passed Assembly Bill 1894 (Luz Rivas), which placed new requirements and restrictions for the packages and labels of integrated cannabis vaporizers, as well as for the advertisement and marketing of those products. These requirements went into effect on July 1, 2024.

Similar concerns have been raised for vaping product containing tobacco products, commonly referred to as "e-cigarettes." In 2023, the United States Public Interest Research Group Education Fund published a report titled *Vape Waste*, which included the following statement:

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[1] California Department of Public Health. *Key Findings from the 2023 Online California Adult Tobacco Survey*. California Tobacco Prevention Program, January 2024.
[2] Clodfelter, Rachel, *et al*. *Annual Results Report for the California Youth Tobacco Survey 2023*. RTI International, March 2024.
[3] Arcview Market Research, and BDS Analytics. *The State of Legal Cannabis Markets: 8th Edition*. Arcview Group, April 2020.
[4] United States Environmental Protection Agency. *An Analysis of Lithium-Ion Battery Fires in Waste Management and Recycling*. EPA 530-R-21-002, July 2021.

> One product stands apart as being particularly harmful to our environment and public health—disposable vapes. Vapes, also known as e-cigarettes, are handheld battery powered electronic devices with heated metal coils that vaporize a liquid containing nicotine or cannabis products, known as e-liquid. Nicotine is the famously addictive stimulant found in tobacco that gives smokers a dopamine hit, and makes quitting difficult. … Due to the nicotine e-liquid used in these products, vape waste can't be recycled with other plastics because the substance is defined by the EPA as an acute hazardous waste. Disposable vapes can't be reused, they can't be recycled properly, and they can't legally be thrown in the trash. What are consumers supposed to do with these products? Is it any wonder they're an environmental threat?[5]

In response to concerns regarding the proliferation of battery-embedded cannabis and tobacco vaping products and the potential for those products to continue to be disposed of improperly, this bill would prohibit the sale of all disposable, battery-embedded vapor inhalation devices in California. The bill would specifically define these products as not being designed or intended to be reused, and includes any vaporization device is either not refillable or not rechargeable. While this general prohibition does not specify its application to tobacco or cannabis products, both the CDTFA and the DCC would be authorized to take action against licensees for selling disposable, battery-embedded vaping products in violation of the ban. The author and sponsors of the bill believe that this prohibition would significantly help to reduce the damage caused by improper disposal of hazardous waste.

Prior Related Legislation. AB 1894 (Luz Rivas), Chapter 390, Statutes of 2022 placed new requirements and restrictions for the packages and labels of integrated cannabis vaporizers, as well as for the advertisement and marketing of those products.

AB 2440 (Irwin), Chapter 351, Statutes of 2022 enacted the Responsible Battery Recycling Act of 2022, which requires producers of covered batteries, as defined, to establish a stewardship program for the collection and recycling of covered batteries.

SB 1215 (Newman), Chapter 370, Statutes of 2022 expanded the Electronic Waste Recycling Act to include battery embedded products.

AB 1690 (Luz Rivas) of 2022 would have prohibited the sale of single-use electronic cigarettes. *This bill died on the inactive file of the Assembly Floor.*

SB 793 (Hill), Chapter 34, Statutes of 2020 prohibited a tobacco retailer, or any of its agents or employees from selling, offering for sale, or possessing with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer.

AB 1529 (Low), Chapter 830, Statutes of 2019 reduced the minimum size of the universal cannabis symbol required on integrated cannabis vaporizers.

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 established a unified system for the regulation of cannabis which included a prohibition against cannabis retailers selling tobacco products.

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[5] Gutterman, Lucas. *Vape Waste: The Environmental Harms of Disposable Vapes*. U.S. PIRG Education Fund, 11 July 2023.

ARGUMENTS IN SUPPORT:

A coalition of organizations write in support of the bill, including the bill's co-sponsors *Californians Against Waste*, the *California Product Stewardship Council*, *CALPIRG*, and *ReThinkWaste*. The coalition letter states: "Single-use vapes contain embedded lithium-ion batteries, making them not only an unsustainable source of electronic waste but also a significant fire hazard. When improperly discarded—as is often the case—these devices ignite fires in garbage cans, collection trucks, and material recovery facilities (MRFs). These lithium-ion battery fires can reach temperatures of up to 1200°C—equivalent to a welding torch—causing rapid and uncontrollable blazes. The U.K. has already linked disposable vape waste to a staggering 77% increase in waste facility fires over the last year alone. California waste and recycling operators are facing a similar crisis, with escalating fire risks and increased costs in managing this hazardous waste." The coalition letter further argues that "California has long been a leader in environmental protection and consumer safety, and this bill aligns with global momentum to eliminate single-use disposable vapes. Countries including the U.K., France, Belgium, New Zealand, and Vietnam have already taken decisive action against these products, recognizing the irreversible harm they cause. California must act now to prevent further environmental degradation, public health crises, and economic burdens associated with their unregulated disposal."

A Voice for Choice Advocacy also supports this bill, writing: "We support this bill that prohibits the sale and distribution of disposable, battery-embedded vapor inhalation devices in California by empowering cities, counties, and the state to impose civil liabilities on individuals or entities violating the law, reflecting growing concerns about the environmental impact and health risks associated with single-use vaping devices."

ARGUMENTS IN OPPOSITION:

The *American Petroleum and Convenience Store Association* writes in opposition to this bill: "AB 762 will drive consumers to the unregulated, illicit market, increasing risks to public health and safety. Prohibiting the sale of disposable, battery-embedded vapor devices will not eliminate consumer demand, but merely shift sales to the unregulated and illicit market. This shift creates multiple risks. Products sold through the illicit market are not subject to the same safety standards, age verification, or quality controls that licensed retailers must adhere to. As a result, consumers—particularly young people—are exposed to potentially dangerous products that may contain harmful substances or defective batteries. Moreover, illicit sellers have little incentive to comply with California's strict regulations, undermining the state's efforts to protect public health and safety."

The *California Cannabis Operators Association* (CaCOA) also writes in opposition to this bill: "AB 762 is both premature and counterproductive to California's efforts to build a safe, sustainable, and legally compliant cannabis market." CaCOA further argues: "Rather than achieving its intended goals, AB 762 will empower illicit actors, reduce opportunities to educate consumers on proper disposal, and undercut tax-generating legal sales that fund youth programs, public health services, and environmental restoration. We believe there are more balanced policy approaches that can improve environmental outcomes without jeopardizing consumer safety or weakening California's regulated cannabis market."

POLICY ISSUE(S) FOR CONSIDERATION:

Impact on Illicit Market Competition. A report published by the Reason Foundation estimates that as much as two-thirds of cannabis sales in California take place on the illicit market. This is consistent with widespread consensus that illicit cannabis continues to proliferate notwithstanding the enactment of MAUCRSA. Because unlicensed cannabis products do not receive state oversight and enforcement of various health and safety requirements, including laboratory testing, consumption of unlicensed cannabis products can pose a significant risk to consumers. In August 2019, the number of emergency department visits related to cannabis vaping products sharply increased, with a total of 2,807 hospitalized cases or deaths reported to federal Centers for Disease Control and Prevention in the United States. It is believed that much of this "vaping crisis" was the result of untested, unlicensed manufactured cannabis products.

Similar claims have been made about the size of the illicit tobacco market in California. A 2023 study commissioned by Altria involved the collection of 15,000 publicly discarded cigarette packs and 4,529 vapor product packages over the range of two months from across 10 California cities. The findings revealed that despite California's ban on flavored tobacco products, nearly all the discarded vapor product packages collected were flavored. While this study was commissioned by a tobacco company, it is likely evident that a growing illicit market for vaping products continues to grow in spite of state efforts to enforce against unlawful products.

While the environmental safety arguments for banning disposable, battery-embedded vapor inhalation devices are cogent, doing so immediately may only further weaken the ability of the regulated industry to compete with illicit actors. Any noncompliant products would have to be immediately pulled from shelves, which would particularly hurt retailers, including those in the cannabis industry who cannot easily pivot to other product lines under MAUCRSA. The author may wish to consider allowing for the prohibition in this bill to be delayed to allow retailers the opportunity to sell through their stock of existing product.

AMENDMENTS:

To delay the effective date of the prohibition on the sale of disposable, battery-embedded vapor inhalation devices while still prohibiting the manufacture or sale of those products, amend subdivision (b) in Section 1 of the bill as follows:

> *(b)(1) On and after January 1, 2026, a person shall not import or manufacture for sale in this state a new or refurbished disposable, battery-embedded vapor inhalation device.*
>
> *(2) On and after January 1, ~~2026~~ 2027, a person shall not sell, distribute, or offer for sale a new or refurbished disposable, battery-embedded vapor inhalation device in this state.*

REGISTERED SUPPORT:

Californians Against Waste *(Co-Sponsor)*
CALPIRG *(Co-Sponsor)*
California Product Stewardship Council *(Co-Sponsor)*
ReThinkWaste *(Co-Sponsor)*
350 Bay Area Action
350 Sacramento
7th Generation Advisors

A Voice for Choice Advocacy
ACR Solar International Corp.
Action on Smoking and Health
Active San Gabriel Valley
Algalita Marine Research and Education
Alliance of Nurses for Healthy Environments
American Academy of Pediatrics, California
Azul
Ban Single Use Plastic
Bay Area Student Activists
Breast Cancer Prevention Partners
Breathe California of the Bay Area, Golden Gate and Central Coast
Breathe California Sacramento Region
CA League of United Latin American Citizens
California Nurses for Environmental Health and Justice
California State Association of Counties
California Teamsters Public Affairs Council
Catholic Charities of Stockton
Catholic Charities of the Diocese of Stockton
Center for Environmental Health
Chico Bag
City of Arcadia
City of San Jose
City of Thousand Oaks
Clean Earth 4 Kids
Clean Water Action
Community Environmental Council
County of Yolo
Courage California
David Newman, Mayor of Thousand Oaks
Defend Our Health
Ecology Center
Endangered Habitats League
Environmental Action Committee of West Marin
FACTS: Families Advocating for Chemical & Toxics Safety
Friends Committee on Legislation of California
Heal the Bay
Ivan's Recycling
Jab Sabriskie, Mayor of Truckee
Jeff Schmidt, Councilmember of Menlo Park
League of California Cities
Little Kamper
Los Angeles County Sanitation Districts
Los Angeles Waterkeeper
Marin Sanitary Service
Napa Recycling and Waste Services
National Stewardship Action Council
Natural Resources Defense Council
Nicol Jones, Mayor of Villa Park

Northern California Recycling Association
NRDC
Oakland Public Works
Oakland Recycles
Oceanic Preservation Society
Physicians for Social Responsibility - Los Angeles
Plastic Free Future
Plastic Pollution Coalition
Product Stewardship Institute
Recology Inc.
RecycleSmart
Regen Monterey
Republic Services
Rethink Disposable
Rural County Representatives of California
Salinas Valley Solid Waste Authority
San Diego Pediatricians for Clean Air
Santa Barbara County Resource Recovery & Waste Management Authority
Save Our Shores
Save the Albatross Coalition
Save the Bay
Sierra Club California
Silicon Valley Youth Climate Action
Simply Recycle
SoCal 350 Climate Action
Social Eco Education
SWANA California Chapters Legislative Task Force
The 5 Gyres Institute
The Last Plastic Straw
The Salvador E. Alvarez Institute for Non-violence
The Surfrider Foundation
Tony Ayala, Mayor of Norwalk
Torus Consulting
Town of Truckee
Tri-Ced Community Recycling
Turn Climate Crisis Awareness & Action
Upstream
Wilmington Recyclers
Waste Management
Zero Waste Marin Joint Powers Authority
Zero Waste San Diego
Zero Waste Sonoma
1 Individual

REGISTERED OPPOSITION:

American Petroleum and Convenience Store Association
BizFed Central Valley
Cal Asian Chamber of Commerce

California Business Roundtable
California Cannabis Industry Association
California Cannabis Operators Association
California Chamber of Commerce
California Distribution Association
California Fuels and Convenience Alliance
California Grocers Association
NorCal Phoenix

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 968 (Boerner) – As Amended April 7, 2025

SUBJECT: Pharmacists: self-administered FDA-approved nonhormonal contraceptives.

SUMMARY: Authorizes a pharmacist to furnish nonhormonal contraceptives approved by the federal Food and Drug Administration (FDA) in accordance with the standardized procedures or protocols that were developed and approved for self-administered hormonal contraceptives.

EXISTING LAW:

1) Prohibits a licensee of a healing arts board from obstructing a patient in obtaining a legally prescribed or ordered drug or device, including emergency contraception drug therapy and self-administered hormonal contraceptives. (Business and Professions Code (BPC) § 733)

2) Authorizes a physician and surgeon, registered nurse, certified nurse-midwife, nurse practitioner, physician assistant, or pharmacist to, within their respective scopes, use a self-screening tool to identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense self-administered hormonal contraceptives to that patient. (BPC § 2242.2)

3) Establishes the Pharmacy Law. (BPC §§ 4000 *et seq.*)

4) Establishes the California State Board of Pharmacy (BOP) to administer and enforce the Pharmacy Law, comprised of seven pharmacists and six public members. (BPC § 4001)

5) Defines "pharmacist" as a person to whom a license has been issued by the BOP which is required for any person to manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to dispense or compound a prescription. (BPC § 4036)

6) Declares that "pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities." (BPC § 4050)

7) Authorizes a pharmacist to initiate a prescription and provide clinical advice, services, information, or patient consultation, as long as the following conditions are met:

   a) The clinical advice, services, information, or patient consultation is provided to a health care professional or to a patient.

   b) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.

   c) Access to medical information and record is secure from unauthorized access.

   (BPC § 4051)

8) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:

a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient's provider or prescriber.

d) Administer immunizations pursuant to a protocol with a prescriber.

e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, subject to specified requirements.

f) Administer drugs and biological products that have been ordered by a prescriber.

(BPC § 4052)

9) Authorizes a pharmacist to furnish an approved opioid antagonist in accordance with standardized procedures or protocols developed and approved by the BOP and the Medical Board of California (MBC), in consultation with stakeholders. (BPC § 4052.01)

10) Authorizes a pharmacist to initiate and furnish preexposure and postexposure prophylaxis. (BPC § 4052.02; § 4052.03)

11) Authorizes a pharmacist to perform the following procedures or functions in certain licensed health care facilities in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

a) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

b) Ordering drug therapy-related laboratory tests.

c) Administering drugs and biologicals by injection pursuant to a prescriber's order.

d) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber.

(BPC § 4052.2)

12) Authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by both the BOP and the MBC in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities, and sets additional requirements for the furnishing of self-administered hormonal contraceptives by pharmacists. (BPC § 4052.3)

13) Authorizes a pharmacist to perform skin puncture in the course of performing routine patient assessment procedures. (BPC § 4052.4)

14) Authorizes a pharmacist to initiate, adjust, or discontinue drug therapy for a patient under a collaborative practice agreement with any health care provider with appropriate prescriptive authority. (BPC § 4052.6)

15) Authorizes a pharmacist to independently initiate and administer any vaccine that has been approved or authorized by the federal Food and Drug Administration (FDA) and received a federal Advisory Committee on Immunization Practices individual vaccine recommendation published by the federal Centers for Disease Control and Prevention for persons three years of age and older. (BPC § 4052.8)

16) Authorizes a pharmacist to furnish nicotine replacement products for use by prescription only in accordance with standardized procedures and protocols. (BPC § 4052.9)

17) Authorizes a pharmacist to furnish up to a 12-month supply of an FDA-approved, self-administered hormonal contraceptive at the patient's request under protocols developed by the BOP. (BPC § 4064.5)

THIS BILL:

1) Expands the authority of a pharmacist to furnish specified contraceptives in accordance with standardized procedures or protocols to include FDA-approved nonhormonal contraceptives.

2) Amends current law prohibiting a licensee of a healing arts board from obstructing a patient in obtaining a legally prescribed or ordered drug or device to also expressly include FDA-approved nonhormonal contraceptives.

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:

> California can and should lead the nation in eliminating unnecessary barriers to reproductive care. Currently, the law specifies that a pharmacist may furnish hormonal contraceptives. At the time the law was written safe, non-hormonal options weren't available, however now that that has changed, pharmacist should be able to offer non-hormonal contraceptive options. For individuals who cannot safely use hormonal contraception—such as cancer survivors, those at risk of thrombotic events, or individuals managing complex medication regimens. Non-hormonal options are a necessity, not a preference.

Background.

California State Board of Pharmacy. The BOP is the regulatory body within the Department of Consumer Affairs responsible for overseeing the practice of pharmacy in California. The BOP is currently estimated to regulate over 50,700 pharmacists, 1,300 advanced practice pharmacists, 4,400 intern pharmacists, and 65,700 pharmacy technicians across a total of 32 licensing programs. In addition to regulating professionals, the BOP oversees and licenses pharmacies, clinics, wholesalers, third-party logistic providers, and automated drug delivery systems.

Pharmacist Scope of Practice. California has long faced significant gaps and inequities in its health care workforce. There has historically been a persistent shortage of accessible health professionals overall, which disproportionately impacts 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. Meanwhile, counties with a higher proportion of minorities saw a decline during that period.

In response to these challenges, policymakers have repeatedly turned to pharmacists to help fill the provider gap in parts of the state where primary care providers can be inaccessible but local pharmacies are more readily available. Exercising their training and judgment, pharmacists are often relied upon to administer vaccines, furnish time-sensitive medication, and ensure that there is no delay in care. In 2013, the Legislature enacted Senate Bill 493 (Hernandez), which established an advanced practice pharmacist license and expanded the scope of practice for pharmacists to include additional acts, including independently furnishing specified nicotine replacement products, prescription medications for travel, and hormonal contraceptives.

During the BOP's prior sunset review in 2020-2021, the Committees discussed whether there should be consideration of the BOP transitioning to a standard of care model for pharmacy practice. The BOP established a Standard of Care Ad Hoc Committee, which convened seven meetings and subsequently submitted a report to the Legislature with its findings and recommendations. The BOP concluded that California patients would benefit from pharmacists gaining additional independent authority to provide patient care services, not limited to the traditional dispensing tasks performed at licensed facilities, consistent with their respective education, training, and experience.

The BOP further recommended revisions to certain provisions detailing a pharmacist's authorized scope of practice for specified clinical patient care services and transition to a standard of care model for specified patient care services, where sufficient safeguards are in place to ensure pharmacists retain autonomy to utilize professional judgment in making patient care decisions. Under those conditions, the BOP believes that transitioning to greater use of a standard of care model in the provision of specified patient care services could benefit patients by providing expanded and timely access to patient care. The BOP's Licensing Committee has developed a legislative proposal that would transition many provisions of pharmacist care to a standard of care model in lieu of the current prescriptive model established. As an example, under the BOP's proposed language, a pharmacist would retain the ability to provide hormonal contraception, but would follow a standard of care approach, in lieu of following prescriptive rules established in the BOP's regulation.

Pharmacists are currently authorized to furnish self-administered hormonal contraception, including those requiring a prescription in accordance with standardized procedures and protocols. While transitioning to standard of care practice model is under consideration, this bill would expand that authority to also include nonhormonal contraceptives approved by the FDA. This could include prescription barrier methods like diaphragms and cervical caps, spermicidal sponges, and other forms of contraception that can be safely self-administered. These forms of contraceptives are often utilized by individuals with health conditions that can make hormonal contraceptives medically inadvisable. Nonhormonal contraceptives are often commonly preferred by individuals who believe them to be a more natural approach to reproductive health.

Current Related Legislation. AB 50 (Bonta) would expressly authorize a pharmacist to furnish over-the-counter contraceptives without having to comply with the standardized procedures or protocols that are required for prescription-only hormonal contraceptives. *This bill is pending on the Assembly Floor.*

AB 1503 (Committee on Business and Professions) is the BOP's current sunset review vehicle. *This bill is pending in this committee.*

Prior Related Legislation. SB 524 (Caballero) of 2023 would have authorized a pharmacist to furnish prescription medications pursuant to the result from a test performed by the pharmacist that is used to guide diagnosis or clinical decisionmaking. *This bill died on the Senate Committee on Appropriations suspense file.*

SB 523 (Leyva), Chapter 630, Statutes of 2022 established the Contraceptive Equity Act of 2022, which required a health plan or insurer to provide point-of-sale coverage for over-the-counter FDA-approved contraceptive drugs at in-network pharmacies without cost-sharing.

AB 1064 (Fong), Chapter 655, Statutes of 2021 expanded the authority of a pharmacist to initiate and administer immunizations.

SB 159 (Wiener), Chapter 532, Statutes of 2019 authorized a pharmacist to initiate and furnish HIV preexposure prophylaxis and postexposure prophylaxis.

AB 1264 (Petrie-Norris), Chapter 741, Statutes of 2019 clarified that an "appropriate prior examination" does not require a synchronous interaction between a provider and a patient for purposes of prescribing, furnishing, or dispensing self-administered hormonal contraceptives.

SB 493 (Hernandez), Chapter, 469, Statutes of 2013 increased the scope of practice for pharmacists, including the authority to furnish self-administered hormonal contraception.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1027 (Sharp-Collins) – As Amended March 28, 2025

SUBJECT: Cannabis: testing: quality assurance.

SUMMARY: Requires embargoed cannabis and cannabis products to be physically separated from all other inventory within one business day of receiving a notice of embargo from the Department of Cannabis Control (DCC); requires licensees to provide the Certificate of Analysis (COA) associated with cannabis or cannabis products, upon request; authorizes the DCC to conduct off-the-shelf laboratory testing of any cannabis or cannabis products offered for retail sale; authorizes the DCC to subject testing laboratories to blind proficiency testing by the DCC, upon appropriation by the Legislature; requires distributors to record the quality assurance (QA) review of each batch of cannabis or cannabis products in the California Cannabis Track-and-Trace (CCTT) system; and makes other changes related to laboratory testing of cannabis and cannabis products.

EXISTING LAW:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide 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) §§ 26000-26325)

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

3) Provides for twenty total 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)

4) Requires the DCC, if it finds or has probable cause to believe that cannabis or a cannabis product is adulterated or misbranded, or the sale of the cannabis or cannabis product would be in violation of MAUCRSA, to affix to the cannabis or cannabis product, or component thereof, a tag or other appropriate marking. The DCC must give notice that the cannabis or cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of the cannabis or cannabis product would be in violation of MAUCRSA, has been embargoed, and cannot be removed or disposed of by sale or otherwise until permission for removal or disposal is given by the DCC or a court. (BPC § 26039.3(a))

5) Specifies that it is unlawful to remove, sell, or dispose of embargoed cannabis or an embargoed cannabis product without the written permission of the DCC or a court. The removal, sale, or disposal of each item of embargoed cannabis or cannabis product without the written permission of the DCC constitutes a violation subject to a citation and fine of not more than $10,000. (BPC § 26039.3(b)(1))

6) Authorizes a licensed cultivator to request permission for the continued cultivation or harvesting of the cannabis subject to embargo. The DCC may authorize, and may impose conditions on, the continued cultivation or harvesting of the cannabis subject to embargo. (BPC § 26039.3(b)(2))

7) Requires the DCC to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures, at a minimum, all of the following:

    a. The licensee from which the product originates and the licensee receiving the product.

    b. The transaction date.

    c. The unique identifier or identifiers for the cannabis or cannabis product.

    d. The date of retail sale to a customer and whether the sale is conducted on the retail premises or by delivery.

    e. Information relating to cannabis and cannabis products leaving the licensed premises in a delivery vehicle as determined by regulations adopted pursuant to subdivision (d) of Section 26068.

    (BPC § 26067(a))

8) Requires the DCC, in consultation with the California Department of Tax and Fee Administration, to create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which must include, but not be limited to, the following information:

    a. The variety and quantity or weight of cannabis or cannabis products shipped.

    b. The estimated times of departure and arrival.

    c. The variety and quantity or weight of cannabis or cannabis products received.

    d. The actual time of departure and arrival.

    e. A categorization and the unique identifier of the cannabis or cannabis product.

    f. The license number issued by the department for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and retailers.

    (BPC § 26067(b)(1))

9) Requires the database to be designed to flag irregularities for DCC to investigate. (BPC § 26067(b)(2))

10) Prohibits cannabis or cannabis products from being sold unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory. (BPC § 26100(a))

11) Requires the DCC to develop criteria to determine which batches must be tested. Samples must be in the final form in which the cannabis or cannabis product will be consumed or used. (BPC § 26100(b))

12) Requires testing of batches to meet the requirements of MAUCRSA, to be conducted only by a licensed testing laboratory. (BPC § 26100(c))

13) Specifies that for each batch tested, the testing laboratory must issue a COA for selected lots at a frequency determined by the DCC with supporting data, to report whether the chemical profile of the sample conforms to the labeled content of compounds; that the presence of contaminants does not exceed the levels established by the DCC; and, for edible cannabis products, that the milligrams of Tetrahydrocannabinol (THC) per serving shall not deviate from 10 milligrams by more than 10 percent. (BPC § 26100(d))

14) Allows a testing laboratory to amend a COA to correct minor errors, as defined by the DCC. (BPC § 26100(e))

15) Requires the DCC to establish standards for residual levels of volatile organic compounds and a standard cannabinoids test method, including standardized operating procedures that must be used by all testing laboratories. (BPC § 26100(f))

16) Requires the testing laboratory to conduct all testing in a manner consistent with general requirements for the competence of testing and calibration activities, including sampling and using verified methods. (BPC § 26100(g))

17) Requires all testing laboratories performing tests to obtain and maintain ISO/IEC 17025 accreditation as required by the DCC in regulation. (BPC § 26100(h))

18) Specifies that if a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result. (BPC § 26100(i)(1))

19) Authorizes a testing laboratory to retest the sample if both the testing laboratory notifies the DCC in writing that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the DCC *and* the DCC authorizes the testing laboratory to retest the sample. (BPC § 26100(i)(2))

20) Requires a testing laboratory to destroy the remains of the sample of cannabis or cannabis product upon completion of the analysis, as determined by the DCC through regulations. (BPC § 26100(j))

21) Prohibits a testing laboratory from being licensed by the DCC unless the laboratory meets all of the following:

    a. Complies with any other requirements specified by the DCC.

b. Notifies the DCC within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

c. Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

(BPC § 26102)

22) Requires a licensed testing laboratory to, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations. (BPC § 26104(a))

23) Requires the DCC to develop procedures to do all of the following:

a. Ensure that testing of cannabis and cannabis products occurs prior to distribution to licensed retailers, microbusinesses, or nonprofits.

b. Specify how often licensees must test cannabis and cannabis products, and that the cost of testing cannabis must be borne by the licensed cultivators and the cost of testing cannabis products must be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products must be borne by a nonprofit licensed.

c. Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the DCC, unless remedial measures can bring the cannabis or cannabis products into compliance with QA standards as specified by law and implemented by the DCC.

d. Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing and that the testing laboratory employee transports the sample to the testing laboratory. The driver transporting the sample pursuant to this requirement must be directly employed by the testing laboratory.

(BPC § 26104(b))

24) Prohibits a testing laboratory from acquiring or receiving cannabis or cannabis products except from a licensee, and from distributing, selling, or dispensing cannabis or cannabis products from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation must be performed pursuant to a specified chain of custody protocol. (BPC § 26104(c)(1))

25) Authorizes a testing laboratory to receive and test samples of cannabis or cannabis products from a state or local law enforcement, or a prosecuting or regulatory agency in order to test the cannabis or cannabis products. Testing conducted by a testing laboratory for state or local law enforcement, a prosecuting agency, or a regulatory agency is not commercial cannabis activity and is not to be arranged or overseen by the DCC. (BPC § 26104(c)(2))

26) Specifies that cannabis batches are subject to QA standards and testing prior to sale at a retailer, microbusiness, or nonprofit licensed, except for immature cannabis plants and seeds. (BPC § 26110(a))

27) Specifies that a licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products. (BPC § 26110(b))

28) Requires the distributor to store the cannabis batches on the premises of the distributor before testing and continuously until either the cannabis batch passes the testing requirements and is transported to a licensed retailer or to another licensed distributor, or the cannabis batch fails the testing requirements and is destroyed or transported to a manufacturer for remediation as allowed by the DCC. (BPC § 26110(c))

29) Requires the distributor to arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative must maintain custody of the sample and transport it to the testing laboratory. (BPC § 26110(d))

30) Requires the distributor, upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, to conduct a QA review before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of MAUCRSA. (BPC § 26110(e))

31) Specifies that there must be a QA compliance monitor who is an employee of or contracted by the DCC, who does not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee. The QA compliance monitor must conduct random QA reviews at a distributor's licensed premises before distribution to ensure that the labeling and packaging of the cannabis and cannabis products conform to the requirements of MAUCRSA. (BPC § 26110(f)(1)-(2))

32) Authorizes the QA compliance monitor to have access to all records and test results required of a licensee by law in order to conduct QA analysis and to confirm test results. All records of inspection and verification by the QA compliance monitor must be provided to the DCC. Failure to comply must be noted by the QA compliance monitor for further investigation. (BPC § 26110(f)(3))

THIS BILL:

1) Repeals a requirement that the DCC affix a tag or other marking to cannabis or cannabis products that the DCC finds or has probable cause to believe have been adulterated or misbranded, or the sale of the cannabis or cannabis product would be in violation of the law.

2) Specifies that when the DCC gives notice that the cannabis or cannabis product is, or is suspected of being adulterated or misbranded, or the sale would violate the law, to do so either in writing or electronically. The notice must reasonably identify the cannabis or cannabis product subject to an embargo.

3) Requires licensees, within one business day of receiving a notice of embargo from the DCC, to physically separate all embargoed cannabis and cannabis products from all other inventory and place the embargoed cannabis or cannabis products in a limited access area on the licensed premises until the licensee receives further instruction from the DCC.

4) Requires a retailer and any other licensee authorized to engage in the retail sale of cannabis or cannabis products to provide the COA associated with any cannabis or cannabis product held or offered for retail sale to a customer upon request of the customer or the DCC.

5) Requires a retailer and any other licensee authorized to engage in the retail sale of cannabis or cannabis products to allow the DCC to obtain or access any cannabis or cannabis products held or offered for retail sale for the purposes of conducting off-the-shelf laboratory testing in compliance with MAUCRSA or the DCC's regulations.

6) Requires the DCC to develop criteria to determine which batches must be retested.

7) Specifies that a testing laboratory may be subject to blind proficiency testing by the DCC to ensure consistency of results across laboratories, subject to appropriation by the Legislature.

8) Authorizes a testing laboratory to retest a sample when a test result falls outside the specifications authorized by law or regulation if either of the following occurs:

   a) The testing laboratory notifies the DCC, in writing, that the test was compromised due to equipment malfunction or staff error, or if retesting is required by the DCC.

   b) The DCC authorizes the testing laboratory to retest the sample.

9) Repeals a requirement that testing conducted by testing laboratory for state or local law enforcement, a prosecuting agency, or a regulatory agency not be arranged or overseen by the DCC and instead requires a licensed testing laboratory to comply with the DCC's request to evaluate the laboratory's testing practices, as determined in DCC regulations.

10) Requires distributors, beginning March 1, 2026, to record QA reviews of each batch of cannabis or cannabis products within the CCTT system, as required by the DCC.

11) Requires the DCC, in lieu of a QA compliance monitor employed or contracted by the DCC, to conduct random QA reviews at a distributor, microbusiness, or retailer's licensed premises to ensure the labeling, packaging, and testing of the cannabis and cannabis products conform to the requirements of MAUCRSA.

12) Repeals the following:

   a) Authorization for the QA compliance monitor to access all records and test results required of a licensee by law in order to conduct QA analysis and to confirm test results.

   b) A requirement that all records of inspection and verification by the QA compliance monitor be provided to the DCC.

   c) Requirements that failure to comply be noted by the QA compliance monitor for further investigation and that violations be reported to the DCC

   d) A requirement that the QA compliance monitor verify that the tax payments collected and paid are accurate.

e) A requirement that the QA compliance monitor have access to the inputs and assumptions in the CCTT system and be able to verify their accuracy and that they are commensurate with the tax payments.

13) Authorizes the DCC to collect representative samples of cannabis and cannabis products for additional or independent testing.

14) Authorizes the DCC to order the retesting of cannabis and cannabis products held under embargo and specifies that retesting by order of the DCC must be conducted a licensed testing laboratory selected by the DCC.

15) Makes nonsubstantive and conforming changes.

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

COMMENTS:

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

> When voters passed proposition 64, the struck a deal that would provide a safe legal cannabis market. Reports show that we are failing to deliver on that promise, in part because the existing regulatory framework does not provide the Department of Cannabis Control adequate authority to regulate testing labs and perform oversight. [This bill] provides additional statutory authority so the public can once again trust in a safe legal cannabis market.

Background.

Department of Cannabis Control. Since July 1, 2021, the DCC has been the single entity responsible for administering and enforcing the majority of California's cannabis laws, collectively known as MAUCRSA. The DCC is additionally responsible for licensing and regulating cannabis businesses, including the cultivation, manufacture, testing, transportation, labeling, and sale of cannabis and cannabis products in this state.[1]

Cannabis testing. Cannabis products are required to be tested before they can be sold to ensure that they are free of contaminants (e.g., pesticides) and labeled with accurate amounts of cannabinoids and terpenes.[2] More specifically, laboratories test cannabis goods for residual solvents and processing chemicals, residual pesticides, heavy metals, microbial impurities, mycotoxins, moisture content and water activity, and foreign material. DCC regulations require laboratories to test for 66 pesticides and further stipulate that laboratories analyze a minimum of 0.5 grams of the representative sample to determine whether residual pesticides are present.[3] A sample is deemed to have passed the residual pesticides testing if Category I pesticides are not detected and the presence of Category II pesticides does not exceed specified levels.

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[1] Department of Cannabis Control. *About the Department of Cannabis Control,* https://cannabis.ca.gov/about-us/about-dcc/.
[2] Department of Cannabis Control. *Testing laboratories*, https://cannabis.ca.gov/licensees/testing-laboratories/.
[3] Cal. Code Regs. Tit. 4, § 15719

Results are reported on a COA, which says whether the batch of cannabis goods passes or fails for each substance. The laboratories may only issue COAs after they finish all tests and cannot alter them after they are issued. Changes require DCC approval. Laboratories must upload COAs to DCC's CCTT system and email a copy directly to DCC within one business day of finishing testing. Cannabis goods that fail testing must be destroyed by the distributor or remediated by a manufacturer. Remediation is the process of removing contaminants from a product and must be approved by DCC in advance. After remediation, the cannabis goods must be re-tested and if they pass, may be sold.

Cannabis testing laboratories must be licensed by the DCC, maintain ISO accreditation, use standardized operating procedures, develop a laboratory QA program, and participate in a proficiency testing program.

Need for this bill. In June 2024, Anresco Laboratories and Infinite Chemical Analysis Labs filed a lawsuit, which they later sought dismissal of without prejudice, against 13 testing labs, alleging that their competitors inflated cannabis products' THC potency or disregarded the presence of contaminants in cannabis and cannabis products.[4] According to an article published by the *MJ Biz Daily,* the two companies were among the labs to publicize findings of illegal pesticides in numerous cannabis products, and whose complaints to the DCC led to an investigation by *The Los Angeles Times* and *Weedweek.* The investigation revealed that legal cannabis products contained alarming levels of pesticides.[5] More than half of the 42 products they had tested had concentrations of pesticides that exceeded legal limits or current federal standards for tobacco. Moreover, vapes from five popular brands were found to have pesticide levels so high that a single exposure could be harmful. The investigation resulted in numerous product recalls and increased scrutiny over the DCC's oversight of licensed cannabis testing laboratories.[6]

According to reporting by *The Los Angeles Times*, the Santa Cruz County Board of Supervisors passed a resolution earlier this year calling on the governor and the Legislature to transfer responsibility for pesticides in cannabis products from the DCC to the Department of Pesticide Regulation and that accreditation of cannabis testing laboratories be placed under the purview of the State Water Resources Control Board. Additionally, the resolution asked that the state require cannabis and cannabis products to be screened for an additional 24 pesticides.

This bill would modestly strengthen governance over cannabis testing. For example, this bill would require embargoed cannabis goods to be physically separated from other inventory within one business day of receiving an embargo notice from the DCC, require licensees to provide COAs to customers and the DCC upon request, and authorize the DCC to conduct off-the-shelf laboratory testing for any cannabis goods offered for sale. Additionally, this bill would authorize the DCC to subject testing laboratories to blind proficiency testing, upon appropriation by the Legislature, and require distributors to record each QA in the CCTT system.

This bill would also authorize a testing laboratory to retest a sample without the DCC's authorization when a the initial test result falls outside of set parameters if the testing laboratory

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[4] Chris Casacchia, *Lawsuit dismissed against 13 marijuana testing labs in California,* MJBIZDAILY. (2024).
[5] Ryan Fonseca, *How dirty is your weed? A joint investigation finds high levels of pesticides in products, THE LOS ANGELES TIMES. (2024).*
[6] Paige St. John, CONTAMINATION FEARS DRIVE PUSH TO REMAKE STATE CANNABIS AGENCY, THE LOS ANGELES TIMES. (2025).

notifies the DCC in writing that the test was compromised due to equipment malfunction or staff error, if retesting is required or otherwise authorized by the DCC. This bill also reforms the process under which the DCC can audit and verify cannabis testing results by striking the establishment and specified duties of a "quality assurance compliance monitor" that is hired or contracted by the DCC, and instead puts these duties under the DCC generally, with greater authority to directly order a retest of embargoed products or collect representative samples from cannabis licensees for independent testing. Lastly, this bill repeals outdated requirements for the DCC to verify accuracy in tax collection to conform with tax reforms passed in AB 195 (Committee on Budget), Chapter 56, Statutes of 2022.

Prior Related Legislation. *AB 623 (Chen), Chapter 267, Statutes of 2023*, required the DCC to establish regulations to adjust testing variances for edible cannabis products that include less than five milligrams of THC in total.

AB 1610 (Jones-Sawyer) of 2023 would have required the DCC to list cannabis product recall orders on its website; subjected testing laboratories to blind proficiency testing; required the DCC to establish a standard laboratory blind proficiency test method for use by all testing laboratories; required the DCC to audit testing laboratories annually and to publish the results of those audits, including any record of a violation, on its website; required the DCC to establish standard operating procedures for conducting audits and required the DCC to establish QA standards and testing procedures for products available for retail sale. *That bill died on the Senate Appropriations Suspense File.*

SB 544 (Laird) Chapter 547, Statutes of 2021, required the DCC to establish standardized cannabinoid test methods to be used by all testing laboratories by January 1, 2023.

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *California Cannabis Operators Association* writes in support:

> Currently, California requires all cannabis products to be tested by state-licensed testing laboratories to ensure compliance with limits on pesticides, heavy metals, microbiological contaminants, and cannabinoid potency accuracy. However, there is evidence that some operators within the industry are violating these regulations, compromising consumer safety and trust.
>
> A 2024 investigative report by the Los Angeles Times found that more than half of the products sampled (from a small number of brands) exceeded acceptable pesticide contamination levels when tested by an independent lab. Additionally, a separate study revealed that 87% of 150 randomly tested products had inaccurately reported THC potency levels, suggesting that certain brands may be fraudulently inflating THC content by working with labs known to produce artificially high results.
>
> [...]
>
> By establishing stronger regulatory oversight and accountability, [this bill] ensures that California consumers receive safe, accurately labeled cannabis products while protecting responsible operators from unfair market practices.

ARGUMENTS IN OPPOSITION:

NorCal Phoenix, Inc., which has taken an oppose unless amended position on the bill, writes:

> While we fully support the intent to ensure accuracy in cannabis labeling and packaging, we are concerned that this bill, as currently drafted, would impose new operations and financial burdens on compliant businesses without improving public health or safety outcomes in a meaningful way. Specifically, [this bill] would require distributors to record each quality assurance (QA) review in the track-and-trace system, beginning March 1, 2026. While distributors are already conducting QA reviews under existing law, adding a batch-by-batch reporting mandate in track-and-trace represents a significant expansion in administrative workload staffing needs, and software compliance. Our concerns include:
>
> - **Increased Compliance Costs:** Maintaining accurate, batch-level QA documentation within the track-and-trace system will likely require new software solutions, staff training, and potentially the hiring of dedicated personnel, of which all costs will be borne by cannabis licensees.
>
> - **Duplicative Oversight:** Cannabis distributors already conduct internal QA checks and maintain extensive compliance documentation. Mandating this process within the state system adds redundancy without clear benefit.

POLICY ISSUE(S) FOR CONSIDERATION:

Blind proficiency testing at cannabis testing laboratories. This bill would authorize the DCC to conduct blind proficiency testing of cannabis testing laboratories, upon appropriation by the Legislature. The author may wish to *require* the DCC to conduct blind proficiency testing, should they have the funding to do so.

Threshold for retesting. Current law authorizes a testing laboratory to retest a cannabis sample when a test result falls outside set parameters if both of the following conditions are met: 1) the testing laboratory notifies the DCC, in writing, that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the DCC, and 2) the DCC authorizes the testing laboratory to retest the sample. This bill would lower the threshold by allowing a testing laboratory to test a sample without the DCC's authorization. Absent DCC approval, it is unclear what guardrails there are to ensure this leniency is not abused. The author may wish to reinstate the requirement for DCC approval, or at very least, define "equipment malfunction" and "staff error" to ensure these terms are not up to the interpretation of each testing laboratory.

IMPLEMENTATION ISSUES:

Quality assurance review. This bill would require distributors to record QA reviews within the CCTT system. The author may wish to clarify the types of information that must be included. Practically, the CCTT system is used to track when cannabis inventory moves between licensees or premises. It is unclear if the author intends for distributors to simply verify that they completed the quality assurance review, or if the author wishes for further insight into the way inventory is handled within the same premises.

REGISTERED SUPPORT:

California Cannabis Operators Association

REGISTERED OPPOSITION:

Norcal Pheonix, Inc. (unless amended)

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1271 (Bonta) – As Amended April 21, 2025

NOTE: This bill is double referred and previously passed the Assembly Committee on Communications and Conveyance on a 9-0-1 vote.

SUBJECT: Communications: broadband internet service providers.

SUMMARY: Requires the Department of Consumer Affairs (DCA) to collect and analyze data relating to broadband internet access service pricing and speed data and requires broadband internet service providers to establish and maintain a consumer complaint resolution process.

EXISTING LAW:

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

2) Defines "board" as also inclusive of "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." (BPC § 22)

3) Enumerates various regulatory boards, bureaus, committees, commissions, and programs under the DCA's jurisdiction. (BPC § 101)

4) Provides that all boards within the DCA are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. (BPC § 101.6)

5) Provides that each board within the DCA exists as a separate unit, and has the functions of setting standards, holding meetings, conducting examinations, reviewing applications, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as those powers are given by statute to each respective board. (BPC § 108)

6) Places the DCA under the control of the Director of Consumer Affairs, who is appointed by the Governor and may investigate the work of boards under the DCA. (BPC § 150)

7) Empowers the Director of Consumer Affairs to require reports from any board within the DCA as deemed reasonably necessary on any phase of their operations. (BPC § 127)

8) Requires each board within the DCA to notify complainants against licensees of the initial administrative action taken on the complainant's complaint within 10 days of receipt as well as the final action ultimately taken on the complaint. (BPC § 129)

9) Provides that a charge for the estimated administrative expenses of the DCA may be levied on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance. (BPC § 201)

10) Establishes the Professions and Vocations Fund within the State Treasury, consisting of various special funds for each of the boards, bureaus, and other entities within the DCA, and provides that each fund shall be available for expenditure only for the purposes provided by law. (BPC § 205)

11) Provides that the money in any fund within the Professions and Vocations Fund that is attributable to administrative fines, civil penalties, and criminal penalties imposed by a regulating entity, or cost recovery by a regulating entity from enforcement actions and case settlements, shall be available for expenditure only upon appropriation by the Legislature. (BPC § 207)

12) Provides that the Director of Consumer Affairs has the following powers and it shall be the director's duty to:

    a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.

    b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.

    c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.

    d) Study, investigate, research, and analyze matters affecting the interests of consumers.

    e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.

    f) Propose and assist in the creation and development of consumer education programs.

    g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.

    h) Advise the Governor and Legislature on all matters affecting the interests of consumers.

    i) Exercise and perform other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.

    j) Maintain contact and liaison with consumer groups in California and nationally.

    (BPC § 310)

13) Requires that the Director of Consumer Affairs be formally notified of and be provided a full opportunity to review all notices of proposed, modified, and final rulemaking actions, and provides the director with the authority to disapprove a proposed rule or regulation within 30 days on the ground that it is injurious to the public health, safety, or welfare. (BPC § 313.1)

14) Requires the Director of Consumer Affairs to receive complaints from consumers concerning each of the following matters:

    a) Unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce.

    b) The production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare.

    c) Violations of provisions of the Business and Professions Code relating to businesses and professions licensed by any agency of the DCA and its regulations.

    d) Student concerns related to the Bureau for Private Postsecondary Education's performance of its responsibilities, including concerns that arise related to the Bureau for Private Postsecondary Education's handling of a complaint or its administration of the Student Tuition Recovery Fund.

    (BPC § 481)

15) Additionally requires the Director of Consumer Affairs to receive complaints from consumers concerning services provided by telephone corporations. (BPC § 325.3)

16) Requires the Director of Consumer Affairs to transmit any valid complaint to the local, state or federal agency whose authority provides the most effective means to secure the relief, or to the Attorney General. (BPC § 326)

THIS BILL:

1) Defines "broadband internet access service" as having the same definition as provided in the California Internet Consumer Protection and Net Neutrality Act of 2018.

2) Beginning January 1, 2027, requires broadband internet service providers operating in the state to annually submit to a report to the DCA containing broadband internet access service pricing and speed data at the census tract or address level in a machine-readable format.

3) Requires each report submitted by a broadband internet service provider to the DCA to include, at a minimum, all of the following:

    a) The advertised speeds offered to consumers.

    b) Speed performance.

    c) The advertised and total price paid by consumers, including all fees and surcharges.

    d) A breakdown of broadband internet access service plans offered to consumers at the census-tract or address level, including standalone, bundled, and eligibility-based plans.

4) Empowers the DCA to conduct audits and require broadband internet service providers to provide supporting documentation to verify compliance with the reporting requirement.

5) Requires the DCA to publish an annual broadband internet access service affordability and speed report aggregating and analyzing the data reported to the department by broadband internet service providers.

6) Provides that data submitted to the DCA shall be made available to the public by the DCA in an open data format, subject to the protection of proprietary business information and personally identifying information, and consistent with the California Public Records Act.

7) Subjects a broadband internet service provider that fails to submit required data, submits incomplete or misleading data, or fails to cooperate with audits conducted by the DCA to an administrative penalty by the DCA not to exceed $1,000 per violation per day until compliance is achieved.

8) Requires the DCA to adopt a data reporting template for entities to report the broadband pricing and speed data to the DCA, which shall be in an open data format that shall be readily accessible to the public.

9) Authorizes the DCA to adopt rules and regulations necessary to implement and enforce the requirements in the bill.

10) Requires broadband internet service providers to establish and maintain a dedicated consumer complaint resolution process that allows customers to submit consumer complaints via telephone, email, and an online portal.

11) Requires broadband internet service providers to provide consumers with a tracking number for each consumer complaint and an estimated timeline for resolution.

12) Requires broadband internet service providers to respond to a consumer complaint within seven business days and provide a resolution, explanation, or corrective action within 30 days of receipt.

13) Provides that if a consumer complaint cannot be resolved within 30 days, the broadband internet service provider shall provide the consumer with a written explanation of the delay and an updated resolution timeline, not to exceed 60 days from the initial complaint submission.

14) Provides that if a broadband internet service provider fails to resolve a consumer complaint within the specified timeframe or refuses to act in good faith, the consumer is entitled to one or more of the following remedies:

    a) For billing disputes, a refund for overcharges, undisclosed fees, or improper billing practices.

    b) For service failures or service quality issues, prorated credits or full refunds for periods of nonservice or substandard service, or replacement of provider-issued hardware, including modems or routers, at no cost to the consumer, if the equipment is determined to be the likely cause of degraded service.

    c) For breach of contract, waiver of early termination fees when the broadband internet service provider fails to uphold its service agreement.

15) Requires a broadband internet service provider to issue a minimum credit of $50 to any consumer whose complaint remains unresolved beyond 60 days without valid justification.

16) Requires broadband internet service providers to disclose the complaint resolution process and remedies clearly and conspicuously in their terms of service, in their billing statements, and on their internet websites.

17) Requires broadband internet service providers to report quarterly complaint statistics to the DCA that include the number of consumer complaints received, the types of complaints, the average resolution time, and the number of unresolved complaints exceeding 60 days.

18) Makes findings and declarations in support of the bill's provisions, including a finding and declaration that it is necessary for the bill to limit the public's right of access to proprietary business information, protected personal information, and personally identifiable information in order to protect the confidentiality of consumers and the proprietary information of businesses subject to the bill.

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

COMMENTS:

Purpose. This bill is sponsored by the *California Alliance for Digital Equity*. According to the author:

> AB 1271 empowers consumers and strengthens California's broadband infrastructure through greater access to accurate information. AB 1271 increases transparency in broadband service by requiring internet service providers to report the speed experienced by consumers, along with total pricing data—including all fees and surcharges. Reliable, high-speed internet is essential for participating in education, employment, healthcare, and civic life. Yet many Californians experience a disconnect between what providers advertise and what they actually deliver. Without clear reporting requirements, consumers and policymakers lack the tools to ensure accountability and affordability. This bill addresses that gap by requiring providers to submit annual reports to the Department of Consumer Affairs detailing real-world broadband performance and true service costs. The Department will publish these findings to support transparency and inform future broadband equity efforts.

Background.

Department of Consumer Affairs. The DCA is a department within the Business, Consumer Services, and Housing Agency that primarily exists to provide administrative support services to the various individual boards, bureaus, and other entities that comprise and fund the department. Support services provided by the DCA include human resources, information technology, investigations, communications, professional examinations, training, strategic planning, and fiscal operations. As of the DCA's most recent annual report to the Legislature, the DCA consists of 36 distinct regulatory entities, including 26 boards, seven bureaus, one committee, one commission, and one program. In total, the DCA oversees more than 3.4 million licensees across 280 license types falling within the respective jurisdiction of each board, bureau, or other licensing entity. The DCA also administers the Arbitration Certification Program, which currently certifies and monitors twenty third-party arbitration programs to ensure compliance with California law relating to new vehicle warranties.

In addition to providing support services to individual licensing entities, statute requires the DCA to receive complaints from consumers and to transmit any valid complaints to the local, state, or federal agency that is appropriate to assist the complainant. The DCA's Consumer Information Center (CIC) includes a Call Center and a Correspondence Unit. During Fiscal Year 2021-22, the CIC received over 400,000 calls and provided correspondence to consumers in over 38,000 instances. The DCA has also produced an estimated 370 publications, which includes guidance to both consumers and licensees.

Broadband Internet Service Providers. Typically, "broadband internet" is used to refer to various forms of high-speed internet access technologies including fiber-optic, cable, digital subscriber line (DSL), satellite, and wireless services. Access to high-speed internet is no longer regarded as a luxury, as more and more essential services rely on reliable internet services. For example, California has long faced a significant shortage of primary care providers, which disproportionately impacts communities with a higher proportion of minorities.[1] While telehealth technologies are frequently offered as solutions to this provider shortage, studies have found that those same communities frequently also do not have access to broadband, with approximately 15 percent of California households lacking high-speed internet access.[2]

In 2023, the Legislature enacted the Assembly Bill 414 (Reyes), the Digital Equity Bill of Rights, which included findings and declarations stating "that digital equity, in which all individuals and communities have the information technology capacity needed for full participation in society, democracy, and the economy, is necessary for civic and cultural participation, employment, lifelong learning, and to access essential services." While the bill did not establish an enforceable right to broadband access, AB 414 established that it is the principle of the state to ensure digital equity for all residents and that residents should have access to broadband in various forms and functions. AB 414 additionally established that it is the policy of the state that broadband internet subscribers benefit from equal access to service.

The author and sponsors of this bill have conveyed their belief that some broadband internet service providers have potentially engaged in certain practices that disproportionately harm vulnerable populations, including misrepresentations of speed data and inequitable pricing practices. Findings and declarations in this bill state that the intent is to ensure that subscribers of broadband internet access service reliably receive the speeds they pay for, are fully informed about the pricing structure for their plans, and have access to affordable broadband that meets their connectivity needs. The bill would seek to achieve this objective through the collection, analysis, and publication of data.

Specifically, this bill would require broadband internet service providers to submit reports to the DCA containing broadband internet access service pricing and speed data at the census tract or address level in a machine-readable format. The DCA would then be required to publish an annual broadband internet access service affordability and speed report aggregating and analyzing the data reported to the department, and to make the data it receives available to the public in an open data format. The DCA would be authorized to conduct audits to confirm compliance impose administrative penalties on broadband internet service providers for failure to comply with the bill's reporting requirements of up to $1,000 per day.

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[1] Liu M, Wadhera RK. *Primary Care Physician Supply by County-Level Characteristics*, 2010-2019.
[2] Hayes, Joseph, et al. *Achieving Universal Broadband in California*. Public Policy Institute of California, 2022.

In addition, this bill would require each broadband internet access service provider to establish and maintain a dedicated consumer complaint resolution process that allows customers to submit consumer complaints via telephone, email, and an online portal. Consumers would be provided a tracking number for each consumer complaint and an estimated timeline for resolution, and broadband internet service providers would be required to respond to a consumer complaint within seven business days and to provide a resolution, explanation, or corrective action within 30 days of receipt. If a consumer complaint cannot be resolved within 30 days, the broadband internet service provider would be required to provide the consumer with a written explanation of the delay and an updated resolution timeline, not to exceed 60 days from the initial complaint submission. A broadband internet service provider would be required to issue a minimum credit of $50 to any consumer whose complaint remains unresolved beyond 60 days without valid justification.

The author believes that by requiring the DCA to collect and publish broadband internet access service pricing and speed data, advocates and policymakers can identify and address inequities in broadband access in California. This bill would also potentially verify whether actual internet speeds are consistent with advertised speeds. While similar data is already collected and analyzed nationally by the Federal Communications Commission, this bill would ensure that information specific to communities in California can be considered when undertaking efforts to increase broadband access for California residents.

Current Related Legislation. AB 693 (Boerner) would establish the Department of Broadband and Digital Equity within the Government Operations Agency, to serve as the central state agency for the state's broadband and digital equity initiatives.

Prior Related Legislation. AB 414 (Reyes), Chapter 436, Statutes of 2023 enacted the Digital Equity Bill of Rights, which established the principle of the state to ensure digital equity for all its residents, and that residents shall have access broadband that is sufficient and reliable.

AB 286 (Wood), Chapter 645, Statutes of 2023 expanded the fields of data included on the California Interactive Broadband Map maintained by the California Public Utilities Commission.

ARGUMENTS IN SUPPORT:

The *California Alliance for Digital Equity*, a coalition consisting of numerous organizations including *#OaklandUndivided*, *California Community Foundation*, *NextGen California*, and the *Children's Partnership*, is sponsoring this bill. The coalition writes in support: "Large-sample, independent studies have shown that consumers up and down the State of California are not receiving the broadband speeds they are paying for. For example, #OaklandUndivided - an equity-based, collective impact initiative founded in partnership with the City of Oakland and other local stakeholders - ran nearly half a million speed tests at over 15,000 locations across Oakland and found that over 75% of internet connections they tested never reached the speed threshold to be considered served. Most alarmingly, connections in their highest income, predominantly white zip code were nearly ten times faster than in their poorest zip code with residents that are majority people of color." The coalition argues that "we all deserve, at minimum, to get what we pay for, a reliable process to seek redress when we don't, and confirmation that our communities are not subject to disparate pricing or substandard service."

ARGUMENTS IN OPPOSITION:

The *California Broadband & Video Association* (CalBroadband) opposes this bill unless amended, writing: "CalBroadband's members share AB 1271's goals of transparently providing information about the broadband service options available to California consumers. However, CalBroadband respectfully urges the Committee to reject the bill in print to minimize confusion and unintended harm, given that federal law and the FCC's rules already ensure that all relevant information necessary to make informed choices among broadband providers and service plans is currently reported and readily available to consumers. It is also fundamentally unnecessary, given that several of CalBroadband's member companies have participated in the FCC's broad-scale nationwide study of consumer broadband performance in the United States over the past fourteen years. The results of that data, since the FCC began this process in 2011 of directly measuring consumer broadband performance collected from providers, have been compiled across thirteen FCC reports." CalBroadband's letter concludes by stating: "While we urge the Committee to avoid creating the duplicative and burdensome reporting requirements inherent with this proposal, CalBroadband and its member companies stand ready to work with the author and the Committee to address issues of broadband adoption and access in California."

IMPLEMENTATION ISSUES:

Placement of Administrative and Enforcement Responsibilities. This bill would require the DCA to collected reported data from broadband internet service providers, enforce compliance with that reporting, and publish analysis on the data it collects. Questions have been raised about whether the DCA is the appropriate entity to implement these requirements. As discussed in this analysis, the primary mission of the DCA is the oversight of professional and vocational licensing programs administered by the various boards under its jurisdiction. The DCA does not historically function by engaging directly in administering or enforcing regulatory requirements; rather, the DCA provides support services to the distinct boards, bureaus, and other programs that comprise the department.

Prior analysis of this bill noted that the California Public Utilities Commission arguably performs functions more closely aligned with the bill's intent; however, that analysis further acknowledged that the Legislature has recently looked to place responsibility for broadband initiatives with other agencies. AB 693 (Boerner) was introduced this year to establish a Department of Broadband and Digital Equity within the Government Operations Agency; if that legislation were enacted, this newly established department may be a significantly more appropriate agency to task with implementing the requirements of this bill. If the DCA remains the identified agency, the author may wish to specify that the responsibilities provided in this bill would not be assigned directly to the DCA but to a program or bureau within the DCA.

Funding Source. The vast majority of the DCA's funding is derived from a pro rata assessment against the revenue received from licensing and regulatory fees collected by the various boards and bureaus within the department. Because the DCA does not typically receive General Fund support, the cost for implementing a new program that is unrelated to any existing licensing program would have to be paid for through the use of revenue from fees charged to applicants and licensees engaged in professions fully unrelated to broadband services. In addition to raising questions of fairness and sustainability, this funding scheme could invoke legal considerations under Proposition 26, which requires license fees to be directly related to the reasonable regulatory costs of granting privileges to the payor. Another funding source should be identified.

AMENDMENTS:

1) To provide that the Department of Broadband and Digital Equity should be responsible for carrying out the requirements of this bill rather than the DCA, in the event that department is established, and to clarify that implementation by the DCA would be vested within a specific program, amend subdivision (e) in Section 2 of the bill as follows:

   (e) "Department" means an identified program within the Department of Consumer Affairs, unless Assembly Bill 693 of the 2025–26 Regular Session is enacted, in which case "Department" means the Department of Broadband and Digital Equity.

2) To require the identification of a funding source other than revenue collected from the assessment of fees and fines from licensing programs within the DCA, provide that the provisions of the bill requiring the DCA to collect, analyze, and publish data reported by broadband internet service providers is contingent upon sufficient funding provided for this purpose in the annual Budget Act or other statute.

REGISTERED SUPPORT:

California Alliance for Digital Equity *(Sponsor)*
#OaklandUndivided
Arts for LA
California Community Foundation
Communities in Schools of Los Angeles
Community Coalition of the Antelope Valley
Digital Equity LA
EveryoneOn
Families in Schools
Fresno Coalition for Digital Inclusion
GPSN
Hack the Hood
Healing and Justice Center
Institute for Local Self-Reliance
Michelson Center for Public Policy
NextGen California
Our Voice: Communities for Quality Education
Para Los Ninos
Parent Engagement Academy
TRiO Plus
UNITE-LA
2 Individuals

REGISTERED OPPOSITION:

California Broadband and Video Association

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1332 Ahrens – As Amended April 21, 2025

SUBJECT: Medicinal cannabis: shipments.

SUMMARY: Authorizes a licensed cannabis microbusiness with a medicinal cannabis license (M-license) to directly ship medicinal cannabis to a medicinal cannabis patient in California, if specified requirements are adhered to.

EXISTING LAW:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both of the following:

   a) Medicinal cannabis and medicinal cannabis products for patients with valid physician recommendations.

   b) Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over, and cannabis products intended for use on, or consumption by, animals.

   (Business and Professions Code (BPC) § 26000-26325)

2) Defines "delivery" to mean the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use of any technology platform by a retailer. (BPC § 26001(s))

3) Defines "distribution" to mean a licensee that is authorized to engage in the distribution of cannabis and cannabis products. (BPC § 26001(w))

4) Defines "M-license" to mean a state license issued under MAUCRSA for commercial cannabis activity involving medicinal cannabis. (BPC § 26001(aj))

5) Defines "M-licensee" to mean any person holding a license under MAUCRSA for commercial cannabis activity involving medicinal cannabis. (BPC § 26001(ak))

6) Defines "medicinal cannabis" or "medicinal cannabis product" to mean cannabis or a cannabis product, respectively, intended to be sold or donated for use by a medicinal cannabis patient in California who possesses a physician's recommendation, or in compliance with any compassionate use, equity, or other similar program administered by a local jurisdiction. (BPC § 26001(am))

7) Defines "microbusiness" to mean a licensee that is authorized to engage in cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer, provided such licensee can demonstrate compliance with all requirements imposed on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. (BPC § 26001(an))

8) Defines "physician's recommendation" to mean a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215) (BPC § 26001(at))

9) Establishes the Compassionate Use Act of 1996, which prohibits a physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes and specify that prohibitions on the possession and cultivation of marijuana do not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician. (Health and Safety Code (HSC) § 11362.5)

10) Defines "qualified patient" under the Medical Marijuana Program to mean a person who is entitled to the protections of the Compassionate Use Act of 1996, but who does not have an identification card, which is defined as a document used by the State Department of Public Health that identifies a person authorized to engage in the medical use of cannabis, and the person's designated primary caregiver, if any. (HSC § 11362.7(f))

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

12) Establishes grounds for disciplinary action against cannabis licensees, including failure to comply with state licensing requirements and local laws and ordinances. (BPC § 26030)

13) Provides for 20 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(a))

14) Required licenses, except for testing laboratory licenses, to bear a clear designation indicating whether the license is for commercial adult-use cannabis or commercial medicinal cannabis activity. (BPC § 26050(b))

15) Requires the DCC to establish a track and trace (CCTT) program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures, at a minimum, all of the following:

    a) The licensee from which the product originates and the licensee receiving the product.

    b) The transaction date.

    c) The unique identifier or identifiers for the cannabis or cannabis product.

    d) The date of retail sale to a customer and whether the sale is conducted on the retail premises or by delivery.

    e) Information relating to cannabis and cannabis products leaving the licensed premises in a delivery vehicle as determined by regulations adopted pursuant to subdivision (d) of Section 26068.

(BPC § 26067(a))

16) Requires the DCC, in consultation with the California Department of Tax and Fee Administration, to create an electronic database containing the electronic shipping manifests to facilitate the administration of the CCTT program, which must include, but not be limited to, the following information:

    a) The variety and quantity or weight of cannabis or cannabis products shipped.

    b) The estimated times of departure and arrival.

    c) The variety and quantity or weight of cannabis or cannabis products received.

    d) The actual time of departure and arrival.

    e) A categorization and the unique identifier of the cannabis or cannabis product.

    f) The license number issued by the department for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and retailers.

    (BPC § 26067(b)(1))

17) Requires, except as specified, the transportation of cannabis and cannabis products to be conducted by licensed persons authorized to engage in distribution or employees of those persons. Transportation safety standards established by the DCC must include, but not be limited to, minimum standards governing the types of vehicles in which cannabis and cannabis products may be distributed and delivered, and minimum qualifications for persons eligible to operate such vehicles. (BPC § 26070(b))

18) Requires all vehicles transporting cannabis and cannabis products for hire to have a valid motor carrier permit. The California Highway Patrol has authority over the safe operation of these vehicles, as specified. (BPC § 26070(d))

19) Requires a licensed distributor, prior to transporting cannabis or cannabis products, to do both of the following:

    a) Complete an electronic shipping manifest as prescribed by the DCC. The shipping manifest must include the unique identifier issued by the DCC for the cannabis product.

    b) Securely transmit the manifest to the DCC and the licensee that will receive the cannabis product.

    (BPC § 26070(e))

20) Requires the licensed distributor to maintain a physical copy of the shipping manifest and make it available upon request to agents of the DCC and law enforcement officers during transportation. (BPC § 26070(f))

21) Requires the licensee receiving a shipment of cannabis or cannabis products to maintain each electronic shipping manifest and make it available upon request to the DCC and any law enforcement officers. (BPC § 26070(g))

22) Requires the licensee receiving the shipment to submit to the DCC a record verifying receipt of the shipment and the details of the shipment upon receipt of the transported shipment. (BPC § 26070(h))

23) Authorizes a licensee that is authorized to make retail sales to provide free cannabis or cannabis products if specified criteria are met in order to provide access to medicinal cannabis patients who have difficult accessing cannabis or cannabis products, except as specified. (BPC § 26071)

24) Requires deliveries, as defined, to be made by a licensed retailer or microbusiness, or licensed nonprofit, as defined. (BPC § 26090(a))

25) Requires all employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products to carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee must present that license and identification upon request to state and local law enforcement, employees of the DCC, and other state and local agencies enforcing MAUCRSA. (BPC § 26090(b))

26) Require, before cannabis or a cannabis product leaves the licensed premises in a delivery vehicle, the retailer to enter into the CCTT all information required by the DCC and update the information as required by the DCC. (BPC § 26090(c))

27) Specifies that during delivery, the licensee must maintain a copy of the delivery request and make it available upon request of the DCC and law enforcement officers. The delivery request documentation must comply with state and federal law regarding the protection of confidential medical information. (BPC § 26090(d))

28) Requires a customer requesting delivery to maintain a physical or electronic copy of the delivery request and must make it available upon request by the DCC and law enforcement officers. (BPC § 26090(e))

29) 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(a))

30) Establishes the Medicinal Cannabis Patients' Right of Access Act, which prohibits a local jurisdiction from adopting or enforcing any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers, or that otherwise has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction. (BPC §§ 26320-26325)

31) States that the Legislature finds and declares the following:

a) Access to medicinal cannabis is an integral aspect of access to health care, and eliminating barriers to medicinal cannabis access is essential to promoting and preserving the health of Californians for whom physicians have recommended the use of cannabis or cannabis products.

b) It is the policy of the state and the intent of the Legislature to ensure that Californians throughout the state have timely and convenient access to safe, effective, and affordable medicinal cannabis.

(BPC § 26320)

32) Defines, for purposes of the Medicinal Cannabis Patients' Right of Access Act, "medicinal cannabis business" to mean a retailer authorized to engage in the retail sale by delivery of medicinal cannabis to medicinal cannabis patients pursuant to an M-license and a "medicinal cannabis patient" to mean a qualified patient who possesses a physician's recommendation or a qualified patient or primary caregiver for a qualified patient issued a valid identification card, as specified. (BPC § 26321)

THIS BILL:

1) Authorizes free cannabis or cannabis products provided to a medicinal cannabis patient to comply with all applicable requirements for shipment and defines "shipment" to mean the act of shipping medicinal cannabis or medicinal cannabis products to a medicinal cannabis patient by a licensed microbusiness utilizing a commercial carrier. Requires commercial carriers to use their own employees when shipping medicinal cannabis or medicinal cannabis products.

2) Authorizes licensed microbusinesses that are solely authorized to engage in retail sales of medicinal cannabis by means of shipment to provide free medicinal cannabis or medicinal cannabis products by means of shipment.

3) Deletes obsolete implementation language.

4) Authorizes a licensed microbusiness with an M-license whose licensed activities include retail sale, distribution, and outdoor cultivation to directly ship medicinal cannabis to a medicinal cannabis patient in this state, if the licensed microbusiness complies with all of the following requirements:

   a) The medicinal cannabis or medicinal cannabis products must be shipped by a commercial carrier that only utilizes the commercial carrier's own employees for purposes of the shipment of medicinal cannabis or medicinal cannabis products.

   b) The medicinal cannabis is only shipped to a medicinal cannabis patient who cannot access or utilize a cannabis retailer or delivery within 60 miles of the patient's location.

   c) The amount shipped to a medicinal cannabis patient in a single day cannot exceed the possession limits prescribed by existing law.

   d) The medicinal cannabis shipment cannot include any of the following:

      i) Vape pens or cartridges.

ii) Battery or electronically powered devices.

iii) Inhalable concentrates, including, but not limited to, resin or distillate inhalable concentrates.

iv) Cookies, gummies, or edibles, except naturally infused food-oil tinctures.

v) Infused cannabis beverages.

vi) Infused products, such as added flavors or terpenes.

vii) Flower cultivated indoors.

e) The medicinal cannabis shipment may include any of the following:

i) Food-oil infusion tinctures, including, but not limited to, olive oil infusion tinctures, but cannot include distillate or volatile solvent tinctures.

ii) Topicals, salves, or balms made using food-oil infusion tinctures, but cannot include distillate or volatile solvent tinctures.

iii) Suppositories made using food-oil infusion tinctures, but cannot include distillate or volatile solvent tinctures.

iv) Full-spectrum cannabis oil, including "Rick Simpson Oil."

v) Flower cultivated outdoors that is not infused with flavors, terpenes, or hash.

f) Payment for medicinal cannabis shipped must be obtained by the licensed microbusiness from the medicinal cannabis patient prior to shipment. The retail transaction must be deemed to occur at the time and location that the payment is received and title to the shipped medicinal cannabis must be deemed transferred to the medical cannabis patient at the time the shipment is conveyed from the microbusiness to the commercial carrier.

g) The licensed microbusiness must require the commercial carrier to obtain the signature of an individual 21 years of age or older before providing any medicinal cannabis shipped to an individual in this state.

h) The containers in which the medicinal cannabis is shipped must be conspicuously labeled with the words: "SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

i) The microbusiness must enter into the CCTT system information sufficient to verify that all shipped medicinal cannabis is sourced entirely from cannabis cultivated only at the microbusiness's licensed location or from up to five licensed outdoor cultivation sites holding outdoor license types small, medium, specialty, or specialty cottage, and all shipped manufactured medicinal cannabis products are manufactured solely by the licensed microbusiness at its licensed location.

j) The shipment must be properly recorded in the retailer's inventory records and the CCTT system. The microbusiness must include in its inventory records for the medicinal

cannabis patient the number of their identification card or a copy of the physician's recommendation for at least four years. If the medicinal cannabis patient is a qualified patient, as specified, who possesses a valid physician's recommendation, the retailer must certify in writing that they verified the recommendation and keep a copy of that certification for at least seven years.

k) The microbusiness must comply with all applicable laws and regulations governing cannabis retailers for purposes of that shipment, including existing requirements for laboratory testing of all medicinal cannabis products to be shipped and all CCTT requirements for those shipments. The microbusiness must properly enter all transactions related to shipments into the CCTT system as required under this division.

5) Requires a licensed microbusiness providing medicinal cannabis or medicinal cannabis products pursuant to this bill to a qualified patient, as specified, who possesses a valid physician's recommendation, to ensure that the physician is in good standing and verify the physician's recommendation by doing both of the following:

   a) Verify with the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

   b) Keep a copy of the patient's or primary caregiver's driver's license or other government-issued identification.

6) Requires the microbusiness to act as the retailer for all cannabis products shipped and to be responsible for any taxes applicable to retailers under existing laws and regulations.

7) Specifies that a commercial carrier cannot be in violation of any California law or local ordinance solely on the basis of conveying medicinal cannabis shipped pursuant to this bill, and such conveyance must not constitute delivery or transportation of cannabis.

8) Defines "medicinal cannabis" to mean medicinal cannabis or medicinal cannabis products, as those terms are defined in existing law.

9) Specifies that "medicinal cannabis patient" includes a qualified patient, as defined under Section 11362.7 of the Health and Safety Code, or a person possessing a valid identification card issued under Section 11362.71 of the Health and Safety Code.

10) Expands the definition of "medicinal cannabis business" to also mean a licensed microbusiness authorized to engage in the retail sale by shipment of medicinal cannabis to medicinal cannabis patients pursuant to an M-license and in compliance with the requirements listed above.

11) Defines "ship," "shipment," or "shipping" as the act of shipping medicinal cannabis to a medicinal cannabis patient by a licensed microbusiness utilizing a commercial carrier in compliance with the requirements listed above. Requires all shipping of medicinal cannabis or medicinal cannabis products by a commercial carrier to be by the commercial carrier's own employees.

12) Prohibits a local jurisdiction from adopting or enforcing any regulation that prohibits the retail sale of medicinal cannabis to medicinal cannabis patients or their primary caregivers by shipment within the local jurisdiction, or that otherwise has that effect.

13) Prohibits a local jurisdiction from regulating the number of licensed microbusinesses authorized to ship medicinal cannabis within the local jurisdiction, the number or frequency of sales by shipment of medicinal cannabis, the types or quantities of medicinal cannabis authorized to be sold by shipment, and the establishment of physical premises from which shipment of medicinal cannabis within the jurisdiction is conducted if it has the effect of prohibiting the retail sale by shipment of medicinal cannabis.

14) Specifies that a local jurisdiction that allowed retail sales of medicinal cannabis as of January 1, 2022, and in which at least one physical premises engages in the retail sale of medicinal cannabis, whether storefront or delivery, is already established, may limit the retail activities of a licensed microbusiness to only shipment of medicinal cannabis and may prohibit that microbusiness from engaging in retail sale by delivery.

15) Authorizes a licensed microbusiness that seeks to ship medicinal cannabis within the local jurisdiction, and a medicinal cannabis patient or their primary caregiver who seeks to have medicinal cannabis or medicinal cannabis products shipped within the local jurisdiction to bring an action to enforce the Medicinal Cannabis Patients' Right of Access Act.

16) Makes various findings and declarations.

17) Sunsets the bill's provisions, except for the findings and declarations, on January 1, 2029, and makes conforming changes.

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

COMMENTS:

Purpose. This bill is sponsored by the *Society of Cannabis Clinicians*. According to the author:

> Since the implementation of Proposition 64, the availability of medical cannabis products has declined significantly due to regulatory burdens, high taxation, and the prioritization of adult- use recreational products over medicinal formulations. As a result, many patients—particularly those with intractable epilepsy, advanced cancers, multiple sclerosis, and neurodegenerative disorders—are struggling to obtain appropriate and effective medical cannabis products. California's vast geography further exacerbates this issue, as many seriously ill patients live in areas where specialized medical cannabis products are not available locally and these patients are not able to travel long distances to dispensaries that carry the products they need. [This bill] provides a narrow, well-regulated solution that allows for direct shipment of medicinal cannabis only to approved patients under medical supervision, ensuring that they receive safe and effective treatment. [This bill] provides a narrow authorization for M-licensed cannabis outdoor cultivation microbusinesses to ship medicinal cannabis products directly to a patient's home via intra-state common carrier parcel delivery service. Allowable products for shipment would be limited to cannabis flower and "tinctures" (products manufactured with non-volatile solvents, mechanical extraction, or infusion only, such as food-oil infusion tinctures). The bill includes appropriate safeguards, such as requiring

verification and documentation of legal medical patient status, ensuring compliance with track-and-trace systems, and mandating adult signatures upon delivery. Additionally, it includes a three-year sunset provision to allow the legislature to evaluate its impact and identify any problems with implementation. By enacting [this bill], California will take a significant step in fulfilling its commitment to protecting the rights and well-being of medical cannabis patients.

Background.

History of Medicinal Cannabis Regulation in California. While the federal illegality of cannabis has historically limited clinical research, cannabis has long been believed to have therapeutic value and has been used as medicine by numerous cultures. Cannabinoids contained within the plant, including tetrahydrocannabinol (THC), have been demonstrated to be effective at treating chemotherapy-induced nausea, chronic pain, anorexia, and other conditions. During the height of the AIDS crisis in San Francisco in the 1980s, cannabis was commonly ingested to help alleviate the effects of wasting syndrome, with activists like "Brownie Mary" Rathbun and Dennis Peron championing access to the plant for patients. In 1995, the Legislature passed AB 1529 (Vasconcellos) to establish a medical necessity defense for patients using cannabis with a physician's recommendation; that bill was vetoed by Governor Pete Wilson.

Subsequently, in 1995, California became the first state to make the consumption of cannabis lawful when voters approved Proposition 215, the Compassionate Use Act, in 1996. Proposition 215 protected patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. The initiative prohibited physicians from being punished or denied any right or privilege for making a medicinal cannabis recommendation to a patient. Proposition 215 also included findings and declarations encouraging the federal and state governments to implement a plan to provide for the safe and affordable distribution of cannabis to patients with medical needs.

The regulatory scheme for medicinal cannabis was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program (MMP). Under the MMP, qualified patients were eligible to obtain a voluntary medical marijuana patient card, which could be used to verify that the patient or a caregiver had authorization to cultivate, possess, transport, or use medicinal cannabis. The MPP's identification cards were intended to help law enforcement officers identify and verify that cardholders were allowed to cultivate, possess, or transport limited amounts of cannabis without being subject to arrest. The MMP also created protections for qualified patients and primary caregivers from prosecution for the formation of collectives and cooperatives for medicinal cannabis cultivation.

Without the adoption of a formal framework to provide for state licensure and regulation of medicinal cannabis, a proliferation of informally regulated cannabis collectives and cooperatives was largely left to the enforcement of local governments. As a result, a patchwork of local regulations was created with little statewide involvement. More restrictive laws and ordinances by cities and counties were ultimately upheld by the California Supreme Court in *City of Riverside v. Inland Empire Patients* (2013) 56 Cal. 4th 729, which held that state law did not expressly or implicitly limit the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medicinal cannabis be prohibited from operating within its borders.

Cannabis collectives operating in compliance with Proposition 215 assumed they would be safe under federal guidance suggesting leniency toward states that had authorized the medical use of marijuana. However, United States Attorneys subsequently engaged in a series of raids against medical marijuana dispensaries. In February of 2011, U.S. Attorney Melinda Haag sent a letter to the City of Oakland asserting that her office would "enforce the Controlled Substances Act vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law."

In response to the federal government's enforcement activities, California Attorney General Kamala D. Harris assessed whether the state's medical marijuana guidelines could be clarified to reduce exploitation by criminal enterprises, reassure legitimate actors, and avert further crackdowns. However, it was ultimately determined that the state's legislative scheme for cannabis needed a greater overhaul. In December of 2011, the Attorney General sent letters to the Senate President pro Tem and Assembly Speaker urging legislation to "reform, simplify, and improve" state law.

After several 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 consisted of a package of legislation: AB 243 (Wood); AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood); and SB 643 (McGuire). 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 to be administered by a newly established Bureau of Cannabis Control (BCC) within the Department of Consumer Affairs, the California Department of Public Health (CDPH), and the California Department of Food and Agriculture (CDFA), with implementation relying on each agency's area of expertise.

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.

Proposition 64 and MAUCRSA. 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.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017, 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 MAUCRSA, created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities 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. The DCC was created by consolidating the three prior licensing authorities' cannabis programs. Since July 1, 2021, the DCC has been the single entity responsible for administering and enforcing

MAUCRSA. The DCC is additionally responsible for licensing and regulating cannabis businesses, including the cultivation, manufacture, testing, transportation, labeling, and sale of cannabis and cannabis products in this state.

Availability of Medicinal Cannabis. As of January 9, 2019, the collective and cooperative model for medical marijuana dispensaries, as authorized under Proposition 215, was formally sunset, and any dispensary that was in place under the Compassionate Use Act was required to obtain a license under MAUCRSA. In the months following that transition date, many expressed concern that the state's new regulatory framework insufficiently accommodated existing patients who use cannabis for medicinal purposes. Prior to the enactment of SB 1186 (Wiener), Chapter 395, Statutes of 2022, MAUCRSA allowed localities to completely ban cannabis sales within their jurisdictions, so many patients arguably had less access to cannabis than they did under the old Proposition 215 system. However, SB 1186 prohibited local governments from banning, or effectively banning, the delivery of medicinal cannabis to patients or primary caregivers within their jurisdictions, enforceable through an action for writ of mandate.

Regulations Regarding Cannabis Delivery. Statute contains relatively few provisions governing cannabis delivery. MAUCRSA defines delivery and provides that deliveries "may only be made by a licensed retailer or microbusiness, or a licensed nonprofit." Delivery employees must carry their license and identification and present it upon a request from law enforcement. Further, copies of each delivery request must be kept and made available upon request of both a licensing authority and law enforcement by both licensees and customers.

The majority of requirements relating to cannabis delivery are contained in the DCC's regulations. Section 5415 requires that all deliveries of cannabis goods be performed by a delivery employee who is directly employed by a licensed retailer and who is at least 21 years old. All deliveries of cannabis goods must be made in person—drone deliveries are prohibited. Regulations provide that the process of delivery begins when the delivery employee leaves the retailer's licensed premises with the cannabis goods for delivery. Delivery ends when the delivery employee returns to the retailer's premises after delivering the cannabis goods, or attempting to deliver cannabis goods, to the customer. Regulations prohibit delivery employees from engaging in any other activities except for necessary rest, fuel, or vehicle repair stops.

Delivery employees must carry a copy of the retailer's current license, the employee's government-issued identification, and an identification badge provided by the employer. Prior to providing cannabis goods to a delivery customer, a delivery employee is required to confirm the identity and age of the delivery customer and ensure that all cannabis goods sold comply with packaging requirements. Each licensed retailer is required to maintain an accurate list of the retailer's delivery employees and provide the list to the DCC upon request.

Regulations expressly allow licensed retailers to contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods, such as Eaze. The technology platform cannot deliver cannabis itself or share in the profits of the sale of cannabis goods. The retailer is prohibited from advertising or marketing cannabis goods in conjunction with the technology platform outside the platform's site or app.

All deliveries must be made to a physical address. Delivery employees may not leave California during a delivery. Cannabis cannot be delivered to a school providing instruction in kindergarten or any grades 1 through 12, a day care center, or a youth center.

In regard to delivery vehicle requirements, deliveries can only take place through an enclosed motor vehicle. The vehicle used in the delivery of cannabis goods must be unmarked and cannot bear any indications on the exterior of the vehicle that the delivery employee is carrying cannabis goods for delivery. Only the licensee or an employee of the retailer licensee for whom delivery is being performed may be in the delivery vehicle.

While carrying cannabis goods for delivery, a licensed retailer's delivery employee must ensure the cannabis goods are not visible to the public. Cannabis goods must be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle, which may include the trunk. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. Motor vehicles must be left locked and equipped with an active vehicle alarm system. Further, a vehicle used for the delivery of cannabis goods shall be outfitted with a dedicated GPS device for identifying the geographic location of the delivery vehicle and recording a history of all locations traveled to by the employee while engaged in delivery.

The maximum value of cannabis goods that a delivery employee is allowed to carry at any time is $10,000. A delivery employee may only carry cannabis goods in the delivery vehicle and may only perform deliveries for one licensed cannabis retailer at a time. A delivery employee must depart and return to the same licensed premises before taking possession of any cannabis goods from another licensee to perform additional deliveries. A licensed retailer's delivery employee may not leave the licensed premises with cannabis goods without at least one delivery order that has already been received and processed by the licensed retailer. Prior to leaving, the delivery driver must have a delivery inventory ledger of all cannabis goods they have been provided, and the driver must maintain a log that includes all stops made during the delivery. This log must be provided to the DCC or law enforcement upon request.

If a licensed retailer's delivery driver does not have any delivery requests to be performed for a 30-minute period, the licensed retailer's delivery driver may not make any additional deliveries and must return to the licensed premises. This does not include required meal breaks. Upon returning to the licensed premises, all undelivered cannabis goods must be returned to inventory, and all necessary inventory and the CCTT system records must be updated that day.

Need for this bill. Proponents of this bill assert that there is a small population of patients in California who require specific medicinal products that are not stocked by retailers because they are sought by only a handful of people and are perishable. This bill is intended to create flexibility for medical patients and caregivers for whom it is a hardship to travel to purchase medicinal cannabis products. Recent amendments narrow the scope of the bill by prohibiting the shipment of medicinal cannabis goods to patients who live within 60 miles of a cannabis retailer or delivery option. It is unclear how many patients stand to benefit from this bill.

Commercial Carriers. Existing law requires cannabis to be transported by DCC-licensed distributors. Type-11 distributors may transport cannabis and cannabis products between cultivation, manufacturing, or distribution premises, move finished cannabis goods to retail premises, provide storage services to other licensees, and arrange for testing of cannabis goods. Type-13 distributors provide transport only. Distributors must ensure that a licensed testing laboratory tests all batches of cannabis goods before they are sold, and must additionally conduct a quality assurance review. Moreover, distributors must use a wholesale manifest transfer to record the retailer's wholesale cost of each package in the transfer in the CCTT system. This bill would instead allow cannabis to be directly shipped by a commercial carrier (e.g., DHL).

Although commercial carriers do not have access to the CCTT system, the proponents of this bill purport that the carrier would have a copy of the delivery order and provide proof of delivery to the microbusiness, which would be responsible for preserving such documentation. Moreover, this bill would require medicinal cannabis to be conspicuously labeled with the words: "SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY.", and require the licensed microbusiness to require the commercial carrier to obtain the signature of an individual at least 21 years old.

Prior Related Legislation. *SB 1186 (Wiener), Chapter 395, Statutes of 2022*, prohibited local governments from banning, or effectively banning, the delivery of medicinal cannabis to patients or primary caregivers within their jurisdictions, enforceable by an action for writ of mandate.

SB 34 (Wiener), Chapter 837, Statutes of 2019, allowed cannabis licensees to donate medicinal cannabis under certain conditions and, until January 1, 2025, exempted cannabis designated for donation from cultivation, use, and excise taxes.

SB 829 (Wiener) of 2018 would have allowed specified cannabis licensee holders to donate medicinal cannabis and medicinal cannabis products to qualified patients, and allowed such donations to be exempt from cultivation, use, and excise taxes. *That bill was vetoed.*

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *Society for Cannabis Physicians* writes in support:

> This bill is a crucial step toward ensuring that patients with severe and complex medical conditions can access the medicine they need. Since the implementation of Proposition 64 in 2018, the availability of medical cannabis products has declined significantly due to regulatory burdens, high taxation, and the prioritization of adult-use products over medicinal formulations. As a result, many patients—particularly those with intractable epilepsy, advanced cancers, multiple sclerosis, and neurodegenerative disorders—are struggling to obtain effective treatment. California's vast geography further exacerbates this issue, as many seriously ill patients live in areas where medical cannabis products are not available locally. Current regulations make it difficult, if not impossible, for these patients to travel long distances to dispensaries that carry the specialized products they need. [This bill] provides a narrow, well-regulated solution that allows for direct shipment of medicinal cannabis only to approved patients under medical supervision, ensuring that they receive safe and effective treatment without unnecessary hardship.

POLICY ISSUES:

Incongruent Standards. Under current law, cannabis licensees authorized to transport cannabis products must follow myriad requirements related to vehicle security, delivery and inventory tracking, documentation during transport, and more. For example, distributors—the most comparable cannabis business type to the commercial carriers authorized in the bill—are required according to DCC regulations to utilize vehicles that have a "secured area", defined as either a windowless, locked area that cannot be accessed from inside the vehicle, or as an area where solid or locking metal partitions, cages, or high-strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed vehicle. No product can be transported via aircraft, watercraft, drone, or rail vehicle. All vehicles must be outfitted with an alarm system and a GPS device with real-time tracking capabilities.

Beyond vehicle requirements, cannabis licensees that transport products must adhere to predetermined transportation routes and cannot deviate from their route except for specified circumstances. Regulations require that all persons transporting cannabis commercially must be 21 years of age or older, and delivery drivers must confirm the identity and age of the customer. Additionally, non-cannabis products cannot be transported alongside cannabis products unless they are cannabis accessories or the branded merchandise (i.e., promotional t-shirts, stickers) of a cannabis licensee.

This bill would depart from existing standards for licensees by allowing cannabis to be shipped to select customers via commercial carriers. While such businesses must adhere to federal and state laws applicable to commercial carriers (e.g., the Federal Motor Carrier Safety Regulations), it is unclear whether such regulations meet the minimum safety standards for licensed cannabis activity in California.

Enforcement. Current law authorizes cannabis to be transported between licensees via a licensed distributor or delivered to a customer by a retailer's employee, subject to specific requirements and conditions. The shipment of cannabis from a licensed microbusiness to a customer by a commercial carrier sets a new precedent in statute. Considering the DCC has no regulatory authority over commercial carriers, it is unclear to what extent, if at all, shipment by commercial carriers may result in increased diversion to the illicit market.

IMPLEMENTATION ISSUES:

Inconsistent definitions. The definition of "medicinal cannabis patient" in section four of the bill differs from the definition of that term in existing law. The author may wish to revise the definition in section four of the bill for consistency with existing law.

REGISTERED SUPPORT:

Big Sur Farmers Association
California Norml
California Teamsters Public Affairs Council
Hessel Farmers Grange
Humboldt County Growers Alliance
Kiva Confections
Mendocino Cannabis Alliance
Origins Council
Society of Cannabis Clinicians (Sponsor)
Trinity County Agriculture Alliance
United Food & Commercial Workers Union
One individual

REGISTERED OPPOSITION:

There is no opposition on file.

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1482 (Castillo) – As Amended April 22, 2025

SUBJECT: Bowie's Law: animals: adoption, shelter overcrowding, and breeding.

SUMMARY: Requires animal shelters to provide public notice on the internet that contains a list of all animals that are available for adoption or being held by the animal shelter, requires the Department of Food and Agriculture (CDFA) to conduct a study on animal shelter overcrowding and the feasibility of a statewide database of dogs and cats, expands the definition of "breeder," and places additional requirements on sales or transfers of dogs by breeders.

EXISTING LAW:

1) Governs the operation of animal shelters by, among other requirements, setting a minimum holding period for stray dogs, cats, and other animals, and requiring animal shelters to ensure that those animals, if adopted, are spayed or neutered and, with exceptions, microchipped. (Food and Agricultural Code (FAC) §§ 30501 *et seq.*; §§ 31101 *et seq.*; §§ 31751 *et seq.*; §§ 32000 *et seq.*)[*]

2) Requires that a shelter must hold a stray dog for a specified period prior to adoption or euthanasia of a dog, must scan the dog for a microchip that identifies the owner of that dog, and must make reasonable efforts to contact the owner and notify them that their dog is impounded and is available for redemption. (FAC § 31108)

3) Requires that a shelter must hold a stray cat for a specified period prior to adoption or euthanasia of a cat, must scan the cat for a microchip that identifies the owner of that cat, and must make reasonable efforts to contact the owner and notify them that their cat is impounded and is available for redemption. (FAC § 31752)

4) Requires that a rabbit, guinea pig, hamster, potbellied pig, bird, lizard, snake, turtle, or tortoise that is impounded in a shelter must be held for the same period of time, under the same requirements of care, and with the same opportunities for redemption and adoption, as cats and dog. (FAC § 31753)

5) Requires all public animal shelters, shelters operated by societies for the prevention of cruelty to animals, and humane shelters that perform public animal control services, to provide the owners of lost animals and those who find lost animals with all of the following:

    a. Ability to list the animals they have lost or found on "Lost and Found" lists maintained by the animal shelter.

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[*] *Note: Enforcement of a number of these provisions is suspended due to reimbursable state mandates on local government remaining unfunded.*

b. Referrals to animals listed that may be the animals the owners or finders have lost or found.

c. The telephone numbers and addresses of other animal shelters in the same vicinity.

d. Advice as to means of publishing and disseminating information regarding lost animals.

e. The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

(FAC § 32001)

6) Requires all public and private animal shelters to keep accurate records on each animal taken up, medically treated, or impounded, which shall include all of the following information and any other information required by the Veterinary Medical Board of California:

a. The date the animal was taken up, medically treated, euthanized, or impounded.

b. The circumstances under which the animal was taken up, medically treated, euthanized, or impounded.

c. The names of the personnel who took up, medically treated, euthanized, or impounded the animal.

d. A description of any medical treatment provided to the animal and the name of the veterinarian of record.

e. The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party. These records shall be maintained for three years after the date on which the animal's impoundment ends.

(FAC § 32003)

7) Provides that it is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home. (Penal Code § 599d; Civil Code § 1834.4)

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

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

10) 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)

11) 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)

12) 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)

13) Authorizes cities and counties to enact dog breed-specific ordinances pertaining only to mandatory spay or neuter programs and breeding requirements, provided that no specific dog breed, or mixed dog breed, shall be declared potentially dangerous or vicious under those ordinances; directs any cities or counties enacting such ordinances to measure the effect of those programs by compiling specified statistical information on dog bites, and report the information to the State Public Health Veterinarian. (HSC § 122331)

THIS BILL:

1) Defines "animal shelter" as a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter.

2) Requires an animal shelter to publicly notice in a conspicuous location on its internet website or a third-party internet website that contains a list of all animals that are available for adoption or that are being held.

3) Exempts from the public notice requirement an animal that is irremediably suffering from a serious illness or severe injury, newborn animals that need maternal care and have been impounded without their mothers, and dogs with a documented history of vicious or dangerous behavior.

4) Provides that violations of the bill's requirements shall not constitute a misdemeanor.

5) Requires the CDFA to conduct a study on the overcrowding of California's animal shelters, the ways in which the state might address animal shelter overcrowding, and the feasibility of a statewide database of dogs and cats that provides public notice and information at the statewide level about animals available for adoption, including, but not limited to, by pursuing a public-private partnership.

6) Requires the CDFA to submit a report on its study findings on or before January 1, 2028.

7) Expands the definition of a "dog breeder" or "breeder" for purposes of the Polanco-Lockyer Pet Breeder Warranty Act from persons or entities that sell, transfer, or give away all or part of three or more litters or 20 or more dogs during the preceding 12 months to persons or entities that sell, transfer, or give away all or part of two or more litters or 10 or more dogs during the preceding 12 months.

8) Requires breeders to have a microchip device implanted in the dog, before that dog reaches eight weeks of age, that identifies the breeder, and requires the breeder to register the identity of the new owner with the microchip registry company as the primary owner on the microchip device upon sale or transfer of the dog.

9) Exempts from the bill's microchipping requirements a dog determined to be medically unfit for the microchipping procedure by a licensed veterinarian because the animal has a physical condition that would be substantially aggravated by the procedure.

10) Requires breeders to provide information on the transference of ownership, including the microchip company information, the microchip number and any other relevant identifiers, and any other information necessary for a new owner to subsequently update the microchip registration as necessary.

11) Prohibits a dog from being sold or otherwise transferred by a breeder, whether for compensation or otherwise, until it has been immunized against common diseases and has a documented health check from a licensed veterinarian.

12) Expressly states that the Polanco-Lockyer Pet Breeder Warranty Act does not prohibit a city or county from adopting or enforcing a more restrictive breed-specific ordinance.

13) Provides that the act establishing the provisions in this bill shall be known as Bowie's Law.

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

COMMENTS:

Purpose. This bill is sponsored by *Social Compassion in Legislation*. According to the author:

> I'm deeply honored to author AB 1482, Bowie's Law — an urgent response to the silent tragedy happening in our shelters every day. This bill will strengthen oversight of dog breeders, ensure every shelter has a publicly accessible database of adoptable animals, and launch a comprehensive study to address the root causes of overcrowding. It's named after Bowie, a sweet puppy who was euthanized just hours before he was to be rescued — something that should never have happened. With AB 1482, we're saying loud and clear: no healthy, adoptable animal in California should ever be denied a second chance simply because of a lack of space or coordination. We can and must do better.

Background.

Efforts to Reduce Euthanasia at California Animal Shelters. The California State Assembly declared in 2015 that the official State Pet is the shelter pet. According to information provided by the ASCPA in 2019, approximately 6.5 million companion animals enter animal shelters in the United States every year. While animal shelters play a critical role in caring for homeless pets, the number of animals entering shelters each year often exceeds the available resources and capacity to care for them, resulting in overcrowding. One of the options that shelters may consider is euthanasia as a means of managing the number of animals in their care.

In 1998, the Legislature enacted Senate Bill 1785 by Senator Tom Hayden, which formally established that the State of California's policy is "that no adoptable animal should be euthanized if it can be adopted into a suitable home" and "that no treatable animal should be euthanized." The Hayden Law required shelters to hold animals for a minimum of four to six days before euthanizing them, giving owners a chance to reclaim their pets or allowing animals to be

adopted. Key provisions in the Hayden Law to support that policy included requirements that animal shelters do all of the following:

- Work to increase the number of animals reunited with owners by increasing the holding period for sheltered animals.
- Establish minimum holding periods for all owner-relinquished animals.
- Postpone euthanasia for any animal until after the expiration of the minimum holding period, with exceptions only for injured or very sick.
- Release animals slated for euthanasia to rescue groups upon request.
- Provide prompt and necessary veterinary care, nutrition, and shelter.
- Maintain a system of record keeping essential for reuniting lost animals with owners, managing housing, and documenting holding times and medical care.

Much of the Hayden Law has not been implemented or enforced due to fiscal challenges. In 2000, local governments successfully obtained a decision from the Commission on State Mandates that costs incurred by cities and counties in complying with the law must be reimbursed by the state. Subsequently beginning with the Budget Act of 2009, the state has not provided funding for this reimbursement. While a proposal by Governor Jerry Brown to repeal portions of the Hayden Law in 2012 was rejected by the Legislature, animal welfare advocates have argued that the bill was effectively annulled through its lack of funding.

Since the enactment of the Hayden Law, euthanasia rates in California animal shelters have remained high. According to data from the California Department of Public Health, 158,191 dogs and cats were euthanized in 2016. While it should be noted that this number is meaningfully lower than in previous years, there has been a call for action to further reduce euthanasia rates in California.

Language enacted as part of the Budget Act of 2021 established the Animal Shelter Assistance Act. This legislation provided $50 million in competitive grants for outreach, regional conferences and resources on best practices for improving animal health and care in animal shelters, and in person assessments and training for local animal control agencies or shelters, societies for prevention of cruelty to animals, and humane societies. The Budget Act also required the University of California to submit a report by March 31, 2023 on the use of funds, activities supported, a list of grantees, and analysis of the programs impact.

In February of 2022, the California for All Animals program was launched to advance marketing and outreach efforts designed to engage shelters in every region of the state that met the goals outlined in the Animal Shelter Assistance Act. $15.5 million in grant awards has since been awarded, along with $12.5 million for in-person visits, trainings, outreach, and program expenses. Grant funding is prioritized for programs to increase low-cost and free spay/neuter services, access to low cost and free veterinary care to prevent owner relinquishment to animal

shelters, and programs that reunite lost pets with their owners and incentivize making adoption accessible for all communities.

In its report to the Legislature dated March 22, 2023, the University of California provided an overview of the state's efforts to reduce euthanasia within animal shelters. The report noted that "over 180,000 animals still lost their lives in animal shelters two decades after SB 1785 was enacted and this trend has recently accelerated." The University of California further explained:

> Prior to the COVID-19 pandemic, programs were in place to help keep pets out of shelters, which included free and low-cost veterinary care, spay/neuter services, and supplies to keep pets in homes; however, the COVID-19 pandemic drastically reduced the availability of affordable and accessible spay/neuter services and growing economic hardship has led to an increase in animals brought to shelters. In particular, animal shelters are taking in puppies and large dogs at a rate that has not been seen in many years.

Bowie. In December of 2022, the *Los Angeles Times* reported that a terrier puppy named Bowie had been euthanized at an animal shelter in Baldwin Park, California. The article reported that Bowie had been at the shelter for more than three weeks, during which time he "exhibited extreme fear and fearful aggression." While Bowie was featured on the agency's website as available for rescue, the notice did not specifically mention that he would be euthanized if no one adopted him.

According to the *Times* article, a rescue group called Underdog Heroes reached out to the agency inquiring about adopting Bowie, but somehow the communication was not received or relayed to the appropriate individuals at the agency. Bowie was put down shortly thereafter, reportedly at the decision of one employee. This led to outcry among animal advocates, who believed that Bowie was unnecessarily euthanized due to inadequate efforts by the agency to find him a home.

Several weeks later, the Los Angeles County Board of Supervisors voted to order the agency to investigate the dog's death "in collaboration with rescue partners and animal welfare stakeholders." In addition, the Board of Supervisors approved a motion directing the Los Angeles County Department of Animal Care and Control Services to provide a five-year plan to reduce the number and percentage of animals who are euthanized.

In 2023, the former author of this measure, Assemblymember Bill Essayli, introduced Assembly Bill 595 in direct response to the incident that occurred in Los Angeles County, and formally titled the legislation "Bowie's Law." That bill would have required all animal shelters to provide public notice on their internet websites at least 72 hours before euthanizing any animal. That public notice would have been required to include information that includes, but is not limited to, the date that an animal is scheduled to be euthanized. The bill would also have required the CDFA to conduct a study on topics relating to the overcrowding of California's animal shelters and ways that the state might address animal shelter overcrowding. The bill specifically directed the CDFA to consider the feasibility of a statewide database of dogs and cats that provides public notice and information at the statewide level in the same manner that the bill would require at each individual animal shelter. AB 595 was held on the Assembly Appropriations Committee's suspense file.

This bill, also formally titled Bowie's Law, would similarly require animal shelters to provide public notice about animals available for adoption. However, there is no longer a 72 hour requirement in the bill, nor is there specific reference to an animal being subject to euthanasia. Instead, the bill would more simply require that notice be posted in a conspicuous location on the shelter's internet website or a third-party internet website that contains a list of all animals that are available for adoption or that are being held by the shelter.

Animal Breeding. California regulates the sale of dogs by dog breeders through the Polanco-Lockyer Pet Breeder 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. Broadly, 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.

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.

Commercial breeders—sometimes referred to "puppy mills" or "kitten factories"—generally refer to commercial, high-volume breeding facilities that mass produce animals for retail sale. Although commercial breeders are required to abide by the federal Animal Welfare Act (AWA), with some operations even licensed under the United States Department of Agriculture, there is limited oversight and enforcement of the requirements. According to several animal welfare groups, mills often rear animals in squalid and inhumane conditions, with certain facilities having long and documented histories of repeated violations of the AWA. Over the years, public scrutiny and subsequent legislative action has been placed curbing the sale of animals coming from large-scale commercial operations. AB 485 (O'Donnell) was enacted in 2017 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. That bill attempted to address both overcrowding in California animal shelters and reduce sales from out-of-state puppy mills.

"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.

This bill would amend the Polanco-Lockyer Pet Breeder Warranty Act to expand the definition of "breeder" or "dog breeder" to encompass more individuals and entities who would be required to comply with that act. The bill would lower the threshold for the number of dog litters sold, transferred, or given away per 12 month period from three litters to two litters. Similarly, it would lower the threshold of individual dogs sold, transferred, or given away per 12-month period from 20 dogs to 10 dogs. Those newly captured breeders—many of whom may be hobbyist or incidental breeders—would then have to comply with new requirements under the Warranty Act.

Additionally, this bill would add to the requirements for all breeders under the Warranty Act. First, this bill would require breeders to have a microchip device implanted in each dog they sell or transfer that identifies the breeder, unless a licensed veterinarian determines the dog is medically unfit for the microchipping procedure. Breeders would then be required to register the identity of the new owner of the dog once the animal is sold or otherwise transferred, and would be required to provide information on the transference of ownership, including the microchip company information, the microchip number and any other relevant identifiers, and any other information necessary for a new owner to subsequently update the microchip registration as necessary.

Second, this bill would prohibit a breeder from selling or otherwise transferring a dog, whether for compensation or otherwise, unless the dog has been immunized against common diseases and has a documented health check from a licensed veterinarian. Currently, animal shelters are similarly required to vaccinate and microchip dogs prior to adopting them out. The author believes that these same requirements should be applied to breeders.

Current Related Legislation. AB 631 (Lee) would require animal shelters, as defined, to post on the internet the number of animals taken in, the source of intake, and the outcomes for all animals, as specified, and update this information at least quarterly. *This bill passed by this committee with a 17-0-1 vote. It is currently under consideration in the Assembly Appropriations Committee.*

Prior Related Legislation. AB 2425 (Essayli) of 2024 was identical to this bill, aside from the report date to accommodate the prior year. *This bill was held in this committee without recommendation.*

AB 595 (Essayli) of 2023 would have required animal shelters to provide 72 hours public notice before euthanizing any dog, cat, or rabbit with information that includes information about the animal and that it is subject to euthanasia, and would have required the CDFA to conduct a study on animal shelter overcrowding and the feasibility of a statewide database for animals scheduled to be euthanized. *This bill was held on suspense in the Assembly Committee on Appropriations.*

AB 1881 (Santiago) of 2022 would have required every public animal control agency, shelter, or rescue group to conspicuously post or provide a copy of a Dog and Cat Bill of Rights. *This bill died on the Senate Floor.*

AB 2723 (Holden, Chapter 549, Statutes of 2022) established additional requirements on various types of public animal shelters related to microchip registration and the release of dogs and cats.

AB 702 (Santiago) of 2021 would have required local jurisdictions, animal control agencies, or the entities responsible for enforcing animal-related laws, to establish permit programs regulating the breeding of cats and dogs. *This bill died in this committee.*

AB 588 (Chen, Chapter 430, Statutes of 2019) required any shelter or rescue group in California to disclose that a dog has a bite history, if any, when it is being adopted out.

ACR 153 (Santiago, Chapter 72, 2018) urged communities in California to implement policies that support the adoption of healthy cats and dogs from shelters by 2025.

AB 2791 (Muratsuchi, Chapter 194, Statutes of 2018) permitted a puppy or kitten that is reasonably believed to be unowned and is impounded in a shelter to be immediately made available for release to a nonprofit animal rescue or adoption organization before euthanasia.

SB 1785 (Hayden, Chapter 752, Statutes of 1998) established that the State of California's policy is that no adoptable animal should be euthanized if it can be adopted into a suitable home.

ARGUMENTS IN SUPPORT:

This bill is sponsored by *Social Compassion in Legislation*, who write: "By ensuring that all animal shelters are posting their adoptable animals online, we can ensure that those looking to add a pet to their family are able to see the many wonderful pets available without having to necessarily travel to the shelter first. The easier it is for potential adopters to find the animal right for their family, the more animals will be adopted. Additionally, posting online helps animal rescues know who is available and where their help is needed most."

POLICY ISSUE(S) FOR CONSIDERATION:

Immunization requirements on breeders. This bill places new requirements on breeders who intend to sell or transfer a dog under the Polanco-Lockyer Pet Breeder Warranty Act, including new mandates regarding microchipping and immunization against diseases. However, concerns have been raised that as written, mandates under this bill could conflict with other established laws and best practices in veterinary medicine. While some immunizations, such as parvovirus, are recommended for puppies as early as six weeks of age, others, such as rabies, are often not given until three months, with their final round of vaccines typically administered around four months. In fact, current law under the Health and Safety Code mandates that owners can only obtain a license for their dog after they are four months of age. In addition, there may be certain breed-specific limitations or additional care. The author should amend this bill to ensure that all required immunizations are in accordance with veterinary recommendations for the age and breed of the dog being sold or transferred.

AMENDMENTS:

To ensure that immunizations administered to dogs being sold or otherwise transferred by a breeder are consistent with laws and best practices in veterinary medicine, and consistent with

recommendations made by the Committee in a prior iteration of the bill, amend the bill as follows:

On page 5, after line 3:

> *(b) A dog shall not be sold or otherwise transferred by a breeder, whether for compensation or otherwise, until it has been immunized against common diseases in accordance with veterinary recommendations for the age and breed of the dog and has a documented health check from a California-licensed veterinarian.*

REGISTERED SUPPORT:

Social Compassion in Legislation *(Co-Sponsor)*
Angel's Furry Friends
Animal Rescue Mission
Animal Rescuers for Change
Animal Wellness Action
Berkeley Animal Rights Center
Better Together Forever
Born Again Animal Rescue and Adoption
Compassionate Bay
Concerned Citizens Animal Rescue
Feline Lucky Adventures
Giantmecha
Greater Los Angeles Animal Spay Neuter Collaborative
Latino Alliance for Animal Care Foundation
Leaders for Ethics, Animals, and the Planet (LEAP)
Los Angeles Democrats for the Protection of Animals
Michelson Center for Public Policy
NY 4 Whales
Pibbles N Kibbles Animal Rescue
Plant-based Advocates
Project Minnie
Real Good Rescue
San Diego Humane Society and SPCA
Seeds 4 Change Now Animal Rescue
Seniors Citizens for Humane Education and Legislation
San Francisco SPCA
Start Rescue
Students Against Animal Cruelty Club - Hueneme High School
The Canine Condition
The Pet Loss Support Group
The Spayce Project
Underdog Heroes, INC.
Women United for Animal Welfare (WUFAW)
World Animal Protection
566 Individuals in Support

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1501 (Committee on Business and Professions) – As Introduced February 24, 2025

SUBJECT: Physician assistants and podiatrists

SUMMARY: Declares that this bill is intended to evaluate the Podiatric Medical Board of California (PMBC) and the Physician Assistant Board (PAB) through the joint legislative sunset review oversight process and to subsequently include in this bill recommendations produced through that process, deletes outdated PMBC fees, and makes other technical changes.

EXISTING LAW:

1) Regulates the practice of podiatric medicine under the Medical Practice Act. (Business and Professions Code (BPC) §§ 2460–2499.8)

2) Defines "podiatric medicine" as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg that govern the functions of the foot. (BPC § 2472(b))

3) Establishes the PMBC within the Department of Consumer Affairs (DCA), until January 1, 2026, to administer and enforce the provisions of the Medical Practice Act that relate to the practice of podiatric medicine. (BPC § 2460)

4) Makes it a misdemeanor for any person without a valid certificate to practice podiatric medicine to use the title "doctor of podiatric medicine," "doctor of podiatry," "podiatric doctor," "D.P.M.," "podiatrist," "foot specialist," or any other term indicating or implying they are licensed to practice podiatric medicine, or otherwise hold themselves out to the public as practicing podiatric medicine. (BPC § 2474)

5) Requires the PMBC to issue a license to practice podiatric medicine to an applicant who is licensed as a doctor of podiatric medicine in another state and who meets all of the following requirements:

    a) The applicant has graduated from an approved school or college of podiatric medicine.(BPC § 2488(a))

    b) The applicant, within the past 10 years, has passed either part III of the American Podiatric Medical Licensing Exam (APMLE) or a written examination recognized by the PMBC to be equivalent in content to part III of the APMLE. (BPC § 2488(b))

    c) The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education (CPME). (BPC § 2488(c))

    d) The applicant, within the past 10 years, has passed any oral and practical examination that may be required of all applicants by the PMBC to ascertain clinical competence. (BPC § 2488(d))

e) The applicant has committed no acts or crimes constituting grounds for denial. (BPC § 2488(e))

f) The PMBC determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the PMBC determines constitutes evidence of a pattern of negligence or incompetence. (BPC § 2488(f))

g) The PMBC receives a disciplinary databank report on the applicant from the Federation of Podiatric Medical Boards. (BPC § 2488(g))

6) Prescribes the fees that the PMBC shall charge licensees and applicants as follows:

a) $100 for each application for a certificate to practice podiatric medicine and $100 if the application is accepted. (BPC § 2499.5(a))

b) $800 for the initial license fee, which PMBC may reduce by up to 50 percent if the applicant is currently enrolled in, or has recently graduated from, an approved postgraduate training program. (BPC § 2499.5(b))

c) $1,318 for each biennial (every two years) license renewal, reduced by 50 percent for a podiatrist's first renewal, provided they are enrolled or recently graduated from a postgraduate training program. (BPC § 2499.5(d))

d) $150 upon renewal of a delinquent license. (BPC § 2499.5(e))

e) $100 for a duplicate wall certificate. (BPC § 2499.5(f))

f) $50 for a duplicate receipt for a license renewal. (BPC § 2499.5(g))

g) $30 for endorsement. (BPC § 2499.5(h))

h) $100 for a letter of good standing or loan deferment. (BPC § 2499.5(i))

i) Regulates physician assistant practice under the Physician Assistant Practice Act. (BPC §§ 3500-3545)

7) Establishes the PAB within the Department of Consumer Affairs (DCA), until January 1, 2026, to administer and enforce the Physician Assistant Practice Act. (BPC §§ 101(af), 3504)

8) Defines "organized health care system" as a licensed clinic, an outpatient setting, a health facility, a county medical facility, an accountable care organization, a home health agency, a physician's office, a professional medical corporation, a medical partnership, a medical foundation, and any other entity that lawfully provides medical services. (BPC § 3501(j))

9) Defines "practice agreement" as the writing, developed through collaboration among one or more physicians and surgeons and one or more physician assistants, that defines the medical services the physician assistant is authorized to perform and that grants approval for physicians and surgeons on the staff of an organized health care system to supervise one or more physician assistants in the organized health care system. (BPC § 3501(k))

10) Prohibits a physician and surgeon from supervising more than four physician assistants at any one time except during any state of war emergency, state of emergency, or state of local emergency, and at the request of a responsible federal, state, or local official or agency, or pursuant to the terms of a mutual aid operation plan established and approved pursuant to the California Emergency Services Act. (BPC § 3516(b)(1))

11) Authorizes a physician and surgeon to supervise up to eight physician assistants at one time if the following conditions are satisfied by all supervised physician assistants:

    a) The physician assistants are focused solely on performing in home health evaluations. (BPC § 3516(b)(2)(A))

    b) The physician assistants are performing in home health evaluations solely for the following purposes:

        i) Gathering patient information. (BPC § 3516(b)(2)(A)(i))

        ii) Performing an annual wellness visit or health evaluation, if it does not involve direct patient treatment or prescribing medication. (BPC § 3516(b)(2)(A)(ii))

    c) The physician assistant remains subject to all supervisory and scope requirements and provides the supervising physician and surgeon with all information related to their evaluation. (BPC § 3516(b)(3))

12) Establishes the maximum fee amounts the PAB may charge its licensees and applicants as follows:

    a) Maximum application fee of $25 (BPC § 3521.1(a))

    b) Maximum initial license fee of $250 (BPC § 3521.1(b))

    c) Maximum biennial (every two years) license renewal fee of $300 (BPC § 3521.1(c))

    d) The fee for license delinquency is fixed at $25 (BPC § 3521.1(d))

    e) The duplicate license fee is fixed at $10 (BPC § 3521.1(e))

    f) The fees for letters of endorsement, good standing, or verification of licensure are fixed at $10 (BPC § 3521.1(f))

THIS BILL:

1) Establishes the intent of the Legislature to evaluate the Podiatric Medical Board of California (PMBC) and the Physician Assistant Board (PAB) through the joint legislative sunset review process and to subsequently include recommendations produced through that process.

2) Removes from statute fees that PMBC no longer charges.

3) Makes various technical changes to fix incorrect cross-references and remove gendered language.

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

COMMENTS:

Purpose. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the Department of Consumer Affairs (DCA). The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and stakeholders to discuss the boards' performance and make recommendations for improvements.

Each board subject to review has an enacting statute with a repeal date, meaning their authority must be extended by the Legislature before the repeal date, otherwise the board will lose its statutory mandate. This bill is a "sunset" bill, intended to extend the repeal date of two DCA boards, the Podiatric Medical Board of California and the Physician Assistant Board, as well as incorporate the recommendations from the sunset review oversight hearings.

This year, there are four sunset review bills authored by the chair of the Assembly Committee on Business and Professions and three bills authored by the chair of the Senate Committee on Business, Professions, and Economic Development.

Background. This is the sunset bill for the PMBC and the PAB. *Podiatric Medical Board of California (PMBC).* The PMBC is a licensing entity within the Department of Consumer Affairs (DCA) and is responsible for administering and enforcing the parts of the Medical Practice Act that apply specifically to doctors of podiatric medicine (DPMs).

Podiatry is a branch of medicine that focuses on the foot and ankle. In general, DPMs are licensed to diagnose and treat conditions of the foot and ankle to the same extent as a physician, including surgery, although DPMs may only perform ankle surgery in specified locations, such as general acute care hospitals. DPMs may also conduct partial foot amputations, treat ulcers above the ankle but below the knee, and perform additional services under the direct supervision of a physician and surgeon as an assistant in surgery, regardless of whether the surgery lies within the scope of DPM practice.

In addition to certifying individual licensees, the PMBC is charged with approving podiatric medical schools and postgraduate residency programs to ensure that their graduates possess the competency to practice in California. The PMBC is also tasked with evaluating consumer complaints and initiating enforcement proceedings against licensees who have violated the Medical Practice Act.

Currently, the PMBC's statutory authorization will expire on January 1, 2026. This bill would extend the PMBC's authorization until January 1, 2030, at which point it will become subject to sunset review once again.

Physician Assistant Board (PAB). Similar to PMBC, the PAB is a licensing entity within the DCA and is responsible for administering and enforcing the Physician Assistant Practice Act.

Physician Assistants (PAs) are medical professionals that work under the supervision of licensed physicians. In California, physicians may supervise up to four PAs at a time, except for in

limited home healthcare settings, in which a physician may supervise up to eight PAs. PAs can make any clinical decision or render any healthcare service that a physician can, subject to the constraints of a written practice agreement between the PA and their supervising physician.

The PAB's primary responsibility is protecting consumers by reviewing license applicants to ensure they meet licensure requirements, expeditiously investigating and coordinating disciplinary matters, and managing a diversion and monitoring program for PAs who have alcohol or substance abuse issues. The PAB currently oversees a license population of over 18,000 PAs in the state. Currently, the PAB's statutory authorization will expire on January 1, 2026. This bill would extend the PAB's authorization until January 1, 2030, at which point it will become subject to sunset review once again.

Current Related Legislation. AB 1501 (Committee on Business and Professions) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in this committee.*

AB 1502 (Committee on Business and Professions) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in this committee.*

AB 1503 (Committee on Business and Professions) is the sunset bill for the California State Board of Pharmacy. *This bill is pending in this committee.*

AB 1504 (Committee on Business and Professions) is the sunset bill for the California Massage Therapy Council. *This bill is pending in this committee.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. SB 806 (Roth), Chapter 649, Statutes of 2021 extended the statutory authorizations for the PMBC and the PAB until January 1, 2026.

AB 3330 (Calderon), Chapter 359, Statutes of 2020, permanently increased the podiatry license renewal fee from $1,100 to $1,318.

SB 1480 (Hill), Chapter 571, Statutes of 2018, temporarily increased the podiatry license renewal fee from $900 to $1,100 for two years.

AB 1070 (Low), Chapter 827, Statutes of 2023, increased the physician-to-PA ratio to 1:8 for PAs performing in-home health evaluations.

ARGUMENTS IN SUPPORT:

The *California Podiatric Medical Association (CPMA)* writes to support if amended:

CPMA supports the following provisions in this bill:

- Eliminating the 10-year limitation on the Part III exam for out-of-state applicants, which will streamline licensure and improve workforce mobility for qualified doctors of podiatric medicine;
- Authorizing doctors of podiatric medicine (DPMs) to refer to themselves as "podiatric surgeons," recognizing their specialized training and surgical expertise;
- Clarifying that licensed DPMs shall not be classified or treated as ancillary providers in any healthcare setting or insurance reimbursement structure, which appropriately affirms their status in the clinical setting and helps ensure fair treatment and reimbursement for services provided.

These policy reforms represent significant progress toward recognizing the full scope of training and contributions made by DPMs to California's healthcare system.

However, CPMA must express their concerns with the proposed license fee increase, which raises the biennial license from $1,318 to a potential high of $1,950 to $2,000. This represents a substantial increase that may place an undue burden on practitioners—especially new licensees who just entered the workforce and those serving underserved communities. While we appreciate the need for the Board of Podiatric Medicine to be fiscally solvent, we hope to continue discussions and explore alternative methods for cost containment or phased implementation that would mitigate the financial impact on licensees and potentially lower the proposed increase.

For these reasons, CPMA supports [this bill] if amended to lower the proposed fee increase or to implement fiscal solutions that directly offset the fee increase. With these amendments, CPMA would be proud to fully support the bill.

ARGUMENTS IN OPPOSITION:

None on file.

SUNSET ISSUES FOR CONSIDERATION:

In preparation for the sunset hearings, committee staff publish background papers that identify outstanding issues related to the entity being reviewed. All background papers are available on the committee's website: https://abp.assembly.ca.gov/hearings/joint-sunset-review-oversight-hearings. While all of the issues discussed in the background papers remain available for discussion, the following issues are those addressed in the amendments to this bill:

Podiatric Medical Board of California—Sunset Issues:

1) *Issue #1: License Fee Increases*. The PMBC has consistently experienced fiscal difficulties throughout the past decade. This is, in part, due to PMBC's relatively small license population, as each marginal rise in costs necessitates a comparatively large fee increase for each individual licensee.

From Fiscal Year (FY) 2015-16 to FY 2017-18, PMBC's fund reserve balance declined from 12.4 months in reserve to a mere 6.6 months, primarily due to increased costs. Thus, in 2018, the legislature passed a temporary increase of the biennial license renewal fee from $900 to $1,100. However, this temporary increase did little to offset rapidly rising costs.

Pursuant to the recommendations of a 2019 fee audit, the PMBC then proposed to further increase the renewal fee to $1,318, which took effect in 2021 and remains the current renewal fee. According to the fee audit, this would not only address PMBC's structural deficit, but raise an additional $300,000 each year to replenish the dwindling fund reserve.

However, despite the 2021 fee increases, the PMBC's current fiscal data indicate deficits in two of the past four fiscal years, with projected deficits this year and next. The fund reserve remains at about 3 months of operating costs and is projected to decline in the near future, resulting in insolvency by FY 2025-26. As the PMBC is primarily funded through fee revenue, and roughly 90% of fee-based revenue comes from the biennial license renewal fee, the PMBC is requesting increased renewal fees during this sunset review process.

The PMBC proposed two renewal fee scenarios in its sunset report: $1,850 and $1,950. Under the $1,850 scenario, factoring in projected increased costs, the PMBC expects to stabilize the declining fund reserve before the board becomes insolvent. However, under this scenario, PMBC projects that revenues will remain roughly equal to expenditures, so the fund reserve will not be replenish, and may fall below 2 months. On the other hand, the $1,950 proposal, evaluated under the same expenditure projections, will create a surplus of roughly $100,000 per year to begin replenishing the fund reserve. More extensive data are available in the committee's sunset background paper and in the PMBC's sunset review report.

Staff Recommendation: the PMBC should continue to work with the committees on ensuring fees are set at the appropriate amounts.

PMBC Response: PMBC will continue to work with the committees on ensuring that fees are set at the appropriate amount. The higher fee amount among the alternatives listed in the Sunset Report will provide PMBC with a more sustainable fund condition. That amount will likely provided for any additional expenditures which are not currently identified.

Committee Recommendation: The committee has proposed amendment 6, below, to set the biennial license renewal fee at $1,950. The committee intends to continue working with the PMBC and stakeholders to ensure the license renewal fee is set at the appropriate amount to ensure the board's sustainability while reducing the impact on licensees to the greatest extent possible.

2) *Issue #2: Exam for Out-of-State Applicants*. Current statute provides that podiatrists licensed in another state may receive a license in California under specified conditions, through a process known as "credentialing." One condition for credentialing is that the applicant must have passed Part III of the American Podiatric Medical Licensing Exam (APMLE) within the past 10 years. As such, a podiatrist licensed in another state who has passed all parts of the national exam and practiced for over a decade would be required to retake Part III of the APMLE if they wish to become certified in California.

This 10-year limitation on exam validity was introduced alongside a series of licensing reforms in the early 2000s. Because podiatric medical education and practice had advanced significantly throughout the latter half of the 20th Century, these requirements were designed to ensure that podiatrists seeking licensure and license renewal were competent in modern podiatric practices. As the PMBC states, these reforms came about in an era when "some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school." However, regarding this educational disparity, the board has concluded that "[t]he concerns from 25 years ago are no longer present." Because DPMs educated a decade ago are no less qualified than recent graduates, the 10-year limitation on exam validity for applicants licensed in another state has likely outlived its original rationale.

Staff Recommendation: The PMBC should evaluate and advise the committees on whether the 10-year exam validity for out-of-state credential applicants remains necessary.

PMBC Response: PMBC maintains that Part III is not necessary for a DPM who has been practicing for over 10 years and who is in good standing as to the existing license in another state. Out-of-state DPMs applying for licensure will still need to meet all other requirements that are currently in place. PMBC respectfully requests that Business and Professions Code Section 2488(b) be stricken.

Committee Recommendation: The committee has proposed amendment 5, below, to remove the 10-year limitation on exam validity for applicants licensed in other states. However, the committee has not proposed to strike the requirement for Part III entirely. Because some states do not require passage of Part III to become licensed, striking the requirement entirely could allow a DPM who has not passed the exam to become licensed in California. The board states that Part III is not necessary for a decade-long practitioner, but the remainder of Section 2488 does not make any distinction between an experienced podiatrist and a recent licensee. In other words, if the Part III requirement is stricken entirely, an applicant could become licensed in a state without a Part III requirement, and then immediately receive a license by credentialing in California. So, the committee has chosen to merely strike the 10-year limitation on exam validity instead of striking the Part III requirement entirely.

3) *Issue #4: Treatment of Podiatrists as Ancillary Providers*. While existing law limits DPM scope of practice to the foot and ankle, the services commonly provided within the podiatric scope of practice, including surgery, are held to the same standard of care as those provided by a physician. However, stakeholders note that, even if providing the same services in the same settings, podiatrists are still treated as non-physicians. For example, there have been reports of health plans that categorize podiatrists as "ancillary providers" or other types of non-physicians, decreasing their reimbursement rate by as much as 50% for the same services when provided by a physician. Situations like this may serve as a disincentive to provide services in these settings or even to enter the profession in the first place.

Staff Recommendation: The PMBC should share any discussion it may have had on the topic of parity with physicians.

PMBC Response: MBC was the original regulatory board for DPMs. BPC [Section] 2041 still includes DPMs with MDs as licensees in the statute. DPMs perform surgical procedures and have similar levels of medical review for procedures performed within the separate scopes.

MDs and DPMs complete similar medical training. There are four years of medical school and residency programs for both. While DPMs and MDs have differing scopes of practice, DPMs take on leadership positions in health care facilities and often have surgical privileges in hospitals. Given the similar training and roles of DPMs and MDs, an indication that DPMs are ancillary providers does not accurately describe the skill and ability of DPMs to serve the public. As numerous communities across the state lack access to appropriate podiatric care, the Board is concerned that the ancillary status of DPMs contributes to these health care deserts.

As such, the Board respectfully asks the legislature to consider removing any provisions that classify or treat DPMs as ancillary providers in any health care setting or for health plan reimbursement purposes given the importance of Californians being able to access adequate podiatric care, the shortage of DPMs, and significant portions of California that lack access to adequate podiatric care.

Many of the differences between DPMs and MDs exceed the Board's responsibility of consumer protection, but the Board believes that podiatric services provide important care to the public and supports the profession taking steps to expand access to that care.

PMBC respectfully requests that the BPC [Section] 2474 be amended to include the title: "Podiatric Surgeon." This will allow the public to correctly understand and identify DPMs as limited in scope to the foot and ankle.

Committee Recommendation: The committee has proposed amendment 4, below, to prevent the treatment of podiatrists as ancillary providers in any health facility or healthcare reimbursement structure. The amendment is modeled on a similar provision in the Business and Professions Code that prevents doctors of osteopathy from being classified differently from medical doctors by health facilities and in healthcare reimbursement structures.

Regarding the protection of the title of "podiatric surgeon," the committee has proposed amendment 4, below, to add "podiatric surgeon" to the list of protected titles. The protection of this title is discussed further in Issue #5 below, as this is a non-substantive amendment.

4) *Issue #5: Technical Changes*. During the sunset review process, in addition to incorporating the recommendations developed in the sunset hearings, the committees endeavor to make technical edits to each practice act to remove outdated provisions, clarify language, or amend the code to otherwise enhance efficiency.

   For example, PMBC no longer charges licensees for a duplicate receipt for a license renewal, nor does it charge a fee for a letter of endorsement. To update the code and align it with current practice, this bill would strike those fees from the practice act.

   Additionally, this bill would restructure the code sections that relate to the PMBC's sunset provision. Currently, Section 2460 of the code establishes the PMBC, provides that the section will be repealed as of January 1, 2026, and specifies that the PMBC will be subject to sunset review upon the section's repeal. However, if the sunset date is reached, then the entire section is repealed, including the mandate that the PMBC undergo sunset review. To avoid this result, this bill moves the sunset review mandate to another code section so it remains in effect, even if Section 2460 is repealed.

Finally, this bill would fix an erroneous cross-reference and make several changes to remove gendered language from the practice act.

Staff Recommendation: the PMBC should continue to work with the committees on potential changes.

Board Response: The Board appreciates the Legislature's assistance with clearing up and making other technical changes to its practice act. The Board respectfully requests that the legislature make the following technical changes to BPC [Section] 2499.5:

- Delete the word "wall" from subdivision (f);
- Delete the duplicate renewal receipt from subdivision (g); and
- Delete the endorsement fee from subdivision (h) as they're duplicative and not utilized by the Board.

The Board looks forward to working with the committee to identify other necessary technical changes.

Committee Recommendation: In addition to the technical changes in the bill itself, the committee has proposed several other non-substantive amendments.

One non-substantive issue is the protection of the title of "podiatric surgeon." Current law makes it a misdemeanor for any unlicensed person to use the titles of "doctor of podiatric medicine," "doctor of podiatry," "podiatric doctor," or any other term implying they hold podiatric medical qualifications. Stakeholders have expressed that the title of "podiatric surgeon" should also be reserved for licensed podiatrists, as it reflects the fact that podiatrists are educated in and qualified to perform surgery. While this is true, and PMBC agrees with its inclusion in the title-protection statute, this is likely a non-substantive issue, as the statute already proscribes an unlicensed individual using any term that implies they are certified to practice podiatric medicine. Amendment 4, below, incorporates "podiatric surgeon" as a protected title.

Other non-substantive amendments include deleting an outdated code section that refers to pre-2021 fees, additional amendments for gender-neutrality, and removing references to PMBC's prior name, the California Board of Podiatric Medicine.

5) *Issue #6: PMBC Sunset Extension*. Consumers continue to benefit from the licensure of podiatric practice, and the PMBC and its staff continue to work well with the legislature in implementing its consumer protection mission. However, persistent questions remain about the board's long-term sustainability as an independent regulatory agency, given the relatively small licensing population amidst continually rising costs of program administration and operations.

The PMBC is almost entirely funded through licensing fees, and the license population is not showing significant growth. While the PMBC runs a lean program with only five permanent staff members, it also relies on the Medical Board of California (MBC) to achieve cost savings for the majority of its enforcement processes and functions.

Some of the other regulatory programs that have previously relied on MBC infrastructure, such as the PAB, are now completely independent of MBC and handle their licensing and

enforcement processes on their own. The PAB is no longer subject to a shared services agreement with MBC. However, the PAB licenses almost 18,000 physician assistants, as opposed to the PMBC's approximately 2,000 licensees and, while costs have increased for all programs within the DCA, the PAB has functioned without a fee increase for 20 years.

The PMBC would have to hire additional staff if were to take on the enforcement functions provided under the shared services agreement, an option that is clearly unavailable given the current fund condition. The PMBC's smaller staff has been able to meet all of the program's requirements but, as was raised during the prior sunset review, it would be helpful for the committees to understand what alternatives exist to ensure robust regulation of DPMs and whether it remains feasible for PMBC as a standalone board to continue to regulate such a small licensing population given the increased costs of doing so.

Still, the PMBC's current regulation of DPMs is necessary to protect consumers. While the question of long-term sustainability and the other outstanding issues noted in this background paper still need to be addressed, the PMBC and its staff are aware and communicating with the committees and their staff on next steps.

Staff Recommendation: The PMBC's current regulation of DPMs should be continued and reviewed again on a future date to be determined.

PMBC Response: PMBC respectfully requests that it's existent be continued to a future date to be determined and be allowed to continue regulating DPMs in California.

Committee Recommendation: The PMBC's statutory authorization should be extended to January 1, 2030, as set forth in amendment 1, below.

Physician Assistant Board—Sunset Issues:

1) *Issue #3: Practice Agreements and Ratios*. PAs are healthcare providers who can provide a wide range of medical services under the supervision of a physician, including prescribing, when authorized by a supervising physician under a document known as a practice agreement. The practice agreement is a written document outlining the duties a PA may or may not perform based on the PA's competence and the level of physician supervision required. A physician is authorized to supervise more than one PA, but no more than four at a time, other than in limited circumstances for PAs providing limited home health evaluations.

   PAs predominantly practice in primary care service settings such as private practice physician offices and hospitals; however, PAs also provide services in community health clinics and rural health clinics. As reported by the Bureau of Labor Statistics, nationally, the majority of PAs work in physicians' offices (55%) and in hospital settings (26%).

   There is a variety of research that substantiates the important role of PAs as providers of primary care services, and recognizes a need for more PAs to help close the primary care provider gap. A 2018 joint report from the Healthforce Center at UCSF and California Health Care Foundation, *California's Physician Assistants: How Scope of Practice Laws Impact Care*, noted that:

   > [PAs] are trained to provide medical services across a range of settings. Allowing them to practice to the fullest extent of their education and training is widely seen

> as an effective way to address issues of health care access, quality, and cost… The statutory limit on the number of PAs a single physician may collaborate with can negatively affect access to care. Such a cap limits the ability of health care organizations to expand to meet demand for services, particularly as community health centers are increasingly reliant on PAs to provide care within tight budget constraints. In addition, PAs are more likely than physicians to provide care in rural areas and to low-income and underserved populations; supervision regulations can impede PA workforce growth in these settings.

Throughout the sunset review process, the PAB, the committee, and stakeholders have engaged in discussions regarding whether PA ratios should be increased to allow greater access to care, and whether the requirement for a written practice agreement should be loosened to provide greater flexibility. Several other states no longer have practice agreement requirements and a number of states have eliminated supervision ratios entirely, leaving the determination to individual physicians or their health-system employers. However, any such change necessarily raises consumer protection issues concerning the quality of care patients receive.

Staff Recommendation: The Board should update the committees on efforts in other states to update ratio and practice agreement statutes and the potential benefits and impacts to patient care stemming from those efforts. The committees may wish to engage the board and stakeholders in discussions about the potential benefits and impacts to patient care that may come from updates to the current ratio and practice agreement requirements.

PAB Response: The Physician Assistant Board (PAB) held a robust discussion on physician-to-PA ratios during its recent meeting. The Board recognizes the significance of this issue in ensuring access to quality healthcare while maintaining appropriate oversight. The PAB is committed to working with relevant committees to improve physician-to-PA ratios, balancing its public protection mandate with the evolving needs of California's healthcare system.

Nationally, 22 states have eliminated strict physician-to-PA supervision ratio requirements, while 27 states continue to enforce them. Over the past seven years, 48% of those states (13 out of 27) have increased the number of PAs a physician may supervise or collaborate with at any given time. It should be noted there is no clear empirical evidence that California's legislated physician-to-PA supervision ratio reduces healthcare costs, improves patient safety, or supports better patient outcomes.

For additional information, refer to the peer-reviewed article by the Board President, Revisiting California's Supervising Physician-to-Physician Assistant Ratio Requirement: An Urgent Call to Action. Please note that Washington and Minnesota recently limited their PA-to-physician supervision ratios shortly after the article was published.

Committee Recommendation: Because stakeholders have not yet formed a consensus on this issue, there is no committee recommendation at this time, nor is the committee proposing amendments on this issue.

2) *Issue #4: Fund Condition and Fees*. The PAB is experiencing a steady decline in its fund balance, from about 20 months' operating costs in FY 2020-21 to a projected 12 months in FY 2024-25. This amounts to a decrease in fund balance of about $1.2 million. During the same five-year period, yearly expenditures rose by about $1.1 million.

PAB believes that it is necessary to update the practice act to increase fees in order to generate the revenue necessary to cover rising operational costs. The proposed increases to statutorily-fixed fees include raising the delinquency fee from $25 to $75 and raising the fees for letters of endorsement, letters of good standing, and letters of verification from $10 each to $50 each. Additionally, the PAB seeks to adjust the statutory fee caps, providing more flexibility to raise fees by regulation, as needed. The proposed fee cap increases include raising the statutory maximum for the application fee from $25 to $60, raising the maximum initial license fee from $250 to $500, and raising the maximum biennial license renewal fee from $300 to $500.

The biennial license renewal fee is the primary source of PAB's funding, comprising about 82% of total revenue over the past four years. This fee has not been adjusted since FY 2001-02, when it was set at $300. The PAB states that its proposed fee increases are designed to align with fees charged by comparable regulatory boards. The additional revenue will be utilized to offset the costs of providing essential regulatory services.

Should the increased statutory fee caps be enacted, any future fee increases will be implemented through the regulatory process, including notice and comment periods to ensure transparency and fairness.

Staff Recommendation: The PAB should advise the committees on discussions it has had with PA licensees and stakeholders about a fee increase proposal, whether the proposed amounts will yield fiscal stability for the future, and the alternatives to status quo. The committees may wish to amend the act to provide PAB with the resources necessary to conduct its important work effectively.

Board Response: The PAB had discussions regarding fee increases at its board meetings. To address rising costs and ensure financial stability, the PAB has filed a regulatory proposal to increase the initial license fee with the Office of Administrative Law. This proposal is now published on the PAB's website and is open for public comment during the mandatory 45-day comment period. The PAB has engaged with stakeholders regarding the necessity of a fee increase and believes the proposed adjustments will help maintain fiscal stability while ensuring continued public protection. The proposed fee changes are designed to be reasonable, align with those of comparable regulatory boards, and support the PAB's ability to effectively perform its licensing and enforcement duties. The PAB looks forward to working with the committees on this matter.

Committee Recommendation: The committee has taken on the PAB's recommended fee increases, which are included in amendment 9, below.

3) *Issue #7: Technical Changes*. During the sunset review process, in addition to incorporating the recommendations developed in the sunset hearings, the committees endeavor to make technical edits to each practice act to remove outdated provisions, clarify language, or amend the code to otherwise enhance efficiency.

Staff Recommendation: The committees may wish to amend the PA Practice Act to include technical clarifications.

PAB Response: The PAB supports this recommendation and is happy to work with the Committee staff to enact any technical changes to the PA Practice Act to add clarity and remove unnecessary language.

Committee Recommendation: Currently, Section 3504 of the code establishes the PAB, provides that the section will be repealed as of January 1, 2026, and specifies that the PAB will be subject to sunset review upon the section's repeal. However, if the sunset date is reached, then the entire section is repealed, including the mandate that the PAB undergo sunset review. To avoid this result, amendment 8, below, moves the sunset review mandate to another code section so it remains in effect, even if Section 3504 is repealed.

4) *Issue #8: PAB Sunset Extension*. Patients and the public benefit from a well-functioning regulatory program for PAs. The PAB has demonstrated continued efficiency as it has taken on many responsibilities previously handled by the MBC. PAB should continue working with the legislature, DCA, and the Department of Finance to ensure fiscal stability.

   Staff Recommendation: The PAB's current regulation of PAs should be continued, to be reviewed again on a future date to be determined.

   PAB Response: The PAB supports this recommendation and appreciated the opportunity to continue its regulatory role in overseeing the PA profession. The PAB remains committed to meeting its public protection mandates.

   Committee Recommendation: The PAB's statutory authorization should be extended to January 1, 2030, as set forth in amendment 7, below.

AMENDMENTS:

1) To extend the sunset date of the PMBC and place the sunset provision in the appropriate section, amend the bill as follows:

   On page 2 of the bill, between lines 22 and 23, insert:

   (c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

2) To correct references to PMBC's prior name and remove the sunset provision from Section 2460.1, amend the bill as follows:

   On page 2 of the bill, line 25:

   2460.1. ~~Section 2460 shall remain in effect only until January 1, 2026, and as of that date is repealed.~~ Notwithstanding any other law, the repeal of Section 2460 renders the ~~California Board of Podiatric Medicine~~ *Podiatric Medical Board of California* subject to review by the appropriate policy committees of the Legislature.

   On page 3 of the bill, line 2:

   2460.2. Protection of the public shall be the highest priority for the ~~California Board of Podiatric Medicine~~ *Podiatric Medical Board of California* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3) To correct an erroneous cross-reference, amend the bill as follows:

On page 4 of the bill, line 14:

(3) An ambulatory surgical center that is certified to participate in the Medicare program under ~~Subchapter~~ *Title* XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

4) To protect the title of "podiatric surgeon," to proscribe the treatment of a podiatrist as an ancillary provider, and to remove gendered language, amend the bill as follows:

On page 4 of the bill, between lines 34 and 35, insert:

SEC. 7. Section 2474 of the Business and Professions Code is amended to read:

2474. *(a)* Any person who uses in any sign or in any advertisement or otherwise, the word or words "doctor of podiatric medicine," "doctor of podiatry," "podiatric doctor," *"podiatric surgeon,"* "D.P.M.," "podiatrist," "foot specialist," or any other term or terms or any letters indicating or implying that ~~he or she is~~ *they are* a doctor of podiatric medicine, or that ~~he or she~~ *they* practice~~s~~ podiatric medicine, or holds ~~himself~~ *themselves* out as practicing podiatric medicine or foot correction as defined in Section 2472, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

(b) It is the policy of this state that a doctor of podiatric medicine shall not be classified or treated as an ancillary provider in any healthcare setting or insurance reimbursement structure for any purpose.

5) To remove the 10-year limitation on exam validity for out-of-state podiatry applicants and to remove gendered language, amend the bill as follows:

On page 4 of the bill, between lines 34 and 35, insert:

SEC. 8. Section 2488 of the Business and Professions Code is amended to read:

2488. The board shall issue a certificate to practice podiatric medicine by credentialing if the applicant has submitted directly to the board from the credentialing organizations verification that ~~he or she is~~ *they are* licensed as a doctor of podiatric medicine in any other state and meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine

(b) The applicant~~, within the past 10 years,~~ has passed either part III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or a written examination that is recognized by the board to be equivalent in content to the

examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education.

(d) The applicant~~, within the past 10 years,~~ has passed any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

(g) A disciplinary databank report regarding the applicant is received by the board from the Federation of Podiatric Medical Boards.

6) To remove obsolete fees and increase the biennial license renewal fee for a license to practice podiatry to $1,950, amend the bill as follows:

On page 5 of the bill, line 18:

~~(c) Before January 1, 2021, the biennial renewal fee shall be one thousand one hundred dollars ($1,100). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of their first renewal.~~

~~(d)~~ *(c)* ~~On and after January 1, 2021, the~~ *The* biennial renewal fee shall be one thousand ~~three hundred eighteen~~ *nine hundred fifty* dollars ~~($1,318)~~ *($1,950)*. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of their first renewal.

~~(e)~~ *(d)* The delinquency fee shall be one hundred fifty dollars ($150).

~~(f)~~ *(e)* The duplicate certificate fee shall be one hundred dollars ($100).

~~(g)~~ *(f)* The letter of good standing fee or for loan deferment shall be one hundred dollars ($100).

~~(h)~~ *(g)* There shall be a fee of one hundred dollars ($100) for the issuance of a resident's license under Section 2475.

~~(i)~~ *(h)* The fee for approval of a continuing education course or program shall be two hundred fifty dollars ($250).

7) To extend the sunset date of the PAB and remove the sunset review provision from Section 3504, amend the bill as follows:

On page 6 of the bill, after line 2, insert:

SEC. 10. Section 3504 of the Business and Professions Code is amended to read:

3504. (a) There is established a Physician Assistant Board. The board consists of nine members.

(b) ~~(1)~~ This section shall remain in effect only until January 1, ~~2026~~ *2030*, and as of that date is repealed.

~~(2) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committee of the Legislature.~~

8) To avoid automatic repeal of the sunset review provision upon repeal of Section 3504, amend the bill as follows:

On page 6 of the bill, after line 2, insert:

SEC. 11. Section 3504.2 is added to the Business and Professions Code to read:

3504.2. Notwithstanding any other law, the repeal of Section 3504 renders the board subject to review by the appropriate policy committee of the Legislature.

9) To increase the statutory maxima of various fees and to increase the fixed values of various fees, amend the bill as follows:

On page 6 of the bill, after line 2, insert:

SEC. 12. Section 3521.1 of the Business and Professions Code is amended to read:

3521.1. The fees to be paid by physician assistants are to be set by the board as follows:

(a) An application fee not to exceed ~~twenty-five dollars ($25)~~ *eighty dollars ($80)* shall be charged to each physician assistant applicant.

(b) An initial license fee not to exceed ~~two hundred fifty dollars ($250)~~ *five hundred dollars ($500)* shall be charged to each physician assistant to whom a license is issued.

(c) A biennial license renewal fee not to exceed ~~three hundred dollars ($300)~~ *five hundred dollars ($500)*.

(d) The delinquency fee is ~~twenty-five dollars ($25)~~ *seventy-five dollars ($75)*.

(e) The duplicate license fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be ~~ten dollars ($10)~~ *fifty dollars ($50)*.

REGISTERED SUPPORT / OPPOSITION:

Support

California Podiatric Medical Association (if amended)

Opposition

No opposition on file.

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301, Alexander Diehl / B. & P. / (916) 319-3301

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1502 (Committee on Business and Professions) – As Amended April 23, 2025

SUBJECT: Veterinary medicine: California Veterinary Medical Board.

SUMMARY: Extends the sunset date for the California Veterinary Medical Board (CVMB) until January 1, 2030, increases fee authority for the CVMB, recasts and revises requirements related to continuing education, and makes various other technical changes, statutory improvements, and policy reforms in response to issues raised during the CVMB's sunset review oversight process.

EXISTING LAW:

1) Provides for the regulation of veterinary medicine under the Veterinary Medicine Practice Act (Act), which outlines the licensure requirements, scope of practice, and responsibilities of individuals practicing animal health care tasks in the state. (Business and Professions Code (BPC) § 4800 *et seq.*)

2) Establishes the CVMB under the jurisdiction of the Department of Consumer Affairs (DCA), responsible for enforcing the Act, and regulating veterinarians, registered veterinary technicians (RVTs), Veterinary Assistant Controlled Substance Permit (VACSP) holders, and veterinary premises until January 1, 2026. (BPC § 4800-4811)

3) Authorizes the Board to appoint an executive officer (EO) until January 1, 2026. (BPC § 4804.5)

4) Authorizes a veterinarian, or an RVT under the supervision of a veterinarian, to compound drugs for animals pursuant to Section 530 of Title 21 of the Code of Federal Regulations and in accordance with regulations promulgated by the Board. (BPC § 4826.5)

5) Authorizes the Board to suspend, revoke, or deny a VACSP, after notice and hearing, for any of the following:

    a) The employment of fraud, misrepresentation, or deception in obtaining a VACSP.

    b) Chronic inebriety or habitual use of controlled substances.

    c) The applicant or permit holder has been convicted of a state or federal felony controlled substance violation.

    d) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Act, or of the regulations pursuant to it.

e) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, veterinary surgery, or veterinary dentistry, in which case the record of the conviction shall be conclusive evidence.

(BPC § 4836.2(b))

6) Requires that an applicant for a VACSP submit fingerprints to the Department of Justice for the purpose of criminal background checks. (BPC § 4836.2(c))

7) Authorizes the Board to suspend, revoke, or deny the registration of an RVT, after notice and hearing, for any of the following:

a) The employment of fraud, misrepresentation or deception in obtaining a registration.

b) Conviction of a crime substantially related to the qualifications, functions and duties of an RVT in which case the record of such conviction will be conclusive evidence.

c) Chronic inebriety or habitual use of controlled substances.

d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

e) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Act, or of the regulations pursuant to it.

(BPC § 4837)

8) Requires that RVT applicants furnish satisfactory evidence of one of the following:

a) Graduation from, at minimum, a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the Board, or the equivalent thereof, as determined by the Board. In the case of a private postsecondary institution, the institution shall also be approved by the Bureau for Private Postsecondary Education (BPEE). Proof of graduation shall be submitted directly to the board by the college, other postsecondary institution, or American Association of Veterinary State Boards (AAVSB).

b) Education or a combination of education and clinical practice experience, as determined by the Board.

c) Education equivalency certified by the AAVSB Program for the Assessment of Veterinary Education Equivalence for Veterinary Technicians. The certificate of education equivalence shall be submitted directly to the board by the AAVSB.

(BPC § 4841.5)

9) Requires the Board to approve all schools or institutions offering RVT curriculum. (BPC § 4843)

10) Requires RVTs applying for registration renewal to complete 20 hours of approved continuing education (CE) in the preceding two years and furnish a set of fingerprints to the Board. (CCR, tit. 16 § 2086.2).

11) Requires that applicants for veterinary license renewal complete 36 hours of continuing education (CE) in the preceding two years. (BPC § 4846.5)

12) Authorizes CE hours to be obtained by attending courses relevant to veterinary medicine and sponsored or cosponsored by any of the following:

    a) American Veterinary Medical Association (AVMA) accredited veterinary medical colleges.

    b) Accredited colleges or universities offering programs relevant to veterinary medicine.

    c) The AVMA.

    d) AVMA recognized specialty or affiliated allied groups.

    e) AVMA's affiliated state veterinary medical associations.

    f) Nonprofit annual conferences established in conjunction with state veterinary medical associations.

    g) Educational organizations affiliated with the AVMA or its state-affiliated veterinary medical associations.

    h) Local veterinary medical associations affiliated with the California Veterinary Medical Association (CVMA).

    i) Federal, state, or local government agencies.

    j) Providers accredited by the Accreditation Council for Continuing Medical Education (ACCME) or approved by the American Medical Association (AMA), providers recognized by the American Dental Association Continuing Education Recognition Program (ADA CERP), and AMA or ADA-affiliated state, local, and specialty organizations.

    (BPC § 4846.5(b)(1))

13) Authorizes up to six of the required 36 CE hours to be obtained by doing either of the following, or a combination thereof:

    a) Up to six hours may be earned by taking self-study courses, which may include, but are not limited to, reading journals, viewing video recordings, or listening to audio recordings.

b) Up to four hours may be earned by providing pro bono spaying or neutering services under the supervision of a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group, to a household with a demonstrated financial need for reduced-cost services.

(BPC § 4846.5(b)(2))

14) Authorizes the Board to audit the records of all applicants to verify the completion of the CE requirement. (BPC § 4846.5(e))

15) Establishes that knowing misrepresentation of compliance with CE requirements by a veterinarian constitutes unprofessional conduct and is grounds for disciplinary action or the issuance of a citation and imposition of a civil penalty. (BPC § 4846.5(g))

16) Authorizes the Board, at its discretion, to exempt any veterinarian from the CE requirement who, for reasons of health, military service, or undue hardship, cannot complete them. (BPC § 4846.5(h))

17) Requires that, beginning January 1, 2018, a veterinarian who renews their license shall complete at least one hour of CE on the judicious use of medically important microbial drugs every four years. (BPC § 4846.5(k))

18) Requires that all veterinarians keep a written record of all animals receiving services, with minimum information and duration determined by the Board, and provide a summary of that record to the owner of animals receiving services, when requested. (BPC § 4855)

19) Authorizes a person whose license or person whose license or registration has been revoked or who has been placed on probation to petition the Board for reinstatement or modification, subject to certain minimum probationary periods. (BPC § 4887)

20) Establishes the following fees and charges to be collected by the Board and be credited to the CVMB Contingent Fund:

a) A veterinarian license application fee of $350.

b) The California Veterinary Medicine Practice Act course fee, to be set by the board in an amount it determines reasonably necessary to provide sufficient funds, but not to exceed $100.

c) An initial veterinarian license fee set by the board not to exceed five hundred dollars $500.

d) A biennial veterinarian license renewal fee of $500.

e) A university licensee application fee of $350.

f) An initial university license fee of $500.

g) A biennial university licensee renewal fee of $500.

h) A delinquency fee of $50.

i) A fee for issuance of a duplicate license, registration, or permit of $25.

j) Any charge made for duplication or other services, to be set at the cost of rendering the service.

k) A fee for failure to report a change in the mailing address of $25.

l) An initial veterinary premises registration fee of $500 annually.

m) An annual veterinary premises registration renewal fee of $525.

n) An RVT application fee of $225.

o) An initial RVT registration fee of $225.

p) A biennial RVT renewal fee of $225.

q) A VACSP application fee of $100.

r) A VACSP fee of $100.

s) A biennial VACSP renewal fee of $100.

t) A VACSP delinquency fee of 50 percent of the renewal fee for such permit in effect on the date of the renewal of the permit, but not to be less than $25 nor more than one $150.

u) A fee for filing an application for approval of a school or institution offering a curriculum for training RVTs, to be set by the board at an amount not to exceed $300. The school or institution shall also pay for the reasonable regulatory costs incident to an onsite inspection conducted by the Board.

(BPC § 4905)

21) Requires that, if money transferred from the CVMB Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Contingent Fund, fees shall be reduced correspondingly, and further requires that the fees set by the Board shall not result in a Contingent Fund reserve of more than 10 months of annual authorized expenditures.

THIS BILL:

1) Extends the authority for the CVMB to license and regulate professions established under the California Veterinary Medicine Practice Act to January 1, 2030.

2) Requires that one of the four licensed veterinary members of the Board specialize in equine or livestock care, or both.

3) Adds an additional RVT member to the CVMB, raising the Board's composition to nine members.

4) Extends the power for the CVMB to appoint an executive officer to January 1, 2030.

5) Recasts and simplifies provisions related to obtaining a veterinary assistant controlled substances permit.

6) Amends existing statute related to obtaining an RVT registration as follows:

   a) Strikes the requirement that the CMVB approve RVT curriculum, and strikes relevant fees associated with RVT school approvals.

   b) Codifies existing regulations clarifying the registration pathway for out-of-state RVT applicants, including the option to submit proof of 2,500 hours of clinic practice in another state, Canadian province, or U.S. territory obtained within the immediate preceding three years.

   c) Recasts and simplifies existing provisions related to registration applications, issuances, and denials.

7) Requires a veterinarian to provide a copy of animal patient records to the respective client or the client's authorized agent within five days of receiving a verbal or written request.

8) Clarifies that, if the request is because the patient is in critical condition or requires direct transfer to another veterinary premises, the veterinarian shall either:

   a) Immediately provide patient records upon release, or

   b) If a written record is not available at the time of release, communicate information to facilitate continuity of care to the receiving veterinarian, or to the client if the receiving veterinarian is unknown.

9) Establishes that the minimum required information and duration of retention for animal patient records shall be established by the CVMB.

10) Requires that, within 30 days of receiving a written or verbal request by a client or their authorized agent for a record of client payments, the licensee manager of a veterinary premises shall provide a record of client payments made to the premises related to services and treatments provided, and requires that client payment records be maintained for at least three years following the patient's last visit.

11) Strikes an existing statute related to veterinarian continuing education (CE) and creates a new article under the Practice Act that regulates CE as follows:

   a) Recasts the statute under the new article.

b) Codifies existing regulations related to additional pathways for veterinarians to obtain CE credit, including up to 16 hours participating as an expert in an examination preparation workshop for the national licensing examination.

c) Codifies existing regulations related to CE requirements for RVTs.

d) Authorizes the CVMB to adopt an order specifying that a course provider is no longer acceptable to count toward CE credit.

e) Adds additional retention requirements on veterinarians and RVTs regarding proof of CE completion.

f) Requires CE course providers to issue a course attendee a certificate of completion with the following information:

   i) The name of the attendee.

   ii) The course title.

   iii) The provider name and address.

   iv) The provider number assigned by the entity accrediting, approving, or recognizing the course provider, if applicable, and the name of that entity.

   v) The date of the course.

   vi) The number of continuing education hours granted for the course.

   vii) The signature of the course instructor, provider, or provider designee.

g) Requires CE course providers to maintain records related to the courses for a minimum of four years from the date the course is completed, and that the records shall include:

   i) Syllabi or course outlines for each course.

   ii) The time and location of each course.

   iii) Course instructors' curriculum vitaes or resumes.

   iv) Registration rosters with the names and addresses of individuals who attended the courses.

   v) A sample of the record of course completion form provided to attendees for verifying attendance.

   vi) A sample of the evaluation form completed by attendees.

12) Authorizes the executive officer of the CVMB to issue a citation to a person or entity, with an administrative fine of no less than $2,000 per violation and no more than $10,000 per

violation, for practicing or offering to practice veterinary medicine without a license, registration, or permit issued by the Board.

13) Requires that a petition for reinstatement by a person whose license or registration has been revoked must include a full set of fingerprints for purposes of a criminal history record check.

14) Authorizes the CVMB to enter into stipulated settlements with licensees, registrants or permit holders accused of violations of the Act prior to the commencement of a full disciplinary proceeding.

15) Clarifies that any license, registration, or permit that is not renewed within five years of expiration shall be cancelled and can no longer be renewed, but the respective individual can apply for a new one.

16) Establishes the following definitions for purposes of fees:

    a) "Small veterinary premises" means a veterinary premises where up to three full-time equivalent veterinarians provide services.

    b) "Medium veterinary premises" means a veterinary premises where four to eight full-time equivalent veterinarians provide services.

    c) "Large veterinary premises" means a veterinary premises where nine or more full-time equivalent veterinarians provide veterinary services.

17) Authorizes the CVMB to charge the following new fees:

    a) An initial small veterinary premises registration fee, not to exceed $840 annually.

    b) An annual small veterinary premises registration renewal fee, not to exceed $910.

    c) An initial medium veterinary premises registration fee, not to exceed $1,120 annually.

    d) An annual medium veterinary premises registration renewal fee, not to exceed $1,190.

    e) An initial large veterinary premises registration fee, not to exceed $1,675 annually

    f) An annual large veterinary premises registration renewal fee, not to exceed $1,745.

18) Authorizes the CVMB to raise existing fees as follows:

    a) Up to $550 for the veterinarian license application fee.

    b) Up to $155 for the California Veterinary Medicine Practice Act course fee.

    c) Up to $800 for the initial veterinarian license fee.

    d) Up to $800 for the biennial veterinarian license renewal fee.

e) Up to $540 for the university licensee application fee.

f) Up to $800 for the initial university license fee.

g) Up to $800 for the biennial university licensee renewal fee.

h) Up to $300 for the RVT application fee.

i) Up to $300 for the initial RVT registration fee.

j) Up to $300 for the biennial RVT renewal fee.

k) Up to $300 for the VACSP application fee.

l) Up to $300 for the initial issuance of a VACSP.

m) Up to $300 for the renewal of a VACSP.

19) Strikes existing delinquency or deficiency fees and instead establishes that all license, registration, and permit delinquency fees shall be 50 percent of the renewal fee in effect on the date of the renewal, but cannot be less than $50 or more than $150.

20) Strikes the requirement that the CVMB maintain a fund condition of no more than 10 months in reserves, thus reverting their fund condition to the 24-month reserve maximum that is standard for other entities under the DCA.

21) Recasts and expands authorizations related to disciplinary proceedings of a licensee or registrant to also apply to a VACSP holder.

22) Expands existing CVMB authority to enforce against a veterinarian or RVT that represents a danger to the public due to negligence or incompetence leading to animal harm, to any individual.

23) Expands existing CVMB authority to enforce against a veterinarian or RVT that abuses drugs or alcohol, to any individual.

24) Makes other technical and non-substantive changes to the Practice Act.

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

COMMENTS:

Purpose. This bill is the sunset review vehicle for the California Veterinary Medical Board, authored by the Assembly Business and Professions Committee. The bill extends the sunset date for the Board and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during the Board's sunset review oversight process.

Background.

Sunset Review. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the Department of Consumer Affairs (DCA). The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and stakeholders to discuss the performance of the boards and make recommendations for improvements.

Each board subject to review has an enacting statute that has a repeal date, which means each board requires an extension before the repeal date. This bill is one of the "sunset" bills that are intended to extend the repeal date of the boards undergoing sunset review, as well as include the recommendations from the sunset review oversight hearings.

This year, there are four sunset review bills authored by the Assembly Committee on Business and Professions and three sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

SUNSET ISSUES FOR CONSIDERATION:

As part of the CVMB's sunset review, a number of issues and priorities were raised by the board's staff, stakeholders, and legislative committees. These issues were first outlined in the CVMB's "Sunset Review Report 2025" submitted to the Legislature in January. Subsequently, as part of the Joint Sunset hearings conducted by the Assembly Committee on Business and Professions and the Senate Business, Professions and Economic Development Committee, committees issued "background papers" highlighting recommendations to the CVMB regarding issues raised in their report. The background paper is available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. On April 12th, the CVMB responded to these recommendations and presented committee staff with potential reforms and statutory language to address various issues. As further detailed below, this bill addresses certain issues discussed in these reports and responses, while some remain in active deliberation between the Board and stakeholders.

Currently, AB 1502 addresses the following issues related to the administration, composition, and enforcement capabilities of the Board:

1) *Issue #1 – Unlicensed Practice Penalties.* Protecting consumers against unlicensed and unqualified services is one of the most important responsibilities of any state board or bureau. According to the VMB, individuals not licensed by the Board—even those who may be licensed by another healing arts board in California or another state—pose a danger to consumers and animal patients, as they do not have the same education and training or otherwise have the competence to practice on animals. Throughout the past year, the Board has been exploring ways in which it might better combat unlicensed veterinary activity, specifically through discussions and stakeholder engagement in the Unlicensed Practice Subcommittee.

   Through the Subcommittee, the Board has identified several examples of unlicensed individuals or businesses offering services within jurisdiction of veterinary medicine. For

example, the Board is aware of several instances of unlicensed practice in the equine space, including individuals performing certain dental procedures like teeth floating, or healing professionals regulated by other DCA entities—such as chiropractors, physical therapists, and massage therapists—practicing on horses. Similar issues have arisen in small animal care, with many groomers offering "teeth cleanings" that cross into more serious dental work. The Board is also aware of businesses such as boarding facilities that administer vaccinations and other medications.

Currently, citations issued by the Board's Executive Officer are limited to the same $5,000-per-citation maximum as other boards and bureaus under DCA, pursuant to BPC § 125.9(b)(3). While the $5,000 cap is sufficient to incentivize compliance for some smaller unlicensed practice cases, the Board argues that those unlicensed individuals or businesses who are charging consumers significantly more lack the incentive to comply. Those individuals may continue to practice knowing the financial impact of a citation is absorbable relative to the profit they can gain by continuing to operate.

The Board notes that certain other healing arts boards are vested with additional citation authority in order to better deter unlicensed practice by individuals and businesses who are otherwise making significant profit. As a result, the Board voted in its January meeting to recommend working with the Legislature to increase the statutory cap for citations related to unlicensed practice.

Staff Recommendation in the Background Paper: The Board should update the Committees on what types of unlicensed activities it finds are most commonly practiced amongst unlicensed individuals and businesses, and describe the estimated size and annual revenue of common offenders. Should the Board seek additional citation authority, it should recommend what cap might be reasonable to deter unlicensed practice.

Board Response to the Background Paper: The Board sees unlicensed activities in all practice areas. Some of the most common unlicensed complaints involve small and large animal dentistry. For small animal practice, dentistry complaints are typically tied to a groomer offering "anesthetic free" dentistry, but the services often extend to tooth extractions. In large animal, there are multiple unlicensed individuals providing teeth floating, lameness examinations, and intra-articular, subcutaneous injections. The Board also sees unlicensed practice in reproductive services, such as transcervical inseminations, fertility treatments and cesarian sections. It is estimated unlicensed individuals providing these services can easily generate up to $200,000 in revenue per year.

The Board is seeking a legislative amendment that authorizes the Board to assess a fine between $2,500 - $10,000 per unlicensed practice violation (Proposal #1). In the same proposal, the Board seeks to add the authority to issue a citation to a veterinary assistant controlled substance permit holder.

Committee Recommendation: This bill grants the Executive Officer (EO) of the CVMB the authority to issue a citation, with an administrative fine no less than $2,000 and no more than

$10,000, to a person or entity for each violation of practicing or offering to practice veterinary medicine without a license, registration, or permit.

In addition, the bill clarifies that the Board shall prioritize resources to ensure any individuals representing the greatest threat of harm are identified and disciplined expeditiously, rather than the current standard that they only prioritize such individuals if they are veterinarians or RVTs.

2) *Issue #5 – Board Composition.* BPC § 4800 establishes the composition of the Board members, which shall consist of four licensed veterinarians, three public members, and one registered veterinary technician (RVT). The RVT member is one of the most active on the Board: they are automatically assigned to the MDC, make regular reports at each Board meeting, and represent the Board and its RVT population on many state and national organizations. The Board has reported that the workload for this sole RVT member is extensive. Considering the disproportionate workload that is currently expected of the RVT Board member, and the increased need for RVT perspectives in Board deliberations and decision-making as the profession grows, the Board is requesting an additional RVT member be added to their composition.

In a letter addressed to the Committees, the California Veterinary Medical Association (CVMA) wrote in support of the Board's recommendation to add another RVT member to the Board, agreeing with their assessment that RVTs are disproportionately represented in the current makeup. Additionally, CVMA argues that the current Board composition does not adequately account for the wide breadth of animal care that is regulated by the Practice Act. Specifically, CVMA is concerned that "small animal" care (ie. dog, cat, and companion animal care) is the primary mission and representation of the Board, whereas California is home to "the largest population of dairy cattle in the country, the second largest beef cattle population, as well as over 800,000 horses". CVMA contends that lack of input from "large animal" veterinarians has caused disruptions in this sector of practice, and is crucial going forward as the profession evolves. As such, CVMA is requesting changes to BPC § 4800 that specify one of the licensed veterinary representatives is "currently practicing primarily on horses, livestock, or both".

Staff Recommendation in the Background Paper: The Board should work with the Legislature to determine what, if any, statutory additions or revisions are needed regarding the Board's composition in order to accurately represent the varied population of, and professional services offered by, California's licensed veterinarians, RVTs, and vet assistants.

Board Response in the Background Paper: The Board requests the Legislature add an RVT member to the Board's composition. The Board has not discussed potential statutory amendments specifying specific professional practice areas. However, the Governor's Office strives to appoint members who represent the population it regulates. Despite claims by stakeholders, the Board has had at least one large animal veterinarian on the Board for over a decade. While varied representation is always the goal, the Board's Executive Committee is concerned that mandating specific representation practice areas may make it more

challenging to appoint members to the Board. If there are no candidates in a specific area, vacancies may be prolonged and may result in a loss of quorum.

Committee Recommendation: In order to reflect the diverse array of professionals, patient types, and practice settings common across the field of veterinary medicine, this bill adds an additional RVT member to the Board, bringing the total members of the Board to nine. Further, the bill specifies that one of the four veterinary members shall specialize in equine practice, large animals, or both.

3) *Issue #6 – Fees.* As a body under the DCA, the Board is a special funded entity, collecting revenues primarily from licensing, applications, renewals, and examination fees for the various licensees and registrants they regulate. The Board does not receive revenue from the General Fund. Additionally, BPC § 4905(v) requires that the Board's Contingent Fund not fall below a three-month reserve, but also requires that the reserve not exceed ten months. In other words, statute requires that the Board maintain a fund condition that forecasts revenues within a seven-month window.

   The Board was at risk of falling below its three-month statutory minimum during the last sunset review. Due to fee increases and adjustments made during its previous sunset review window, and the last sunset bill (AB 1535, Committee on Business and Professions, Chapter 631, Statutes of 2021) new and increased fees, the Board avoided the need for greater statutory increases to licensing and renewal fees as a whole. However, to ensure a stable and predictable fee schedule for licensees who had just experienced several years of fee adjustments, AB 1535 fixed fee amounts statutorily (rather than the previous standard of setting maximum statutory caps), without the ability for the Board to further adjust.

   According to the latest fund data provided to the Committees, revenues continue to fall below expenditures, forcing the Board to continually draw from the Contingent Fund to subsidize this structural imbalance. As a result, the Board expects the Contingent Fund to fall below its three-month statutory minimum in FY 2029/30; in fact, if forecasted revenues and expenditures remain status quo, the Board expects the Contingent Fund to become insolvent by FY 2030/31. As such, it is clear the Board will require increased fee authority in statute in order to remain solvent and compliant with BPC § 4905.

   However, it is also clear from data provided by the Board that the distribution of financial burden across license types is in need of further refinement. For example, the Board reports that there are 8,901 RVTs as of FY 2023/24, who are each charged a renewal fee of $225, accounting for 13.4% of the Board's total revenue. Comparatively, there were 7,985 VACSP holders in the same fiscal year, each charged a $100 renewal fee that only accounted for 2.1% of the Board's total revenue.

   Additionally, it is unclear to the Committees whether the statutory cap in BPC § 4905(v), currently limiting the Board's fund condition to no more than ten months in reserve, is serving a necessary purpose. BPC § 128.5 clarifies that all entities under the DCA shall maintain a fund condition of no more than two years (ie. 24 months) in reserve, notwithstanding any other law. Based on all relevant data observed by the Committees, this

has allowed other boards and bureaus—especially those regulating healing arts professions—the ability to forecast potential fee increases or other necessary adjustments with enough time to deliberate with stakeholders and gradually phase-in, or phase-out, fees as necessary.

Conversely, it appears that the narrow "three-to-ten month" window by which BPC § 4905(v) forces the Board to operate in, combined with its inability to adjust fees without statutory approval, makes the responsible and long-term stewardship of funds—and the Board's timely response to the needs of its licensee population and wider industry trends—a difficult task.

Staff Recommendation in Background Paper. The Board should further detail to the Committees the most significant operational costs and expenditures contributing to its declining fund condition. Additionally, the Board should describe its long-term budget plan and any cost-savings it is currently undertaking. If the Board is seeking increased statutory fee authority, it should inform the Committees of reasonable fees as well as its projected timeline for fee increases, including the potential impact on licensees. Finally, the Board should inform the Committees of other potential reforms to BPC § 4905 and related statute that might improve its financial operations, such as amendments to the reserve forecast requirements or tiered fee structures.

Board Response in Background Paper. The most significant operational expenditures are personnel and enforcement activities. Since the last Sunset Review, the Board has decreased its budget by $309,000 due to the following budget reduction efforts:

- **BL 20-37 2021 5% reduction plan:**
  - Reduced Travel In-State by $40,000
    - The Board found efficiencies via teleworking and holding virtual meetings to reduce travel costs as it relates to Board Meetings, staff meetings, and the Board's various committee meetings.
  - Board's share of DCA Reduction (Prorata): Reduction of $8,000

- **BL 24-20 2024 Vacancy Elimination:**
  - Reduced 1.0 Associate Governmental Program Analyst and $134,000
  - Board's share of DCA Reduction (Prorata): Reduction of $44,000

- **BL 24-24 2024 7.95% Operating Budget Efficiencies**
  - Reduced C&P External by $83,000
    - The Board will achieve savings by reducing its Elavon contract.
  - Board's share of DCA Reduction (Prorata): N/A

In addition, if the Board is able to enter into stipulated settlements to resolve disciplinary actions without transmitting those cases to the Attorney General's Office, the Board is projected to save over 90% of its AG costs (roughly $700,000) annually .

The Board is working with the DCA Budget Office to determine how much revenue must be generated over the next several years to remain solvent. Using that information, the Board

plans to discuss a potential fee structure with stakeholders and vote on a legislative proposal during its April Board meeting. The Board will also discuss potential amendments to BPC § 4905 in light of its current conflict with BPC § 128.5.

Committee Response: This bill grants the CVMB the authority to raise its various licensing, registration, and permitting fees, subject to specified caps. Additionally, the bill establishes separate fee categories for "small veterinary premises", which constitutes three or fewer full-time equivalent veterinarians, "medium veterinary premises", which constitutes four-to-eight full-time equivalent veterinarians, and "large veterinary premises", which constitutes greater than nine full-time equivalent veterinarians. Finally, the bill removes the requirement that the CVMB maintain a fund condition of no more than 10 months in reserves, thus reverting their fund condition to the 24-month reserve maximum that is standard for other entities under the DCA. For specific fee caps for each license or registration type, refer to the "This Bill" section of this analysis.

4) *Issue #7 – Drug Compounding for Veterinary Assistant Controlled Substance Permit (VACSP) Holders.* Like many other healing arts professionals, veterinary professionals utilize many types of drugs—including certain controlled substances—for pain relief, disease prevention, anesthesia, and more, across the varied animal patients they service. In 2003, the Board and the wider veterinary community represented by CVMA supported legislation (SB 175, (Kuehl), Chapter 250, Statutes of 2003, that brought the regulation of veterinary drugs under the oversight of the Board of Pharmacy (BOP), with provisions to ensure collaboration with the VMB as necessary to regulate storage, diversion, reporting and monitoring. Since then, Board staff has worked with BOP to implement regulations related to controlled substances, drug compounding, and many other issues in a largely collaborative manner, including the implementation of a Veterinary Assistant Controlled Substances Permit (VACSP) in 2016.

   Current law limits drug compounding—which is the process of combining, mixing or altering ingredients of a drug to tailor it for the needs of a specific patient—to be performed by a licensed veterinarian, or an RVT under the supervision of a veterinarian. During an April 2022 MDC meeting, stakeholders raised concerns that only allowing veterinarians and RVTs to compound drugs severely limits access to care. For example, an RVT in an emergency veterinary hospital opined that the COVID-19 pandemic further limited veterinary care and severely exacerbated wait times in emergency settings; according to this RVT, prohibiting VACSP holders from compounding—which can include tasks as mundane as adding medications to an IV fluid –added further burden to already understaffed veterinary establishments. The Board agrees with this assessment, and in its 2025 Sunset Review Report has requested amendments to BPC § 4826.5 that will authorize VACSP holders to drug compound under the supervision of a licensed veterinarian.

   Staff Recommendation in the Background Paper: The Board should detail what further revisions to law might facilitate greater access to compounded medicines in the veterinary setting, including compounding permissions for VACSP holders.

Board Response to the Background Paper: The Board is seeking a legislative proposal (Proposal #3) to authorize VACSP holders to compound medications to increase consumer and animal patient access to care.

Committee Recommendation: This bill authorizes VACSP holders to compound drugs for animal use, pursuant to all federal and state regulations.

5) *Issue #9 – RVT School Approvals.* BPC § 4843 requires that the Board approve all schools offering RVT curriculum, and that the schools renew approval every two years. According to the Board's 2025 Sunset Review Report, however, compliance with this provision of statute has been inconsistent and burdensome on Board resources.

In 1995, the Board approved its first RVT school program at San Diego – Mesa College. From 1997 to 2017, the Board reports that approvals varied from one to five years, inconsistent with the two-year statutory limit and with virtually no enforcement. Between 2012 and 2017, renewals were issued without a formal process, application, or fees, despite the requirement to do so in statute. Board inspections of the RVT education program occurred in 2002, 2006, and 2007, with very limited cost recovery.

In 2014, a school administrator sought Board approval for their RVT program but was informed the Board no longer approved schools. A representative of the California Registered Veterinary Technicians Association (CaRVTA) later reminded the Board it was legally required to approve all California RVT schools. As a result, from 2014 through 2018 the Board worked on a rulemaking package that would clarify and expand RVT education program requirements, and amend Board approval of alternate route programs. Approved in 2018, the package was among 20 other pending rulemaking efforts by the Board at the time.

By 2021, the Board's executive officer questioned whether requiring Board approval of RVT programs was in service of consumer protection, or if the process had become redundant and burdensome. Subsequently, an MDC Subcommittee reviewed past discussions on the topic spanning back to 2014, noting that:

- Other oversight bodies, such as the Committee on Veterinary Technician Education and Activities (CVTEA) and the Bureau for Private Postsecondary Education (BPPE), already accredited/approved schools, with no clear rationale for additional Board approval.
- Cost concerns related to an approval program were raised in the past, but previous Board members incorrectly assumed costs would be resolved through a Budget Change Proposal (BCP), while in reality costs can only be offset by fee increases.
- Past Board deliberations also addressed difficulties in meeting inspection mandates and questioned the feasibility of also pursuing RVT school inspections; in this instance, Board members again mistakenly believed a BCP would resolve this resource concern.

In March 2023, the Subcommittee convened an RVT Education Programs Stakeholder Meeting with over 50 participants, including school administrators, RVTs, and representatives from CaRVTA, BPPE, and AAVSB, among others. The discussion highlighted and re-affirmed that the CVTEA, BPPE, and even the Accrediting Commission for Community and Junior Colleges (ACCJC) already ensured educational quality and student protection through accreditation, site visits, and compliance reviews.

As such, a consensus was reached that additional Board approval was unnecessary and redundant. In April 2023, the Board voted to pursue legislative changes to amend and repeal specific BPC sections, thus removing the RVT school approval requirement by the Board.

Staff Recommendation in Background Paper: The Board should provide the Committees with specific statutory recommendations to remove unnecessary approval and registration requirements related to RVT education. In addition, the Board should detail how it plans to continue communication and collaboration with entities such as CVTEA, BBPE and ACCJC to ensure California's RVT population is receiving adequate training, should the Legislature remove its explicit role in approving curricula.

Board Response to the Background Paper: The Board is seeking a legislative amendment (Proposal #4) to repeal the requirement for RVT programs to be approved by the Board. The Board will work with the above stated entities and the AAVSB to monitor VTNE pass rates of each program compared to the national pass rates. This will include encouraging a centralized location of all pass rates related to each program. In addition, the Board will request regular updates from those entities whenever a program is being investigated or is endanger of losing its approval/accreditation. The Board will also assist in disseminating any information to impacted RVT applicants.

Committee Recommendation: This bill repeals BPC § 4843, removing the requirement that the CVMB approve all schools offering RVT curricula.

6) *Issue #11 – Animal Patient Records.* Current law (BPC §§ 4855, 4826.6) requires veterinarians to keep a written record of all animal patients receiving veterinary services, and to provide a summary of that record to the owner of an animal patient whenever requested. Law defers to the Board to determine, via regulation, the duration of time that a veterinarian premises must retain animal patient records or copy of the records, and to specify what minimum information must be included in a record summary.

The Board reports that consumers have complained about the inability to obtain a full copy of their animal's patient record. Additionally, during the Board's 2023 Strategic Planning Session, a concern was raised that veterinarians, having ceased employment at a particular premises, are sometimes unable to retrieve the records of patients to whom they had rendered services at that premises. The Board contends that this hinders licensees' ability to respond to complaint allegations during investigations.

As such, in "New Issue #10" on Page 65 of their 2025 Sunset Review Report, the Board recommends adding statutory language requiring veterinarians to provide a copy of an animal

patient record within five days of request, subject to certain exceptions such as when a patient is in critical condition. Further, to assist consumers who require proof of payment for insurance purposes or when the Board seeks to include restitution in an enforcement action, the Board is seeking statute to require a veterinary premises to provide upon request a record of client payments made for services and treatments, and to retain this record for at least three years.

Staff Recommendation in the Background Paper: The Board should work with the Legislature through the Sunset Review process to propose statutory revisions related to animal patient records that will promote greater transparency for animal owners and provide licensed veterinarians the ability to access previous patient records, while maintaining necessary safeguards around access and confidentiality.

Board Response to the Background Paper: The Board seeks to improve consumer access to animal patient records with the attached legislative amendments (Proposal #5), promote greater transparency for animal owners, and provide licensed veterinarians the ability to access previous patient records, while maintaining necessary safeguards around access and confidentiality.

Committee Recommendation: The bill requires a veterinarian to provide a copy of written records to a client or the client's authorized agents within five days of receiving a written or verbal request, subject to specified conditions, including if the animal is in critical condition. Furthermore, the bill adds a requirement that within 30 days of receiving written or verbal request from a client, the licensee manager of a veterinary premises shall provide a record of the client payments made, and requires that client payment records be maintained for at least three years from the client's last visit.

7) *Issue #12 - Continuing Education.* Licensed veterinarians are required to complete a minimum of 36 hours of continuing education (CE) every two years in order to renew their license. Additionally, RVTs are required to meet certain CE conditions, as determined by Board regulation, upon renewal of their registration. BPC § 4846.5 provides an extensive list of statutorily approved CE providers, including American Veterinary Medical Association (AVMA) accredited colleges and associations, government agencies, certain nonprofit conferences, and more. Additionally, under BPC § 4846.5(b)(3), the Board is also provided authority to approve other continuing veterinary medical education providers not otherwise specified in the section. The Board reports that in 2002, multiple regulations became effective that specified the process for approving CE providers. However, the Board is not aware of any CE providers that are not already listed under subdivision (b)(3), and as such deem the authorization and associated regulations to approve additional CE providers unnecessary, and believe that it "fuels a narrative" that the Board overregulates the profession.

However, on Page 32 of their 2025 Sunset Review Report, the Board reports an overall CE failure rate of 35% (287 licensees) based on CE audits of 813 veterinary and RVT licensees over the last four fiscal years. Considering the many changes and additional practices authorized under veterinary medicine in the past several years—including increased

telehealth options, new authorizations for RVTs to establish veterinary-client-patient relationships, increased techniques for low-cost spay and neuter, and more—this rate of CE failure amongst the Board's licensees is alarming.

Staff Recommendation in the Background Paper: The Board should report to the Committees its current efforts, and future plans, to improve compliance with CE requirements amongst its licensed population.

Board Response to the Background Paper: The Board submits the attached legislative amendment to improve the statutory framework of the CE requirements and add more opportunities for licensees and registrants to earn CE credit. If the legislative amendments become effective, the Board will update its regulations to repeal unnecessary regulations and reduce licensee and registrant confusion. The Board also plans to evaluate its CE audit process and streamline wherever possible. Once the revised statutes and regulations are effective and the process improvements are implemented, the Board plans to hold informational webinars on the CE requirements, review common areas of non-compliance, and provide an overview of the CE audit process.

Committee Recommendation: This bill recasts, revises, and expands the existing CE statute and regulations into a unified "Article 3.1" under the Practice Act. Additionally, to streamline administrative bloat, the bill removes the requirement that the CVMB proactively approve additional CE course providers, and instead authorizes them to adopt an order specifying that a CE course provider is no longer valid. Finally, the bill adds additional requirements on CE course providers regarding certificates of completion and record retention for purposes of CE audits.

Issue #13 – Fingerprints for License Reinstatement. Both statute and regulations require fingerprints for all license applicants and license renewals. Once a license is either revoked or surrendered, the Board notifies the Department of Justice through a "No Longer Interested" notification that it no longer has authority to receive criminal information related to the previously-licensed individual.

If such an individual files a petition for license reinstatement, the person is technically considered an applicant and thus is subject to the fingerprint requirement. However, the Board has opined that due to lack of specificity in BPC § 4887 (the section of law that details the petitioning process), many petitioners do not include fingerprints as part of their initial petition for reinstatement. As such, the Board is seeking additional clarity in BPC § 4887 that fingerprints for purposes of a criminal background check must accompany a petition for license reinstatement.

Staff Recommendation in the Background Paper: The Board should review with the Committees its legislative proposal to amend language regarding petitions for license reinstatement, and describe how further additions will improve workflow for the Board.

Board Response to the Background Paper: The Board submits the attached legislative proposal to amend language regarding petitions for license reinstatement. The proposed

amendments to BPC § 4887 would provide clarity to reinstatement petitioners that they must submit to fingerprints as part of their reinstatement petition. This would streamline the process by petitioners submitting their fingerprints up front rather than submitting their petition and then having staff instruct them to go get fingerprints after. This can eliminate at least a week of the petition process.

Committee Recommendation: The bill clarifies that, when submitting a petition for reinstatement, a petitioner must include a full set of fingerprints for purposes of conducting a criminal history check.

8) *Issue #15 - Administrative Streamlining.* During its last sunset review, the Board successfully requested several legislative amendments that removed unnecessary barriers to veterinary licensure and condensed requirements into one section. Since then, the Board identified multiple other areas in the Practice Act that require similar improvement to streamline registration, permit applications, and disciplinary actions, as detailed in its 2025 Sunset Review Report.

Specifically, in October 2024, the Board approved a legislative proposal to amend several sections of the Practice Act, aiming to remove redundant language, align RVT application and disciplinary processes with those for veterinarians, and incorporate references to VACSPs where previously omitted.

Key proposed changes include:

- Creating a pathway for veterinary college graduates, and holders of Educational Commission for Foreign Veterinary Graduates (ECFVG) or Program for the Assessment of Veterinary Education Equivalence (PAVE) certificates, to obtain veterinary technician registration.
- Expediting disciplinary proceedings by allowing stipulated settlements without requiring formal administrative proceedings, reducing delays and costs for both the Board and licensees.
- Amending probation and reinstatement law to allow VACSP holders to petition for reinstatement or probation modifications, and removing the requirement for five Board members to vote on reinstatements, which can delay decision-making.
- Establishing a one-year deadline for petitioners granted reinstatement to complete conditions precedent, preventing indefinite delays that could impact assurances of competency.

According to the Board, these reforms aim to reduce barriers to licensure, accelerate disciplinary resolutions, and improve regulatory efficiency while maintaining consumer and animal protection standards.

Notably, on Page 21 of its 2025 Sunset Review Report, the Board describes that “pending [license] applications have grown at a gradual rate that exceeds completed applications”.

Considering the disparity in licensed veterinary professionals in California, this pending application backlog is particularly concerning.

Staff Recommendation in the Background Paper: The Board should work with the Legislature to identify statutory revisions and technical changes that will streamline administration of licenses, applications and permit registrations under the Board's purview. Specifically, the Board should inform the Committees of any revisions that will assist in reducing the backlog of pending applications.

Board Response to the Background Paper: The attached legislative proposal includes the key proposed changes mentioned above. At this time, the Board does not believe statutory revisions are necessary to streamline administration of licenses, registrations, and permits issued by the Board. The Legislature graciously addressed those necessary revisions in the Board's last Sunset Review. Pending applications have grown at a gradual rate due to personnel challenges within the Board. Most of those challenges have been addressed, and the Board anticipates the pending applications to decrease significantly in the next several months.

Committee Recommendation: Among other technical changes related to permit issuance and disciplinary authority, the bill expands the requirements of RVT registration to include the submission of a full set of fingerprints for the purpose of conducting a criminal history record check and a state and federal criminal offender record information search, as specified. Further, the bill expedites disciplinary proceedings by allowing stipulated settlements without requiring formal administrative proceedings, reducing delays and costs for both the Board and licensees.

9) *Issue #24 – Continuation of the California Veterinary Medical Board.* The health, safety, and welfare of consumers and animals are protected by a well-regulated veterinary profession. Although the Board is facing increased licensing and enforcement workloads and is struggling to meet established processing timelines, the Board has displayed a strong commitment to improve the Board's overall efficiency and effectiveness. In addition, the current Board and its staff have worked cooperatively with the Legislature and the Committees to identify and address issues impacting veterinary medicine.

   Staff Recommendation in the Sunset Paper: The practice of veterinary medicine should continue to be regulated by the Veterinary Medical Board in order to protect the interest of the public. Furthermore, the Committees should continue to review the Board regularly in intervals to be determined.

   Board Recommendation in the Sunset Paper: The Board appreciates the staff's recommendation and respectfully requests the Board be extended for another four years.

   Committee Recommendation: The bill extends the CVMB's sunset date to January 1, 2030.

Current Related Legislation. AB 1501 (Committee on Business and Professions) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in this committee.*

AB 1503 (Committee on Business and Professions) is the sunset bill for the California State Board of Pharmacy. *This bill is pending in this committee.*

AB 1504 (Committee on Business and Professions) is the sunset bill for the California Massage Therapy Council. *This bill is pending in this committee.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development*.

Prior Related Legislation.

SB 1526 (Committee on Business, Professions and Economic Development), Chapter 497, Statutes of 2024, enacted various technical changes to statute related to entities and practice acts under the regulation of the DCA, including adding "California" to the beginning of the name of the Veterinary Medical Board, the Practice Act, and the Contingent Fund.

AB 1535 (Committee on Business and Professions), Chapter 631, Statutes of 2021, extended the sunset date for the Veterinary Medical Board to January 1, 2026, and exacted changes resulting from the Joint Legislative Sunset Review process.

AMENDMENTS:

1) To conform the statute related to appointments to the Board's multidisciplinary committee to the bill's addition of another RVT member to the Board's composition, amend the bill as follows:

   On page 7, after line 8:

   4809.8. (a) The board shall establish an advisory committee to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of this chapter and to assist the board in its examination, licensure, and registration programs. The committee shall serve only in an advisory capacity to the board and the objectives, duties, and actions of the committee shall not be a substitute for or conflict with any of the powers, duties, and responsibilities of the board. The committee shall be known as the Veterinary Medicine Multidisciplinary Advisory Committee. The multidisciplinary committee shall consist of nine members. The following members of the multidisciplinary committee shall be appointed by the board from lists of nominees solicited by the board: four licensed veterinarians, two registered veterinary technicians, and one public member. The committee shall also include one veterinarian member and *one registered veterinary technician member of the*

board, to be appointed by the board president, ~~and the registered veterinary technician member of the board.~~ Members of the multidisciplinary committee shall represent a sufficient cross section of the interests in veterinary medicine in order to address the issues before it, as determined by the board, including veterinarians, registered veterinary technicians, and members of the public. […]

2) Make additional technical and clarifying changes, including an amendment changing the author of the bill from the Committee on Business and Professions to Assemblymember Marc Berman.

REGISTERED SUPPORT:

No support on file.

REGISTERED OPPOSITION:

No opposition on file.

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1503 (Committee on Business and Professions) – As Amended April 21, 2025

SUBJECT: Pharmacy.

SUMMARY: Extends the sunset date for the California State Board of Pharmacy (BOP) until January 1, 2030 and makes additional technical changes, statutory improvements, and policy reforms in response to issues raised during the BOP's sunset review oversight process.

EXISTING LAW:

1) Establishes the Pharmacy Law. (Business and Professions Code (BPC) §§ 4000 *et seq.*)

2) Establishes the BOP to administer and enforce the Pharmacy Law, comprised of seven pharmacists and six public members, subject to repeal on January 1, 2026. (BPC § 4001)

3) Provides that protection of the public shall be the highest priority for the BOP in exercising its licensing, regulatory, and disciplinary functions. (BPC § 4001.1)

4) Authorizes the BOP to appoint an executive officer, subject to repeal on January 1, 2026. (BPC § 4003)

5) Authorizes the BOP to adopt rules and regulations as may be necessary for the protection of the public. (BPC § 4005)

6) Defines "pharmacy" as an area, place, or premises licensed by the BOP in which the profession of pharmacy is practiced and where prescriptions are compounded. (BPC § 4037)

7) Defines "pharmacy technician" as an individual who assists a pharmacist in a pharmacy in the performance of their pharmacy-related duties. (BPC § 4038(a))

8) Defines "pharmacy technician trainee" as a person who is enrolled in a pharmacy technician training program operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education. (BPC § 4038(b))

9) Declares pharmacy practice to be "a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use, drug-related therapy, and communication for clinical and consultative purposes" and that "pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities." (BPC § 4050)

10) Defines "pharmacist" as a natural person to whom a license has been issued by the BOP which is required for any person to manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to dispense or compound a prescription; allows a pharmacist to authorize the initiation of a prescription under certain conditions. (BPC § 4036; § 4051)

11) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:

    a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

    b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

    c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient's provider or prescriber.

    d) Administer immunizations pursuant to a protocol with a prescriber.

    e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, subject to specified requirements.

    f) Administer drugs and biological products that have been ordered by a prescriber.

    (BPC § 4052)

12) Authorizes a pharmacist to furnish an approved opioid antagonist in accordance with standardized procedures or protocols developed and approved by the BOP and the Medical Board of California, in consultation with stakeholders. (BPC § 4052.01)

13) Authorizes a pharmacist to initiate and furnish preexposure prophylaxis. (BPC § 4052.02)

14) Authorizes a pharmacist to initiate and furnish postexposure prophylaxis. (BPC § 4052.03)

15) Authorizes a pharmacist to perform the following procedures or functions in certain licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

    a) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

    b) Ordering drug therapy-related laboratory tests.

    c) Administering drugs and biologicals by injection pursuant to a prescriber's order.

    d) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

    (BPC § 4052.2)

16) Authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by both the BOP and the Medical Board of California in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities, and sets additional requirements for the furnishing of self-administered hormonal contraceptives by pharmacists. (BPC § 4052.3)

17) Authorizes a pharmacist to perform skin puncture in the course of performing routine patient assessment procedures. (BPC § 4052.4)

18) Authorizes an advanced practice pharmacist engage in additional activities, including those under a collaborative practice agreement with any health care provider with appropriate prescriptive authority. (BPC § 4052.6)

19) Authorizes a pharmacist to independently initiate and administer any vaccine that has been approved or authorized by the federal Food and Drug Administration (FDA) and received a federal Advisory Committee on Immunization Practices individual vaccine recommendation published by the federal Centers for Disease Control and Prevention for persons three years of age and older. (BPC § 4052.8)

20) Authorizes a pharmacist to furnish nicotine replacement products for use by prescription only in accordance with standardized procedures and protocols developed and approved by both the BOP and the Medical Board of California in consultation with other appropriate entities and provide smoking cessation services, under certain conditions. (BPC § 4052.9)

21) Authorizes a pharmacist to refill a prescription for a dangerous drug or dangerous device without the prescriber's authorization if the prescriber is unavailable to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might interrupt the patient's ongoing care and have a significant adverse effect on the patient's well-being, subject to additional requirements. (BPC § 4064)

22) Authorizes a pharmacist to furnish up to a 12-month supply of an FDA-approved, self-administered hormonal contraceptive at the patient's request under protocols developed by the BOP. (BPC § 4064.5)

23) Prohibits the dispensing or furnishing of a dangerous drug or dangerous device on the internet for delivery to any person in this state without a prescription issued pursuant to a good faith prior examination of the patient. (BPC § 4067)

24) Requires records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices to be at all times during business hours open to inspection by authorized officers of the law, and preserved for at least three years from the date of making. (BPC § 4081)

25) Requires all records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the BOP to be retained on the licensed premises in a readily retrievable form and retained on the licensed premises for a period of three years from the date of making. (BPC § 4105)

26) Prohibits the BOP from issuing or renewing a pharmacy license to certain persons, including a person authorized to prescribe or write a prescription, or a person or persons with whom a person or persons authorized to prescribe or write a prescription shares a community or other financial interest in the permit license sought. (BPC § 4111)

27) Provides for the licensing of nonresident pharmacies and establishes specific requirements for a nonresident pharmacy license. (BPC § 4112)

28) Requires each pharmacy to designate a pharmacist-in-charge, subject to approval by the BOP, who is responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy. (BPC § 4113)

29) Requires a community pharmacy to report, either directly or through a designated third party, including a component patient safety organization, all medication errors to an entity approved by the BOP. (BPC § 4113.1)

30) Prohibits a community pharmacy from requiring a pharmacist employee to engage in the practice of pharmacy at any time the pharmacy is open to the public, unless either another employee of the pharmacy or, if the pharmacy is located within another establishment, an employee of the establishment within which the pharmacy is located, is made available to assist the pharmacist at all times. (BPC § 4113.5)

31) Requires a chain community pharmacy to be staffed at all times with at least one clerk or pharmacy technician fully dedicated to performing pharmacy-related services, except under specified conditions. (BPC § 4113.6)

32) Authorizes a pharmacy technician to perform packaging, manipulative, repetitive, or other nondiscretionary tasks only while assisting, and while under the direct supervision and control of, a pharmacist; holds the pharmacist responsible for the duties performed under their supervision by a technician. (BPC § 4115(a))

33) Additionally authorizes a pharmacy technician to, under the direct supervision and control of a pharmacist, prepare and administer influenza and COVID-19 vaccines via injection or intranasally, prepare and administer epinephrine, perform specimen collection for tests that are classified as waived under CLIA, receive prescription transfers, and accept clarification on prescriptions under specified conditions. (BPC § 4115(b))

34) Limits a pharmacy with only one pharmacist to no more than one pharmacy technician, and states that the total ratio of pharmacy technicians to any additional pharmacist shall not exceed 2:1. (BPC § 4115(g))

35) Authorizes a pharmacy technician trainee to be placed in a pharmacy to complete an externship for the purpose of obtaining practical training required to become licensed as a pharmacy technician. (BPC § 4115.5)

36) Requires a pharmacist at a hospital pharmacy to obtain an accurate medication profile or list for each high-risk patient upon admission of the high-risk patient under specified conditions. (BPC § 4118.5)

37) Requires every pharmacy to establish a quality assurance program that shall, at a minimum, document medication errors attributable, in whole or in part, to the pharmacy or its personnel. (BPC § 4125)

38) Requires clinics to retain a consulting pharmacist to approve policies and procedures and to certify in writing quarterly that the clinic is, or is not, operating in compliance with the requirements of the Pharmacy Law. (BPC § 4192)

39) Allows for a pharmacist to obtain a retired license from the BOP. (BPC § 4200.5)

40) Authorizes the BOP to deny an application for licensure if the applicant has been convicted of a crime or subjected to formal discipline that would be grounds for denial of a federal registration to distribute controlled substances. (BPC § 4202.6)

41) Authorizes a pharmacist to seek recognition as an advanced practice pharmacist if they meet certain education and training requirements. (BPC § 4210)

42) Establishes the process for a pharmacist to gain recognition as an advanced practice pharmacist. (BPC 4211)

43) Requires advanced practice pharmacists to complete 10 additional hours of continuing education each renewal cycle. (BPC § 4233)

44) Provides that the BOP shall take action against any licensee who is guilty of unprofessional conduct, with various specific examples provided. (BPC § 4301)

45) Authorizes the BOP to cancel, deny, revoke, or suspend a nonresident pharmacy registration, issue a citation or letter of admonishment to a nonresident pharmacy, or take any other action against a nonresident pharmacy that the BOP may take against a resident pharmacy license, on any of the same grounds upon which such action might be taken against a resident pharmacy, provided that the grounds for the action are also grounds for action in the state in which the nonresident pharmacy is permanently located. (BPC § 4303)

46) Subjects a licensed pharmacist to formal discipline for unprofessional conduct that includes acts or omissions that involve the following:

    a) Inappropriate exercise of their education, training, or experience as a pharmacist.

    b) The failure to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or the provision of services.

    c) The failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

    d) The failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

    (BPC § 4306.5)

47) Authorizes the BOP to bring an action for administrative fines up to $100,000 per violation for three or more violations of materially similar provisions of the Pharmacy Law within five years by three or more pharmacies operating under common ownership or management within a chain community pharmacy. (BPC § 4317.5(a))

48) Authorizes the BOP to bring an action against a chain community pharmacy operating under common ownership or management for fines not to exceed $150,000 for any violation of the Pharmacy Law demonstrated to be the result of a written policy or which was expressly encouraged by the common owner or manager. (BPC § 4317.5(b))

49) Provides that in an action brought by the BOP for increased penalties for repeat violations, it is a defense for the pharmacy to establish that the violation was contrary to a written policy that was communicated by the common owner or manager to all employees of the pharmacies where the violation occurred, or that any unlawful policies were corrected within six months of the violation. (BPC § 4317.5(d))

50) Specifies various fees and penalties that may be charged by the BOP to applicants and licensees. (BPC § 4400)

THIS BILL:

1) Extends the repeal date for the BOP and its authority to appoint an executive officer until January 1, 2030.

2) Requires the BOP to establish and appoint a Pharmacy Technician Advisory Committee to advise and make recommendations to the BOP on matters relating to pharmacy technicians.

3) Expressly provides that only the BOP has the authority to interpret and enforce the provisions of the Pharmacy Law regarding the practice of pharmacy and the licensing of pharmacists and pharmacies, that any violation of the Pharmacy Law shall be determined exclusively by the BOP, and that the BOP has sole authority to conduct investigations, hold hearings, and impose disciplinary actions for violations of the Pharmacy Law.

4) Further provides that no state agency other than the BOP may define or interpret the Pharmacy Law and its regulations for licensees of the BOP or develop standardized procedures or protocols pursuant to the Pharmacy Law unless authorized or required.

5) Changes the title “advanced practice pharmacist” to “advanced pharmacist practitioner.”

6) Authorizes pharmacy technician trainees to receive their training from an accredited employer-based pharmacy technician training program.

7) Requires all facilities licensed by the BOP to biannually complete a specified self-assessment process on a form approved by the BOP.

8) Defines “accepted standard of care” as the degree of care a prudent and reasonable pharmacist licensed pursuant to the Pharmacy Law, with similar education, training, experience, resources, and setting, would exercise in a similar situation.

9) Requires pharmacists to provide specified services and activities consistent with the accepted standard of care, including when authorizing the initiation of a prescription.

10) Repeals various statutes providing pharmacists with specific authority to perform certain services or functions and instead amends the Pharmacy Law to more broadly authorize pharmacists to perform various services and functions, subject to specified conditions, unless the pharmacist has made a professional determination that the pharmacist would not be able to perform the service or function properly or safely.

11) Requires an appropriate examination of a patient prior to the dispensing or furnishing of a dangerous drug or dangerous device on the internet for delivery to that patient, rather than a "good faith examination."

12) Requires pharmacies or outsourcing facilities to notify the BOP if they receive prescriptions for dispensing to patients from a telehealth platform, as defined, and requires the disclosure of any financial relationship between the pharmacy or outsourcing facility and the platform.

13) Expands the types of records that must be maintained by pharmacies to include staffing schedules, pharmacy personnel job duty statements, consultant reports, and policies and procedures related to pharmacy personnel and pharmacy operations.

14) Allows for paper records to be converted into a digital format and maintained in a noneditable digital format.

15) Clarifies the application of the prohibition against a person receiving a license from the BOP who shares a community or other financial interest with person authorized to prescribe or write a prescription.

16) Requires nonresident pharmacies to identify a California licensed pharmacist designated as the pharmacist-in-charge employed and working at the nonresident pharmacy and subjects nonresident pharmacies to inspections by the BOP.

17) Authorizes the pharmacist-in-charge to make the decision regarding how many pharmacy technicians may be working in the pharmacy and allows for up to four pharmacy technicians to be working in the pharmacy for each pharmacist working in the pharmacy.

18) Requires the BOP to adopt regulations to ensure that the judgment of the pharmacist-in-charge in making staffing decisions related to pharmacy technicians is not subjected to inappropriate pressure or coercion by the owner or management of the pharmacy.

19) Specifies that pharmacies are only required to report medication errors related to prescriptions dispensed to California residents.

20) Requires certain chain community pharmacies to be staffed with sufficient pharmacists with overlapping schedules when patient care services other than dispensing or immunizations are provided.

21) Requires a chain community pharmacy to post, in a prominent place for pharmacy personnel, a notice that provides information on how to file a complaint with the BOP.

22) Authorizes a pharmacy technician to perform compounding activities and administer vaccinations outside a licensed pharmacy under supervision.

23) Requires a pharmacist at a hospital pharmacy to obtain an accurate medication profile or list for each high-risk patient upon discharge in addition to admission.

24) Revises the process for restoring a retired license to active status.

25) Authorizes the BOP to deny an application for licensure if the applicant has been convicted of a crime involving fraud in violation of state or federal laws related to health care or a crime involving financial identify theft.

26) Authorizes the BOP to take action against a nonresident pharmacy on grounds that would not be grounds for action in the state in which the nonresident pharmacy is permanently located.

27) Revises the authority of the BOP to bring an action for increased fines against a chain community pharmacy for violations of the Pharmacy Law by allowing the BOP to demonstrate that the violation was expressly encouraged by any owner or manager.

28) Provides that it is a mitigating factor, not a defense, in an action for increased fines for a pharmacy to establish that the violation was contrary to a written policy, and requires that the pharmacy demonstrate compliance with that policy.

29) Extends the BOP's authority to bring an action for increased fines against certain pharmacies for repeat violations of the Pharmacy Law to allow for similar actions to be brought against mail order pharmacies.

30) Defines "medically underserved area" for purposes of the Pharmacy Law as a location that does not have a physical pharmacy that provides in-person patient care services by a pharmacist and that serves the general public within 50 road miles of an existing pharmacy.

31) Requires the BOP to waive the application fee, and authorizes the BOP to waive the renewal fee, for a pharmacy that opens or maintains a physical pharmacy operating and located in a medically underserved area.

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

COMMENTS:

Purpose. This bill is the sunset review vehicle for the California State Board of Pharmacy, authored by the Assembly Committee on Business and Professions. The bill extends the sunset date for the BOP and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during the BOP's sunset review oversight process.

Background.

Sunset review. In order to ensure that California's myriad professional boards and bureaus are meeting the state's public protection priorities, authorizing statutes for these regulatory bodies are subject to statutory dates of repeal, at which point the entity "sunsets" unless the date is extended by the Legislature. The sunset process provides a regular forum for discussion around the successes and challenges of various programs and the consideration of proposed changes to laws governing the regulation of professionals. Currently, the sunset review process applies to approximately three dozen different boards and bureaus under the Department of Consumer Affairs, as well as the Department of Real Estate and three nongovernmental nonprofit councils.

On a schedule averaging every four years, each entity is required to present a report to the Legislature's policy committees, which in return prepare a comprehensive background paper on the efficacy and efficiency of their licensing and enforcement programs. Both the Administration and regulated professional stakeholders actively engage in this process. Legislation is then subsequently introduced extending the repeal date for the entity along with any reforms identified during the sunset review process.

California State Board of Pharmacy. The BOP is the regulatory body within the Department of Consumer Affairs responsible for overseeing the practice of pharmacy in California. The BOP is currently estimated to regulate over 50,700 pharmacists, 1,300 advanced practice pharmacists, 4,400 intern pharmacists, and 65,700 pharmacy technicians across a total of 32 licensing programs. In addition to regulating professionals, the BOP oversees and licenses pharmacies, clinics, wholesalers, third-party logistic providers, and automated drug delivery systems.

Issues Raised during Sunset Review. The background paper for the BOP's sunset review oversight hearing contained a total of 32 issues and recommendations, each of which is eligible to result in statutory changes enacted through the BOP's sunset bill.[1]

Board Member Expertise. Issue #1 in the sunset background paper for the BOP discussed whether existing law governing the membership composition of the BOP be amended to include a pharmacy technician. In addition to overseeing the licensure of pharmacists, the BOP is also responsible for regulating pharmacy technicians. However, the professional membership of the BOP currently only includes pharmacists. In 2017, Senate Bill 716 (Hernandez) proposed to add a pharmacy technician member to the BOP, along with an additional public member, but this bill encountered opposition and failed to pass. Other healing arts boards are often allotted one or two appointments for associated licensed auxiliaries and allied professionals; it may be worthy of consideration that a technician be added to the current Board to ensure that it is conscious of distinct issues impacting that occupation.

This bill would not add a pharmacy technician to the BOP. Instead, it would require the BOP to establish and appoint a Pharmacy Technician Advisory Committee to advise and make recommendations to the BOP on matters relating to pharmacy technicians. The committee would serve only in an advisory capacity to the BOP and the objectives, duties, and actions of the committee would not be a substitute for, nor conflict with, any of the powers, duties, and responsibilities of the BOP. The intent of this bill in establishing the committee would be to ensure that pharmacy technicians have a voice in BOP decision-making, even if they do not have a member on the BOP itself.

Advanced Practice Pharmacists. Issue #4 in the sunset background paper for the BOP discussed whether the license classification established for pharmacists authorized to provide additional services should be retitled to better reflect the practice. In 2013, Senate Bill 493 was signed into law in 2013, creating a new license type under the BOP known as the "advanced practice pharmacist." This class of highly educated and trained health care professionals is intended to further the role of pharmacists in providing direct patient care, and advanced practice pharmacists are authorized to perform additional procedures often unavailable in many parts of the state. To implement the bill, the BOP adopted regulations setting training and certification requirements for advanced practice pharmacists.

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[1] https://abp.assembly.ca.gov/media/1231

Historically, fewer individuals successfully applied to become advanced practice pharmacists than anticipated. During the BOP's most recent sunset review, the Committees solicited recommendations from the BOP on ways to address unnecessarily complicated or onerous qualifications and overly limited independence in practice. The BOP proposed language to recast the requirements for licensure as an advanced practice pharmacist, which was incorporated into its sunset bill. Over the years since the effective date of that legislation, the number of advanced practice pharmacists in California has grown from 871 in FY 2020-21 to 1,383 as of September 2024.

As the state's population of advanced practice pharmacists grows, the BOP has suggested that current terminology used to describe these professionals does not appropriately reflect their ability to engage in advanced health care functions. Specifically, the BOP recommends retitling the license category to "Advanced Pharmacist Practitioner." While largely a technical change, this update would arguably enhance the accuracy of statute and help elevate these professionals as advanced health care providers. This bill would make that change.

Ownership Prohibitions. Issue #7 in the sunset background paper for the BOP considered whether provisions of the Pharmacy Law prohibiting the BOP from issuing a pharmacy license to a person with specified financial interests should be clarified. The Pharmacy Law prohibits the BOP from issuing or renewing a pharmacy license to an individual authorized to prescribe; a person who shares a community or other financial interest with a prescriber; or to any corporation that is controlled by 10 percent or more of stock owned by a person or persons prohibited from pharmacy ownership. In its report to the Committees, the BOP notes that because California is a community property state, property acquired by either spouse during a marriage is presumed to be equally owned by both spouses. This has raised questions of how the ownership interest prohibition applies when an applicant's or licensee's spouse is a prescriber or other prohibited person, including in cases where a prenuptial or postnuptial agreement exists.

As the BOP's application and assessment process has evolved in response to changes in the ownership assessment process, Board staff began looking deeper into the financial arrangements between the applicant spouse and the prescriber spouse and came to the realization and understanding that pre- or post-nuptial agreements would not necessarily resolve the issue of having a community or financial interest in the pharmacy. As explained by the BOP, the sole focus on the financial aspects of the property does not take into account policy considerations such as financial incentives for a prescriber to direct prescriptions to their spouse's pharmacy, or pharmacists exercising their duty of corresponding responsibility and whether that duty would be impacted when reviewing a prescription written by a pharmacist's spouse or the spouse's practice group. The BOP has proposed amendments to the Pharmacy Law to clarify provisions relevant to this subject consistent with this analysis, which this bill includes.

Retired Pharmacist License. Issue #8 in the sunset background paper for the BOP discussed whether the process for restoring a retired pharmacist license is unnecessarily burdensome. The Pharmacy Law provides for pharmacists to have their license placed on a retired status. Retired licensees are not authorized to engage in any activity for which an active license is required. Under the current requirements, the holder of a retired pharmacist license may only restore their license to an active status after passing the pharmacist licensure examination required for initial licensure.

In recent discussions, the BOP determined that the requirements to restore a retired pharmacist license to active status were actually more burdensome than the requirements for a pharmacist whose license is lapsed for nonrenewal, or those seeking to reactivate their inactive pharmacist license. Seeking to address this inequity, and to establish a less burdensome manner for recently retired pharmacists to restore their pharmacist license, the BOP has identified changes to pharmacy law that provides parity for restoring a retired pharmacist license through completion of continuing education and payment of a fee, which are included in this bill.

Fair Chance Licensing Act. Issue #9 in the sunset background paper for the BOP considered whether provisions of law enacted through Assembly Bill 2138 (Chiu/Low) in 2018 should be amended to establish additional acts as cause for denial of a license by the BOP. Under AB 2138 an application may only be denied on the basis of prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing board. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as financial crimes for certain boards. Among other provisions, the bill additionally requires each board to report data on license denials, publish its criteria on determining if a prior offense is substantially related to licensure, and provide denied applicants with information about how to appeal the decision and how to request a copy of their conviction history. These provisions went into effect on July 1, 2020.

During its prior sunset review, the BOP requested that a list of additional crimes be exempted from the seven-year washout provided in the Fair Chance Licensing Act, but this language was not included in its sunset bill. The BOP is once again requesting broader discretion to deny an application for licensure, specifically requesting that it have latitude to consider the following acts as disqualifying:

1. An act involving fraud in violation of state or federal laws related to healthcare, e.g. Medi-Cal or Medicare billing fraud, etc.

2. Conviction of a crime involving financial identity theft.

3. An act of dishonesty related to academic institutions or attempts to subvert examinations, even where convictions do not occur, or subsequent dismissal is provided.

4. Acts involving serious or repeated use of a controlled substance or alcoholic beverages to the extent or manner as to be dangerous or injurious to themselves or others.

Accompanying its request, the BOP has provided specific examples of cases where applicants were determined to have engaged in serious misconduct but the BOP lacked the authority to deny a license. The Legislature's intent in enacting the Fair Chance Licensing Act reflected a cogent desire to expand economic opportunity for individuals with prior criminal histories as a means of facilitating rehabilitation. However, the Committees considered the BOP's request to allow for additional acts to be considered for purposes of disqualifying applicants for licensure, and included two additional causes for disqualification of a license in this bill, allowing for a license to be denied because the applicant was previously convicted of either a crime involving fraud in violation of state or federal laws related to health care or a crime involving financial identify theft.

Pharmacy Technician Trainees. Issue #10 in the sunset background paper for the BOP discussed whether accredited employer-based training programs should be included in the licensure pathway utilized by pharmacy technician trainees. Currently, the Pharmacy Law provides for several different pathways to licensure as a pharmacy technician, including through completion of a training program. The Pharmacy Law defines a "pharmacy technician trainee" as a person who is enrolled in a pharmacy technician training program. Under current law, these programs must be operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary Education.

The BOP states that as part of its ongoing review and evaluation of the pharmacy technician licensing program, the BOP has received presentations from various pharmacy technician training program providers describing the requirements for their respective certification or accreditation programs that provide a pathway to licensure for individuals seeking licensure as a pharmacy technician. However, the BOP has determined that the current definition of pharmacy technician trainee is too limited, arguing that individuals completing an accredited employer-based training program should also be able to gain experience as a trainee to obtain practical experience. The BOP has proposed updates to the law that it believes could increase learning and training opportunities while also reducing a potential barrier to entry for individuals seeking licensure as pharmacy technicians, which are included in this bill.

Pharmacies Operating Under Common Ownership. Issue #11 in the sunset background paper for the BOP inquired as to whether the BOP had effectively utilized its new authority to take more robust enforcement action against the owners and operators of pharmacies under common ownership and control for system-wide violations of law. Historically, the Pharmacy Law holds each pharmacy and its pharmacist-in-charge responsible for operations at the individual site, even if that pharmacy is part of a larger chain. However, in many cases, administrative or disciplinary action at an individual store may be the result of policies set at a corporate level. During the BOP's most recent sunset review, the Committees considered whether the BOP should be better empowered to take enforcement action against the owners and operators of pharmacies under common ownership and control for system-wide violations of law.

Subsequently, the BOP's sunset bill was amended to include language authorizing the BOP to bring an action for increased civil penalties for repeated violations of the Pharmacy Law by one or more chain community pharmacies operating under common ownership or management. Additionally, the bill authorized the BOP to bring an action against a pharmacy operating under common ownership or management for civil penalties not to exceed $150,000 for any violation of the Pharmacy Law demonstrated to be the result of a policy or which was otherwise encouraged by the common owner or manager. The provisions of this bill went into effect on January 1, 2022.

Since enactment of these provisions, the BOP reports that it has issued 195 citations under this new authority. Implementation of the provisions has been discussed on an annual basis as part of the BOP's Enforcement and Compounding Committee. Most recent data for FY 2023-24 indicates that the BOP issued 115 citations. Fines issued range based on a variety of factors including the seriousness of the violation, prior history of the specific pharmacy license, license history of pharmacies under common control where the same violation may have occurred, and other factors. The BOP reports that the vast majority of the citations issued by the BOP under this authority are appealed.

The BOP states that it has experienced some challenges in utilizing the authority granted in its most recent sunset bill, including what appears to be attempts to apply the law inconsistent with the policy goals of the legislation. The BOP has suggested amendments to the language to ensure the BOP's regulated public has a clear understanding of the obligations on both the BOP and on licensees when issuing citations pursuant to these provisions, to remove duplicative language, and to ensure consistency in the terms used throughout the Pharmacy Law. The BOP provided language to this effect, some of which has been included in this bill.

Standard of Care Model for Pharmacy Practice. Issue #12 in the sunset background paper for the BOP discussed whether the practice of pharmacy should transition to a standard of care model. During the BOP's prior review, the Committees discussed whether there should be consideration of the BOP transitioning to a standard of care model in its enforcement activities. A number of healing arts boards are granted a substantial amount of flexibility in investigations when determining whether a licensee should be subject to discipline. Rather than enforcing strict adherence to codified practice requirements, boards may instead focus on the question of whether a licensee followed the "standard of care" and acted reasonably under the circumstances as a trained professional.

Representatives of the profession have advocated that a similar model should be enacted for the BOP in regards to its actions against its licensees. During its prior sunset review, it was determined that the BOP currently employed 56 licensed pharmacists who assisted with investigations as professional experts; therefore, it was argued that something resembling the standard of care is already applied when the BOP is determining whether an investigation should result in an action for discipline. The BOP's sunset bill was ultimately amended to require the BOP to convene a workgroup of interested stakeholders to discuss whether moving to a standard of care enforcement model would be feasible and appropriate for the regulation of pharmacy.

The BOP established a Standard of Care Ad Hoc Committee, which convened seven meetings and subsequently submitted a report to the Legislature with its findings and recommendations. The BOP concluded that California patients would benefit from pharmacists gaining additional independent authority to provide patient care services, not limited to the traditional dispensing tasks performed at licensed facilities, consistent with their respective education, training, and experience. The BOP further recommended revisions to certain provisions detailing a pharmacist's authorized scope of practice for specified clinical patient care services and transition to a standard of care model for specified patient care services, where sufficient safeguards are in place to ensure pharmacists retain autonomy to utilize professional judgment in making patient care decisions. Under those conditions, the BOP believes that transitioning to greater use of a standard of care model in the provision of specified patient care services could benefit patients by providing expanded and timely access to patient care.

The BOP's Licensing Committee has developed language, which is currently included in this bill, in consultation with stakeholders over a series of public meetings to effectuate the BOP's recommendations. The legislative proposal seeks to transition many provisions of pharmacist care to a standard of care model in lieu of the current prescriptive model established. As an example, under the BOP's proposed language, a pharmacist would retain the ability to provide hormonal contraception, but would follow a standard of care approach, in lieu of following prescriptive rules established in the BOP's regulation.

Some stakeholders have raised concerns about pharmacists' ability to maintain sufficient autonomy in some community pharmacy settings, while others have raised potential issues with the proposed authority for pharmacists to provide additional services. The BOP believes its proposal strikes a balance by creating an option for pharmacists to perform services, while maintaining current provisions to allow for such services to be performed under a collaborative practice agreement. The BOP further argues that the language underscores a pharmacist's self-determination in deciding what services they are appropriately educated and trained to perform. The BOP believes this approach is like other health care professions, such as physicians that, under the law, can perform all functions for which they possess the requisite education and training to perform.

Self-Assessment Processes. Issue #13 in the sunset background paper for the BOP discussed whether self-assessment should be more consistently required for licensees of the BOP. As explained by the BOP in its report to the Committees, the BOP requires completion of a self-assessment form for a number of its licensed businesses as a means to promote self-evaluation and compliance through self-examination and education. These self-assessment forms include a compilation of relevant laws applicable to the license type—for example, community pharmacy, hospital pharmacy, sterile compounding license, surgical clinic, and so forth. In each instance, the law establishes the process to be followed, the frequency with which the self-assessment must be completed, and the required signatories of the form.

The BOP states that it believes the self-assessment process is an important tool and it believes requirements should apply to all facility license types issued by the BOP. Currently the BOP's self-assessment requirements are in various provisions of pharmacy law and regulations. The BOP is proposing to centralize the self-assessment requirement into statute to ensure consistency in the BOP's approach to promoting self-compliance, which is included in this bill.

Nonresident Pharmacies. Issue #14 in the sunset background paper for the BOP considered whether new requirements for nonresident pharmacies would aid in the BOP's efforts to ensure compliance with California law. The Pharmacy Law provides that any pharmacy located outside of California that ships, mails, or delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into California is considered a nonresident pharmacy. These pharmacies must obtain a license from the BOP. During recent public meetings, the BOP has expressed concern about whether these pharmacies adequately understand California requirements, and whether there is adequate oversight by the BOP.

Under current law, while a nonresident pharmacy is required to hold a nonresident pharmacy license issued by the BOP, neither the pharmacist-in-charge or other pharmacists are required to be licensed in California. The BOP argues that this stands in contrast to many other states which require such licensure. In addition, the BOP has expressed concern about actions taken in a few jurisdictions to waive examination requirements for pharmacists. Through the BOP's discussion, members expressed concerns about the BOP's current inability to perform inspections at nonresident pharmacies and the disparity this creates. Members also expressed concern that a pharmacist-in-charge of a nonresident pharmacy has not established minimum competency with California law yet is responsible for operational and legal compliance with California pharmacy law.

In response to these concerns, the BOP has proposed several changes to the Pharmacy Law that are included in this bill, including the addition of the following requirements:

1. Require the pharmacist-in-charge of a nonresident pharmacy to be licensed in California.

2. Require the BOP to conduct inspections at nonresident pharmacies at least once every four years as a condition of renewal.

3. Require pharmacists providing services to California patients to meet minimum examination requirements.

4. Clarify that nonresident pharmacies are required to comply with California law.

Mail Order Pharmacies. Issue #15 in the sunset background paper for the BOP discussed whether the BOP should be provided with increased fine authority for mail order pharmacies engaged in a pattern of repeated violations of the law. As described by the BOP in its report to the Committees, mail order pharmacies offer insurers and patients a different option to provide pharmacy care. The BOP believes that while there are benefits to this pharmacy model, it also creates unique challenges in meeting patient care issues. The BOP also notes a significant number of investigations involving mail order pharmacies, where patients are required to use such services in lieu of the pharmacy of their choice at the direction of their health insurer or face higher costs. Faced with this, many patients accept the payor-driven pharmacy model and use the services of a mail order pharmacy to receive their prescription medications.

The BOP has some regulations governing mail order pharmacies which seek to ensure patients have ready access to a pharmacist and which impose threshold requirements for patients to receive patient consultations. However, the BOP reports that it has received a significant number of complaints specifically related to mail order pharmacies, including delays in therapy and concerns about storage of medications throughout the shipping and delivery process. Mail order pharmacies arguably create unique challenges for patients attempting to resolve issues in part because of difficulties speaking with a pharmacist.

Under the BOP's current authority, the maximum fine the BOP can assess is $5,000 per investigation. The BOP argues the current $5,000 maximum fine amount has not been sufficient to bring about changes in the practice to align with legal requirements, similar to challenges previously faced in pursuing enforcement against pharmacies operating under common ownership by major corporate chains that resulted in language in its previous sunset bill. The BOP is requesting similar enhanced enforcement authority where it can demonstrate a pattern of similar violations over a period of time. Language providing for enhanced enforcement authority is included in this bill.

Online Health Platforms. Issue #16 in the sunset background paper for the BOP discussed whether the BOP has sufficient authority to ensure that telehealth platforms are not potentially violating existing anti-kickback provisions. As new telehealth technologies have emerged in recent years, the Committees have routinely sought to balance consumer convenience and increased access to care with the potential risks of harm that may be associated with patients receiving less direct, in-person care from providers. In its report to the Committees, the BOP states that it has become aware of telehealth platforms that steer patients to a pharmacy owned and operated by the telehealth platform. At a minimum, this practice potentially violates the intent of the anti-kickback statute prohibiting offering or receiving any remuneration to induce referrals for services.

The BOP has expressed concerns over the fact that telehealth platforms may not have full visibility into the patient's history, including underlying medical conditions, and medication use, including over-the-counter and prescription medications. The BOP is concerned that this can lead to contraindications and duplication in therapies being overlooked, placing patients at risk. The BOP has stated its belief that, at a minimum, patient protection must be addressed to avoid potential patient steering or other violations of anti-kickback provisions. While the BOP is likely not the appropriate entity to engage in larger scale oversight of telehealth platforms, it does believe that statutory changes would enhance its ability to oversee pharmacies that are involved in this business practice, including a notification requirement to the BOP. The BOP's proposal is included in this bill.

Payor Activities. Issue #17 in the sunset background paper for the BOP considered whether the BOP should be empowered to enforce additional prohibitions and requirements on pharmacy benefit managers and other payors. Part of this discussion related to information provided by the BOP that some payors, as part of their audit process, claw back payments based on a determination by the auditor that the pharmacy has violated the Pharmacy Law or has otherwise not met requirements the payor believes are appropriate. The BOP provided the Committees with several examples, such as instances involving pharmacies that dispense HIV postexposure prophylaxis, which is a 28-day treatment but often sold by drug manufacturers in a 30-day supply. When payors claw back payments based on unavoidable, technical, or disputable violations of the law in the opinion of the payor, pharmacies may ultimately pay for the patient's medication without any reimbursements. The BOP argues that such a business model is neither fair nor sustainable.

The BOP believes that many of these payor practices are placing patients at risk and are resulting in the closures of pharmacies, creating pharmacy deserts and barriers to care. The BOP asks that these issues be addressed to protect patients and ensure patients have access to pharmacist care in all communities. The BOP has recommended a number of statutory changes to address these issues; some of that language, pertaining to the BOP's exclusive right to enforce the Pharmacy Law, have been included in this bill.

Medication-Assisted Treatments. Issue #18 in the sunset background paper for the BOP considered whether a statewide protocol is necessary for pharmacists to safely provide non-opioid medication for treatment of opioid use disorder. Statute allows for pharmacists to furnish certain medications directly to a patient, including self-administered hormonal contraceptives, nicotine replacement products, and preexposure and postexposure prophylaxis. During the BOP's prior sunset review, the Committees considered whether to establish similar authority for pharmacists to directly furnish non-opioid medication-assisted treatment (MAT) to patients pursuant to a statewide protocol. MAT is the use of medications, in combination with counseling and behavioral therapies, to treat substance use disorders. While some forms of MAT are themselves a type of opioid, other forms of MAT do not contain opioids.

Ultimately, the BOP's sunset bill was amended to include language authorizing pharmacists to provide non-opioid MAT, pursuant to a statewide protocol. However, the BOP reports that there have been challenges to achieving the benefits of this authority. The BOP reports that delays in the rulemaking process have hampered implementation of the provisions. Additionally, the BOP has stated that it believes MAT to be an outdated term, and that the term "medication assisted treatment" should be replaced with the term "medication for treatment of opioid use disorder." This bill would make that change in the terminology used in the Pharmacy Law.

Pharmacist to Pharmacy Technician Ratio. Issue #19 in the sunset background paper for the BOP discussed whether provisions of the Pharmacy Law restricting the number of pharmacy technicians that may be utilized at a pharmacy relative to the number of pharmacists should be amended. The Pharmacy Law authorizes pharmacies to employ pharmacy technicians, who assist pharmacists by performing "packaging, manipulative, repetitive, or other nondiscretionary tasks only while assisting, and while under the direct supervision and control of, a pharmacist." Current law limits the number of pharmacy technicians that may work in a pharmacy at any given time relative to the number of pharmacists working in the pharmacy at that time. Specifically, the Pharmacy Law provides that "a pharmacy with only one pharmacist shall have no more than one pharmacy technician"—however, if more than one pharmacist is working in the pharmacy, that ratio increases to allow up to two pharmacy technicians per pharmacist.

The pharmacist to pharmacy technician ratio does have some exceptions. The ratio does not apply to certain practice settings, including an inpatient of a licensed health facility, a patient of a licensed home health agency, an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and to persons receiving treatment in a facility operated by the Department of State Hospitals, the Department of Developmental Services, or the Department of Veterans Affairs. The BOP is authorized to adopt regulations establishing a greater ratio applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency.

Additionally, if a pharmacy technician is only performing clerical functions, they are not counted toward the ratio. Finally, Assembly Bill 1286 (Haney) allows pharmacy technicians who have received additional training to perform additional functions, such as administering vaccines or collecting specimens for certain lab tests. If a pharmacy technician is performing these advanced tasks in the pharmacy, a second pharmacy technician is both authorized and required to assist the pharmacist.

For a number of years, representatives of chain community pharmacies have advocated to change the ratio restrictions to allow for more pharmacy technicians to assist pharmacists in their pharmacies. In 2017, Assembly Bill 1589 (Bocanegra) was amended to increase the ratio from 1:1 to 4:1, but the bill failed to pass out of the Assembly. A similar proposal was introduced in 2018 through Senate Bill 1286 (Pan), which was not subsequently heard in committee. The following year, Senate Bill 617 (Glazer) proposed to increase the ratio to 3:1, subject to an agreement between the pharmacy employer and the labor organization representing its pharmacists; this bill was held on the Senate Appropriations Committee's suspense file. Most recently, Senate Bill 1365 (Glazer) was introduced to increase the ratio to 6:1, but this bill also failed to pass out of the Senate, even after being amended down to a 4:1 ratio.

Despite ongoing concerns from representatives of practicing pharmacists about insufficient staffing in community pharmacies, there has been opposition to increasing the pharmacy technician ratio in these settings out of fear that pharmacies would displace their pharmacist workforce with additional pharmacy technicians. Concerns have also been raised about requiring overworked pharmacists to supervise additional personnel. However, supporters of an expansion of the ratio argue that California continues to have one of the most restrictive pharmacist to pharmacy technician ratios in the country, with over half of all states in the country allowing four or more pharmacy technicians per pharmacist. Meanwhile, the National Association of Boards of Pharmacy has recommended the eliminations of ratios entirely.

In March 2024, the BOP released a survey that solicited feedback on the current ratio requirements in both the outpatient and inpatient pharmacy settings, receiving over 4,510 responses from pharmacists. According to the BOP, the survey results revealed consensus among pharmacists, irrespective of their role within the pharmacy, that the current 1:1 ratio is not appropriate. The BOP further concluded from the survey data that, in the outpatient setting, the majority of respondents believe that a ratio of one pharmacist to two pharmacy technicians (1:2) is appropriate.

Following its analysis of the survey results, the BOP discussed a proposal to expand the pharmacist to pharmacy technician ratio, which it included in its report to the Committees. Specifically, the BOP recommended language that would authorize the BOP to adopt regulations establishing, for different community pharmacy practice settings, a ratio different than what the Pharmacy Law currently allows. This bill does not include that language, but would instead authorize the pharmacist-in-charge to determine the appropriate number of pharmacy technicians that should be working in the pharmacy, within an increased maximum ratio of four pharmacy technicians working per pharmacist. The BOP would additionally be required to adopt regulations to ensure that the judgment of the pharmacist-in-charge in making that decision is not subjected to inappropriate pressure or coercion by the owner or management of the pharmacy.

Pharmacy Technicians Compounding Outside a Pharmacy. Issue #20 in the sunset background paper for the BOP considered whether pharmacy technicians should be authorized to perform specified tasks outside a pharmacy setting. The Pharmacy Law specifies that a pharmacy technician is an individual who assists a pharmacist "in a pharmacy." However, the BOP states that it is aware of many instances in which an individual who possesses a pharmacy technician license is hired by a prescriber to perform compounding outside of a pharmacy, including in unlicensed settings such as hydration clinics and wellness spas. Although the BOP does not generally license these locations, consistent with the BOP's authority, inspector staff have inspected such practices and noted significant deviations from the national compounding standards in violation of federal law.

The BOP has expressed its grave concern about these deviations and the potential for harm to patients. The BOP provided multiple examples of deviations, including using nonsterile ingredients and repacking the nonsterile ingredient, adding water, and then labeling the end product as a sterile injectable product. Another provided example of serious patient harm included a pharmacy technician who was working in a pain management clinic compounding non-sterile to sterile compounded preparations for intrathecal injection in an unsafe environment and in an unsafe matter.

While the BOP states that pharmacy technicians play an integral role in assisting pharmacists with performing their duties, it notes that they only do so under the direct supervision and control of a pharmacist. In the BOP's review and assessment of the various locations where a pharmacy technician is working outside of a pharmacy, it is concerned that no such direct supervision and control of the pharmacy technician's practice appears to occur. In response to these concerns, the BOP is recommending an amendment to the Pharmacy Law to provide authority for a pharmacy technician to work outside of a pharmacy, providing that such practice can only be undertaken under the direct supervision and control of a pharmacist. This bill includes the language recommended by the BOP.

Digital Recordkeeping. Issue #22 in the sunset background paper for the BOP discussed whether licensees should be authorized to meet recordkeeping requirements by converting paper records to an electronic format and preserving them digitally. As explained by the BOP in its report to the Committees, the Pharmacy Law requires the maintenance of records for three years from the date of making. Depending on the size of a facility, storage of paper records may become challenging. Licensees are seeking a means to convert paper records to an electronic format. The BOP believes preservation of records in an electronic or digitized manner is appropriate, if the entity ensures that the records cannot be edited from the original version. This bill would effectuate that recommendation.

Health System Pharmacies. Issue #26 in the sunset background paper for the BOP considered whether there should be greater distinction in the Pharmacy Law between community pharmacies and health system pharmacies. Historically, the various provisions of the Pharmacy Law are generally applicable to the practice of pharmacy in most settings, regardless of whether medication is being dispensed at a local retail store or within a hospital. Various requirements have traditionally not applied when medication is dispensed as part of inpatient care, and recently-enacted legislation, specifically related to workforce conditions, has specified their applicability to community pharmacies. However, there are still a number of provisions that apply equally to health system settings and community pharmacy settings, and some of these provisions may not be an appropriate "one size fits all" solution to patient protection.

As new proposals are introduced in the Legislature, the Committees determined that it may be appropriate to evaluate whether they are appropriately tailored in their applicability. Currently, no language is included in this bill to that effect. However, this bill does incorporate one recommendation from the BOP, which would be to require a pharmacist at a hospital pharmacy to obtain an accurate medication profile or list for each high-risk patient upon discharge of the high-risk patient under the conditions that currently require that action upon admission.

Pharmacy Deserts. Issue #27 in the sunset background paper for the BOP discussed whether the BOP should waive application fees for pharmacies seeking to operate in a medically underserved area. As frequently discussed in this committee, California has long faced significant gaps and inequities in its health care workforce. There has historically been a persistent shortage of accessible health professionals overall, which disproportionately impacts 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. Meanwhile, counties with a higher proportion of minorities saw a decline during that period.

In response to these challenges, policymakers have repeatedly turned to pharmacists to help fill the provider gap in parts of the state where primary care providers can be inaccessible but local pharmacies are more readily available. Exercising their training and judgment, pharmacists are often relied upon to administer vaccines, furnish time sensitive medication like hormonal contraception and HIV prevention drugs, and ensure that there is no delay in care. However, the BOP reports that there are still parts of the state where even pharmacies can be difficult to access. According to the BOP, there has been over a 117 percent increase in community chain pharmacy closures over the last three years; over that same time, the overall licensee population of pharmacies has also been reduced by seven percent.

The BOP estimates that there are over 100 "pharmacy deserts" in California, which the BOP proposes to define as a medically underserved area that does not have a physical pharmacy within 50 road miles. The BOP is proposing to waive the license fees associated with opening a new brick-and-mortar pharmacy in a pharmacy desert. Further, the BOP is proposing to use dedicated staff to serve as an ombudsperson to assist the pharmacy owner with pharmacy application requirements. The BOP's proposal, which is included in this bill, would allow pharmacies established in the pharmacy deserts to operate without paying fees to the BOP until such time as more than two pharmacies conduct business in the underserved area.

Stop Dangerous Pharmacies Act. Issue #29 in the sunset background paper for the BOP questioned whether, as the BOP works to implement the provisions of Assembly Bill 1286 (Haney), it identified the need for clarifying or corrective amendments. In 2023, the Legislature enacted Assembly Bill 1286 (Haney), which was sponsored by the BOP and established a number of new requirements aimed at increasing worker and patient safety at community pharmacies. Among other provisions, the bill authorized pharmacists-in-charge to make staffing decisions in a pharmacy; required a pharmacist-in-charge or pharmacist on duty to notify store management of any conditions that present an immediate risk of death, illness, or irreparable harm, and required store management to take action to address and resolve those conditions, and authorized the BOP to close a pharmacy if the conditions aren't resolved; and required a chain community pharmacy to be staffed with at least one clerk or pharmacy technician fully dedicated to performing pharmacy-related services. The bill also authorized pharmacy technicians with specified training to perform additional tasks under supervision, including administering influenza and COVID-19 vaccines and epinephrine and performing specimen collection for laboratory tests.

The BOP reports that, as it has moved forward with implementation of Assembly Bill 1286, it has received public comments from interested stakeholders suggesting that clarification is needed on authorized tasks for pharmacy technicians, specifically those related to the transfer of prescriptions. In addition, stakeholders have reportedly requested changes to clarify some of the current requirements for these specially trained pharmacy technicians. This bill would make some of those changes, along with others recommended by the BOP to aid in its implementation and enforcement of the bill.

No Pharmacist Left Alone Law. Issue #30 in the sunset background paper for the BOP inquired as to whether the BOP's access to records needs to be strengthened to allow for effective enforcement of Senate Bill 1442 (Wiener). The Legislature enacted Senate Bill 1442 (Wiener) in 2018, which prohibited a community pharmacy from requiring a pharmacist employee to engage in the practice of pharmacy at any time the pharmacy is open to the public, unless another employee is made available to assist the pharmacist at all times. SB 1442's findings and declarations cited reports that "licensed pharmacists are left alone for indeterminate periods of time in the pharmacy and are, simultaneously, required by such establishments to perform nonpharmacist functions such as staffing cash registers and assisting consumers in purchasing prescriptions, groceries, and other nonpharmacy goods." The bill was intended to ensure minimum staffing at community pharmacies to ensure that pharmacists have the time and resources "to perform their licensed functions safely and lawfully, exercise their professional discretion, and comply with their legal and ethical obligations to protect the health and well-being of patients."

Following the completion of the BOP's rulemaking to implement the bill, it reports that it has received a number of allegations of non-compliance with the legal requirements regarding pharmacy operations, including staffing requirements and quota prohibitions. The BOP reports that investigating these complaints has been challenging in part because some pharmacies refuse to provide the BOP with records requested because they allege the records sought go beyond the specific types of records expressly found in statute. The BOP indicates that such challenges create barriers to conducting complete and timely investigations.

To address these challenges, the BOP is proposing updates to the Pharmacy Law contained in this bill to explicitly state that additional records must be maintained and made available to the BOP upon request. The types of records would include job duty statements, which would confirm whether an individual meets the requirements of the BOP's regulation; staffing schedules that would demonstrate compliance with staffing requirements and performance metrics; and training records that confirm an individual meets the requirements to perform specified tasks, among other records. The BOP argues that clear access to these records will aid in its implementation and enforcement of Senate Bill 1442 to ensure that its intent is achieved.

Technical Cleanup. Issue #31 in the sunset background paper for the BOP noted that the BOP should recommend cleanup amendments for inclusion in its sunset bill. As requested, the BOP provided a series of suggested amendments. This bill contains a number of those technical changes recommended by the BOP.

Continued Regulation. Issue #32 in the sunset background paper for the BOP posed the traditional question of whether the licensing of pharmacy professionals should be continued and be regulated by the BOP. In consideration of the BOP's critical public protection mission in its regulation of the pharmacy profession in California, the Committees determined that the BOP's repeal date should likely be extended for an additional term. This bill would extend the BOP's sunset date by four years.

Current Related Legislation. AB 1501 (Committee on Business and Professions) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in this committee.*

AB 1502 (Committee on Business and Professions) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in this committee.*

AB 1504 (Committee on Business and Professions) is the sunset bill for the California Massage Therapy Council. *This bill is pending in this committee.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. AB 1286 (Haney), Chapter 470, Statutes of 2023 authorized a pharmacist-in-charge to make staffing decisions in a pharmacy and made a number of other changes to the Pharmacy Law.

SB 524 (Caballero) of 2023 would have authorized a pharmacist to furnish prescription medications pursuant to the result from a test performed by the pharmacist that is used to guide diagnosis or clinical decisionmaking. *This bill died on the Senate Committee on Appropriations suspense file.*

SB 523 (Leyva), Chapter 630, Statutes of 2022 established the Contraceptive Equity Act of 2022, which required a health plan or insurer to provide point-of-sale coverage for over-the-counter FDA-approved contraceptive drugs at in-network pharmacies without cost-sharing.

AB 1533 (Committee on Business and Professions), Chapter 629, Statutes of 2021 extended the sunset date for the BOP until January 1, 2026 and made additional technical changes, statutory improvements, and policy reforms in response to issues raised during the BOP's sunset review oversight process.

SB 362 (Newman), Chapter 334, Statutes of 2021 prohibited a community pharmacy from establishing quotas to numerically measure or evaluate a pharmacist or pharmacy technician's performance of duties requiring a license.

AB 1064 (Fong), Chapter 655, Statutes of 2021 expanded the authority of a pharmacist to initiate and administer immunizations.

SB 159 (Wiener), Chapter 532, Statutes of 2019 authorized a pharmacist to initiate and furnish HIV preexposure prophylaxis and postexposure prophylaxis.

SB 1442 (Wiener), Chapter 569, Statutes of 2018 prohibited a community pharmacy from requiring a pharmacist employee to engage in the practice of pharmacy at any time the pharmacy is open to the public, unless another employee is made available to assist the pharmacist at all times.

SB 493 (Hernandez), Chapter, 469, Statutes of 2013 expanded the scope of practice of a pharmacist to recognize an "advanced practice pharmacist"; permitted pharmacists to furnish certain hormonal contraceptives, nicotine replacement products, and prescription medications for travel, as specified; and authorized pharmacists to independently initiate and administer certain vaccines and treatments for severe allergic reactions.

ARGUMENTS IN SUPPORT:

The *California State Board of Pharmacy* supports this bill, writing: "The Board appreciates the Committee's commitment to public safety and ensuring access to quality pharmaceutical care. AB 1503 reflects a thoughtful response to the concerns and recommendations raised in our Sunset Report." The BOP further writes: "These provisions are essential for ensuring that the Board can continue to fulfill its mission of protecting the health and safety of California consumers. We commend the Committee for its leadership, collaborative approach, and continued engagement with the Board throughout the review process. We look forward to working together to implement the proposed improvements and to support continued oversight of and innovation in the pharmacy profession."

The *California Pharmacists Association* (CPhA) also supports this bill, writing: "This bill demonstrates a thoughtful and timely effort to ensure that California's pharmacy regulations align with contemporary healthcare delivery, improve patient access and strengthen public safety through appropriate oversight and accountability. These regulatory updates collectively represent a significant step forward for pharmacy practice and public health in California; ultimately enhancing patient care by expanding access to essential health services, improving medication safety and empowering pharmacists to play a more proactive role in disease prevention, chronic condition management and timely intervention, especially in underserved communities. As our healthcare system continues to face growing demands, recognizing and utilizing the full capabilities of pharmacists through a defined standard of care is a necessary and impactful step toward alleviating strain on providers and improving patient outcomes.

ARGUMENTS IN OPPOSITION:

The *United Nurses Associations of California/Union of Health Care Professionals* (UNAC) opposes this bill, specifically the provisions expanding the number of pharmacy technicians that may work in a pharmacy proportionate to the number of pharmacists. UNAC writes: "Pharmacists are already overworked and they work to fill their vital role as part of the health care access and delivery team in California. AB 1503 would impose on pharmacists an onerous new task of monitoring the work of up to four pharmacy technicians, which is orders of magnitude greater than their current supervisory obligations. While this might allow chain drug stores to process prescriptions more quickly, it greatly increases the risk of serious medication errors to the lack of adequate oversight by a licensed pharmacist. This bill would represent an extreme and dangerous change to health care in California."

The *California Medical Association* (CMA) opposes this bill unless amended, writing: "We oppose the sections of this legislation authorizing the Board of Pharmacy to adopt a standard of care enforcement model for pharmacists. Notably, the board is not simply proposing to transition pharmacy practice to a standard of care; rather, the board is proposing to significantly expand the pharmacist scope of practice and then regulate these new services under a loosely defined standard of care. CMA recognizes the invaluable role pharmacists play in connecting their patients with needed treatments. However, pharmacists should continue to practice within the scope of their training, education and expertise. Many of the services proposed in the bill go beyond the existing education and training requirements of pharmacists, which raises patient safety concerns."

AMENDMENTS:

Make various technical and clarifying changes, including an amendment changing the author of the bill from the Committee on Business and Professions to Assemblymember Marc Berman.

REGISTERED SUPPORT:

California Pharmacists Association
California State Board of Pharmacy
Cedars-Sinai Medical Center
7 Individuals

REGISTERED OPPOSITION:

California Medical Association
Pharmaceutical Research and Manufacturers of America
United Nurses Associations of California/Union of Health Care Professionals

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

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1504 (Committee on Business and Professions) – As Amended April 21, 2025

SUBJECT: California Massage Therapy Council.

SUMMARY: Extends the sunset date for the California Massage Therapy Council (CAMTC) until January 1, 2030 and makes additional technical changes, statutory improvements, and policy reforms in response to issues raised during CAMTC's sunset review oversight process.

EXISTING LAW:

1) Establishes the Massage Therapy Act to provide for the voluntary certification of massage therapists by CAMTC, a private nonprofit organization. (BPC §§ 4600 *et seq.*)

2) Makes statements clarifying the Legislature's intent in establishing the Massage Therapy Act. (BPC § 4600.5)

3) Defines "massage" as the scientific manipulation of the soft tissues and provides that the terms "massage" and "bodywork" have the same meaning for purposes of the Massage Therapy Act. (BPC § 4601)

4) Provides CAMTC with authority to take any reasonable actions necessary to carry out the responsibilities and duties set forth in the Massage Therapy Act, including, but not limited to, hiring staff, entering into contracts, and developing policies, procedures, rules, and bylaws to implement the Massage Therapy Act. (BPC § 4602(b))

5) Provides that CAMTC shall be governed by a board of directors comprised of 13 members, each appointed by a specified agency or organization representing local government, anti-trafficking advocates, higher education, and the massage industry. (BPC § 4602(f))

6) Requires meetings of CAMTC to comply with the rules of the Bagley-Keene Open Meeting Act. (BPC § 4602(j))

7) States that protection of the public shall be the highest priority for CAMTC in exercising its certification and disciplinary authority, and any other functions; whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 4603)

8) Requires an applicant for certification as a massage therapist to have received 500 hours of education at an approved massage school and successfully completed a background investigation. (BPC § 4604)

9) Requires certified massage therapists to notify CAMTC within 30 days of any changes in the certificate holder's home address, address of the massage establishment where they provide massage for compensation, and email address. (BPC § 4608)

10) Specifies acts constituting unprofessional conduct for a certified massage therapist, the commission of which is grounds for CAMTC to deny an application for a certificate or to impose discipline on a certificate holder. (BPC § 4609)

11) Authorizes CAMTC to discipline a certificate holder by placing them on probation, suspending their certificate, revoking their certificate, or taking other action as CAMTC deems proper, in accordance with specified procedures. (BPC § 4610)

12) Provides that it is an unfair business practice for any person to use the title of "certified massage therapist" or "certified massage practitioner," or any other term, such as "licensed," "certified," "CMT," or "CMP," in any manner whatsoever that implies or suggests that the person is certified as a massage therapist or massage practitioner, unless that person currently holds an active and valid certificate issued by CAMTC. (BPC § 4611)

13) Requires CAMTC to provide specified information concerning an applicant or a certificate holder upon the request of any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage or massage establishments. (BPC § 4614)

14) Provides CAMTC with responsibility for approving massage schools and, if CAMTC has any reason to question whether or not an applicant received their required education from an approved school, requires the CAMTC to investigate the facts to determine that an applicant received the required education before issuing a certificate. (BPC § 4615)

15) Provides that the Massage Therapy Act shall remain in effect only until January 1, 2026, and as of that date is repealed. (BPC § 4621)

16) Enacts the Public Records Act (PRA), which gives every person a right to inspect any public record, except as specifically exempted. (Government Code §§ 7920.000 *et seq.*)

THIS BILL:

1) Extends the sunset date for CAMTC until January 1, 2030.

2) States that it was the intent of the Legislature in creating CAMTC, and it is further the intent of the Legislature in extending CAMTC's powers and duties through the sunset review process, that CAMTC serve as a quasi-public entity entrusted with administering a state function in its certification and oversight of the massage therapy profession.

3) Further states that it is the intent of the Legislature that both state and local regulation of massage therapy reflect the recognized status of certified massage professionals as health care providers.

4) Prohibits the total annual compensation for an individual employed or contracted by CAMTC from exceeding the annual salary provided to specified executives within state government, including the Secretary of the Business, Consumer Services, and Housing Agency.

5) Replaces the appointment to CAMTC's board of directors currently provided to the Office of the Chancellor of the California Community Colleges with an additional certified massage therapist member.

6) Requires meetings of CAMTC to be governed by Robert's Rules of Order, Newly Revised.

7) Requires CAMTC to provide a meaningful opportunity for public participation in the adoption, amendment, or repeal of any policies, procedures, rules, or bylaws that substantially impact the rights, benefits, privileges, duties, obligations, or responsibilities of individuals or entities subject to certification or approval by CAMTC, including, but not limited to, actions by the council to increase fees, impose additional requirements for certification or approval, or substantively modify the disciplinary processes.

8) Provides that CAMTC shall, at a minimum, publish the complete text of any policies, procedures, rules, or bylaws proposed for adoption, amendment, or repeal along with a summary of the changes being considered for a period of at least 45 calendar days, and requires CAMTC to accept written public comments during the 45-day period and allow further public comment during a meeting held for these purposes that is noticed and conducted in compliance with the Bagley-Keene Open Meeting Act.

9) Provides that records of CAMTC shall be open to public inspection pursuant to the California Public Records Act as though CAMTC were a public agency for purposes of that act.

10) Requires certificate holders to notify CAMTC within 30 days of any changes in the certificate holder's legal name.

11) Specifies that a plea or verdict of guilty, or a conviction after a plea of nolo contendere, shall be a conviction for purposes of CAMTC's authority to deny an application for a certificate or to impose discipline on a certificate holder for unprofessional conduct and provides that being determined to be a threat to public safety based on mental health reasons by a medical or mental health professional, or rendered a finding of not guilty in a criminal proceeding by reason of insanity constitutes unprofessional conduct by a certificate holder.

12) Requires denial of an initial certificate on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline to be consistent with the requirements of the Fair Chance Licensing Act.

13) Requires hearing officers employed by CAMTC for purposes of its disciplinary process to be approved by CAMTC's board of directors.

14) Provides that an applicant or certificate holder may appeal a final decision by CAMTC to deny or revoke a certificate in the same manner currently allowed for massage schools and requires CAMTC to notify both applicants or certificate holders and massage schools of their right to appeal at the time of the final decision.

15) Expands the authority of an agency to receive information from CAMTC to include state agencies and authorizes local and state agencies to obtain information from CAMTC relevant to administering any local massage or massage establishment ordinance or any other federal, state, or local enforcement laws related to massage or massage establishments, human trafficking, organized crime, acts punishable as a sexually related crime, or regulating a California-licensed profession.

16) Provides CAMTC with discretion as to whether to investigate the facts to determine that an applicant received the required education before issuing a certificate.

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

COMMENTS:

Purpose. This bill is the sunset review vehicle for the California Massage Therapy Council, authored by the Assembly Committee on Business and Professions. The bill extends the sunset date for CAMTC and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during CAMTC's sunset review oversight process.

Background.

Sunset review. In order to ensure that California's myriad professional boards and bureaus are meeting the state's public protection priorities, authorizing statutes for these regulatory bodies are subject to statutory dates of repeal, at which point the entity "sunsets" unless the date is extended by the Legislature. The sunset process provides a regular forum for discussion around the successes and challenges of various programs and the consideration of proposed changes to laws governing the regulation of professionals. Currently, the sunset review process applies to approximately three dozen different boards and bureaus under the Department of Consumer Affairs, as well as the Department of Real Estate and three nongovernmental nonprofit councils.

On a schedule averaging every four years, each entity is required to present a report to the Legislature's policy committees, which in return prepare a comprehensive background paper on the efficacy and efficiency of their licensing and enforcement programs. Both the Administration and regulated professional stakeholders actively engage in this process. Legislation is then subsequently introduced extending the repeal date for the entity along with any reforms identified during the sunset review process.

California Massage Therapy Council. CAMTC was first established in 2009. Unlike the majority of regulatory bodies responsible for overseeing professions and vocations in California, CAMTC is not a state agency and does not function as part of the state's government. Instead, CAMTC is incorporated as a private nonprofit public benefit corporation with 501(c)(3) tax exempt status. Certificates granted by CAMTC are voluntary at the state level, though only certificate holders may use the terms "certified massage therapist" or any other language that implies certification by the council. As of June 2024, there are 50,495 certified massage therapists in California.

The practice of massage, also referred to as bodywork, is defined in statute as "the scientific manipulation of the soft tissues." According to the National Institutes of Health, massage therapy has been found to provide short-term relief for several kinds of pain, and massage therapy may be helpful for anxiety and depression in people with fibromyalgia, cancer, or HIV/AIDS. While a number of recent studies support the promotion of massage therapy as a complementary approach to pain management, for much of the profession's history it has been treated less as a healing art and more as a potential front for illicit activities such as sex trafficking and prostitution. Through partnerships with local law enforcement, CAMTC considers efforts to combat human trafficking to be at the core of its mission and mandate from the Legislature. Local governments frequently include a requirement that all massage professionals possess a certificate from CAMTC as part of their anti-trafficking ordinances. As a result, while certification by CAMTC is technically voluntary at the state level, it is mandated in numerous jurisdictions across the state and is often framed by local government as a form of "vice" regulation rather than health care practice.

CAMTC has the authority to grant or deny applications for certification and to discipline certificate holders by denying, suspending, or placing probationary conditions on certificates. CAMTC is also responsible for approving and unapproving massage schools whose students are eligible for certification. CAMTC does not have any authority over massage establishments, with the exception of when the owner of the business is a certified massage therapist.

Prior to the creation of CAMTC, massage therapy was almost exclusively regulated at the local level. Following years of negotiations, Senate Bill 731 (Oropeza) was signed into law, creating a voluntary statewide certification of massage professionals by a nongovernmental nonprofit. The first section of SB 731 began by declaring:

> It is the intent of this act to create a voluntary certification for the massage therapy profession that will enable consumers to easily identify credible certified massage therapists; assure that certified massage therapists have completed sufficient training at approved schools; phase in increased education and training standards consistent with other states; assure that massage therapy can no longer be used as a subterfuge to violate [laws against prostitution]; and to provide a self-funded nonprofit oversight body to approve certification and education requirements for massage therapists.

During the Legislature's review of CAMTC in 2021, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development (Committees) received comments from stakeholders who argued that the private nonprofit model was inappropriate for a healing arts profession and that oversight of massage therapy should be a state-level responsibility in the form of a public licensing board. While it was acknowledged that "transitioning from voluntary certification to a statewide license requirement would potentially elevate the profession of massage therapy and align the industry with other therapeutic practices," it was further noted that "a licensing program with all the associated expectations of due process would likely be both more expensive and less efficient than what is currently operated by CAMTC."

Assembly Bill 1537 (Low) was subsequently amended to extend CAMTC's sunset date by another year, with additional codified language declaring the intent of the Legislature to engage in "subsequent consideration of legislation to create a new state board and a new category of licensed professional" through the Legislature's sunrise review process. In the interim, the Committees received a formal sunrise proposal from Associated Bodywork and Massage Professionals (ABMP), which provided supportive analysis for requiring state licensure of massage therapy. CAMTC commissioned its own analysis in a report comparing the potential difference in fees for certification versus licensure, asserting that the biennial fee assessed to practitioners would be substantially higher under a state licensure model. Each of these positions was presented and discussed during an oversight hearing the following year.

Ultimately, CAMTC's sunset date was extended by four years through the enactment of Assembly Bill 2687 (Committee on Business and Professions), which made only minor changes to the Massage Therapy Act. Recent changes in leadership within the Committees discouraged the pursuit of significant reforms to an active certification program, and it was determined that the benefits of licensure had not yet been sufficiently proven to outweigh the potential downsides. While professional stakeholders stated their intention to continue advocating for licensure in the future, the Committees chose to conclude exploration of that proposal as part of the sunset process for CAMTC.

However, in 2024, the Committees grew concerned that CAMTC had engaged in activities warranting more immediate oversight and action than initially anticipated within the scheduled sunset review, with committee analysis arguing that "further scrutiny to [CAMTC's] operations has been elicited by actions taken by the council that appear to reflect a deliberate circumvention of transparency and accountability." The Committees specifically raised objections over a substantial certificate fee increase imposed without meaningful opportunity for public input. Concerns were also articulated regarding recent meetings of CAMTC's Board of Directors, where "it became apparent that CAMTC's Board of Directors was expected to loyally affirm the decisions of the council's staff, rather than provide independent oversight of its functions on behalf of the public." As a result, Senate Bill 1451 (Ashby) was amended to reschedule CAMTC's sunset review to take place in 2025, a year earlier than originally planned, and to impose stricter term limits on members of CAMTC's Board of Directors, with those limits effective retroactively beginning July 1, 2025.

Issues Raised during Sunset Review. The background paper for CAMTC's sunset review oversight hearing contained a total of 23 issues and recommendations, each of which is eligible to result in statutory changes enacted through the CAMTC's sunset bill.[1]

Board of Directors Composition. Issue #1 in the sunset background paper for CAMTC discussed whether the current membership on CAMTC's Board of Directors provides a sufficient balance of disinterested public oversight and professional expertise. The Massage Therapy Act dictates that "the council shall be governed by a board of directors composed of 13 members," with specific designations for how each member is appointed and which stakeholder interests they are intended to represent. Four members are required to be representatives of local governments, including both local law enforcement and public health agencies. Two members represent massage schools, with one allocated to the Community Colleges Chancellor and one to the California Association of Private Postsecondary Schools (CAPPS). One member is reserved for an anti-human trafficking organization, and one member is appointed by the Department of Consumer Affairs. Only two members are specifically reserved for representatives of the profession, with the American Massage Therapy Association (AMTA) appointing one member and the other appointment going to a certificate holder selected by professional associations meeting certain requirements that rotate every four years. Three additional members are appointed by the Board of Directors, which are required to include a public attorney, a massage establishment owner, and an individual deemed to possess "knowledge of the massage industry."

To the extent that the Board of Directors is charged with directing the activities of the council and overseeing its effectuation of identified policy objectives, CAMTC's Board of Directors is relatively analogous to licensing boards under the Department of Consumer Affairs. Meetings of the Board of Directors also must similarly comply with the Bagley-Keene Open Meeting Act. However, there are a number of distinctions when it comes to member composition.

For state licensing boards, members are generally divided into two categories: public members and professional members. Public members are broadly defined as persons without any vested interest in the regulated profession—in other words, they do not hold a license to practice any activities regulated by the board. Correspondingly, professional members reflect the perspectives of the regulated profession and offer expertise relevant to decisions being made by the board.

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[1] https://abp.assembly.ca.gov/media/1246

CAMTC's Board of Directors does not expressly distinguish between professional and public members; most of its membership categories are comprised of appointing authorities, and only one member is expressly required to be "a member of the public," which is the member appointed by the Director of Consumer Affairs. There is otherwise nothing prohibiting other members of the Board of Directors from being active certificate-holders. Meanwhile, only two members are expressly required to be massage professionals—the AMTA representative and the professional association appointee. The current director appointed for "knowledge of the massage industry" and the current director appointed by CAPPS are also both certificate holders, but they are not required to be.

This bill would make relatively minor changes to the composition of CMATC's Board of Directors. First, the bill would remove the current appointment allocated to the Office of the Chancellor of the California Community Colleges, recognizing that there is currently no known community college in California offering an approved massage program. This appointment is currently vacant. This bill would then replace that appointment with an additional certified massage therapist, appointed by a professional society or association.

Staff Compensation. Issue #3 in the sunset background paper for CAMTC questioned whether the financial compensation currently paid to CAMTC's Chief Executive Officer is inappropriately high compared to leadership at other regulatory entities. As a private nonprofit corporation, CAMTC's employees are not subject to civil service requirements and its Board of Directors has broad discretion to make hiring decisions and set compensation. It has been previously pointed out that CAMTC's CEO receives a substantial salary. While nonprofit corporations are generally authorized to grant compensation to its executives deemed "reasonable" by the Internal Revenue Service (IRS), the question of whether salaries provided by CAMTC are excessively generous is meaningful given that the entirety of the council's budget is derived by fees, included those collected from certificate holders who are often locally required to be certified.

This issue was first raised in CAMTC's 2014 sunset review background paper, which pointed to 2012 when the council's CEO had earned $260,000 per year. In 2019, at which point the CEO's salary had been raised to $369,000, CAMTC commissioned a "CEO Compensation Study" to determine the appropriate range for the CEO's compensation. This study found that the CEO's $369,000 salary was just over the 25th percentile when compared to what was identified as similar nonprofit executives. As a result, CAMTC's Board of Directors adopted a new compensation policy in 2019 to prohibit the CEO's total compensation package from exceeding the 75th percentile for peer groups identified by the study over the course of the agreement or eroding the council's three-month reserve.

However, further examination of the study reveals what could be considered major flaws in its comparative analysis. The study identified a number of nonprofit organizations as "peer groups" to whom CAMTC should be compared in terms of executive compensation; however, virtually none of these organizations could be considered regulatory entities, but are instead primarily professional and trade associations such as the California Chamber of Commerce, the California Medical Association, and the California Restaurant Association. Using these organizations as peer groups resulted in the study determining that the cited 75th percentile mark would be approximately $705,000 per year.

While technically a trade association is typically designated as a nonprofit under Section 501(c)(6) of the Internal Revenue Code, its mission is markedly different from that of CAMTC, a 501(c)(3) nonprofit. Meanwhile, other 501(c)(3) nonprofits may also not be appropriate comparisons. While charitable organizations and foundations are nonprofits, their funds are voluntarily contributed, unlike CAMTC, which has the authority to charge specified fees for certification, which is sometimes locally mandated.

As a more direct comparison, the Department of Consumer Affairs also commissioned a salary study in 2019 to analyze compensation trends among regulatory board Executive Officers (EOs). That study found that the median salary for an EO is approximately $107,000 per year, with the highest paid EO at the time making $146,000 per year. If the CEO of CAMTC is more accurately compared to the EO of a regulatory board than a trade association, then the council's executive compensation is well over three times the median salary of its peers. It should be noted that retirement plans and other benefits available to state employees differs from what CAMTC likely offers; however, it is still likely that the CEO's total compensation is substantially greater than that for comparable roles in state government.

This bill would provide the total annual compensation for any individual employed or contracted by CAMTC shall not exceed the annual salary provided pursuant to Section 11550 of the Government Code during that fiscal year. That provision of law establishes the salary for specified executives in state government, including the Secretary of the Business, Consumer Services, and Housing Agency, who oversees the Department of Consumer Affairs and approximately a dozen other departments and other entities. The salary specified in statute does not reflect the actual amount currently paid to those executives, which is increased in every fiscal year in which a general salary increase is provided for state employees. At this time, the effective cap imposed by this bill would be $247,000, which is arguably still substantial but less than the $615,897 salary currently paid to the CEO of CAMTC.

Public Records Act. Issue #4 in the sunset background paper for CAMTC raised the question of whether CAMTC should be required to comply with the requirements of the California Public Records Act (CPRA). While the Massage Therapy Act is clearly intended to provide CAMTC with regulatory responsibilities analogous to a government body, it is established in statute as a private nonprofit and is therefore not necessarily required to comply with various laws aimed at ensuring transparency and accountability within state bureaucracy. This was arguably in part the legislative intent of the nonprofit model, as it provides more flexibility and efficiency. Statute does require meetings of CAMTC's Board of Directors to comply with the provisions of the Bagley-Keene Open Meeting Act. However, many other similar laws and public oversight mechanisms do not necessarily apply to the council's operations.

The CPRA generally provides that "public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record." The CPRA defines "state agency" for purposes of the CPRA as "every state office, officer, department, bureau, board, and commission or other state body or agency, except those agencies provided for in … the California Constitution." This language is significantly less broad than the definition of "state body" provided in the Bagley-Keene Open Meeting Act and almost certainly does not currently include a private nonprofit like CAMTC. This is supported by caselaw; in *California State University v. Superior Court* (2011), the court found that CSU auxiliary organizations, which are private nonprofit corporations operating pursuant to statute, are not state agencies subject to the CPRA.

The fact that the Massage Therapy Act additionally requires that CAMTC comply with the Bagley-Keene Open Meeting Act and authorizes it to "adopt additional policies and procedures that provide greater transparency" additionally indicates that the CPRA does not apply, but it could be made to apply through statutory change. Doing so would no doubt reduce efficiencies in CAMTC's operations, as it currently does not need to engage in public inspection of its documents, which are largely under the management of AMG. However, given interest by members of the public in understanding the process by which CAMTC engages in oversight activities, there is a compelling reason to expand the CPRA to the council, which this bill does.

Because this bill would provide that CAMTC should be treated as though it were a "state agency" for purposes of the CPRA, all the existing exemptions to disclosure that apply to governmental agencies would apply. These include exemptions for personally identifying information regarding individuals, exemptions for law enforcement and public safety investigatory records, and records covered by attorney-client privilege, among others. If a determination is made that these existing exemptions do not sufficiently protect CAMTC from being required to disclose inappropriately sensitive information, further amendments could be made to expressly exempt those records.

Administrative Procedures Act. Issue #6 in the sunset background paper for CAMTC discussed whether CAMTC's adoption of bylaws and enforcement activities should be subjected to the Administrative Procedure Act (APA) or similar requirements. The APA establishes a series of basic minimum procedural requirements for the adoption of regulations, the conduct of administrative hearings, and for administrative adjudication. The APA ensures that agency rulemaking and administrative hearings conform to a full public process. Chapter 3.5, which establishes the public process for establishing administrative regulations, is expressly applied only to a state agency as defined under Section 11000, rendering it presumably inapplicable to the CAMTC.

Issue #10 in the sunset background paper for CAMTC additionally discussed recent actions taken by the council's Board of Directors and questioned whether CAMTC has been sufficiently prudent and transparent in its actions relating to the fees it charges to certificate holders. In November 2022, CAMTC increased its certificate fees by fifty percent, despite having indicated to the Legislature during its sunset review that it was sufficiently funded. Additionally, as described in a subsequent letter sent from members of the California State Assembly to CAMTC's leadership, the logistics of the vote to increase fees appeared "intentionally intended to obstruct public discussion."

This bill would require CAMTC to provide a meaningful opportunity for public participation in the adoption, amendment, or repeal of any policies, procedures, rules, or bylaws that substantially impact the rights, benefits, privileges, duties, obligations, or responsibilities of individuals or entities subject to certification or approval by the council, including, but not limited to, actions by CAMTC to increase fees, impose additional requirements for certification or approval, or substantively modify the disciplinary processes. Minimum requirements for this process would mirror requirements under the APA for state agency rulemaking, requiring the CAMTC to publish the complete text of any policies, procedures, rules, or bylaws proposed for adoption, amendment, or repeal along with a summary of the changes being considered for a period of at least 45 calendar days before the adoption, amendment, or repeal. The council shall accept written public comments during the 45-day period and allow further public comment during a public meeting held for these purposes.

In regards to administrative adjudication, "agency" is more broadly defined to include not only state agencies, but adjudicative proceedings conducted by a "quasi-public entity." This is defined as "an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created by statute for the purpose of administration of a state function." This definition would arguably appear to apply to CAMTC as established, though this application has been disputed. This bill would expressly declare the intent of the Legislature that CAMTC operate as a quasi-public entity.

Fair Chance Licensing Act. Issue #11 in the sunset background paper for CAMTC discussed whether the requirements of the Fair Chance Licensing Act should be applied to CAMTC's certification program. In 2018, Assembly Bill 2138 (Chiu/Low) was signed into law, making substantial reforms to the initial application process for individuals with criminal records seeking licensure through a board or bureau under the Department of Consumer Affairs. Under AB 2138, an application may only be denied on the basis of prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing board. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as financial crimes for certain boards.

Because CAMTC is not a licensing board under the Department of Consumer Affairs, the provisions of Assembly Bill 2138 do not apply to it. CAMTC is required to conduct a fingerprint background check of each applicant for a certificate through both the California Department of Justice and the Federal Bureau of Investigation. Statute prescribes what misconduct disqualifies an applicant from certification, resulting in the denial of applicants who have been "convicted of any felony, misdemeanor, infraction, or municipal code violation, or being held liable in an administrative or civil action for an act, that is substantially related to the qualifications, functions, or duties of a certificate holder," or "committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder." This bill would apply AB 2138 to decisions by CAMTC to deny an initial certificate on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline.

School Approval and Unapproval. Issue #14 in the sunset background paper for CAMTC discussed CAMTC's whether current process for approving and unapproving schools appropriately provides due process for schools and students. Given that CAMTC is a voluntary certifying entity, a school operator does not need to have CAMTC approval to offer a massage therapy education in California to operate. However, individuals who attend non-CAMTC approved institutions are not able to obtain CAMTC's voluntary certification, unless they applied during specified-grace periods offered by CAMTC.

In January 2023, CAMTC ordered a corrective action for a massage school in Southern California based on concerns that arose during site visits about the ability of the school's students to understand English when the school's catalog required all classes to be taught in English, along with other circumstances causing CAMTC to suspect fraud. One of the conditions placed on the school was a requirement that all graduates of the school attend an informal interview or education hearing prior to being granted certification. During this period, the school remained approved and was not under formal investigation. A third of the students interviewed passed informal interviews and were certified but, two-thirds did not.

The school filed suit against CAMTC, seeking injunctive relief, and in September 2023 the Court granted a motion for preliminary injunction that enjoined CAMTC from requiring the students to attend education hearings or informal interviews as a certification requirement. However, CAMTC still refused to certify the students, arguing that the injunction prevented the council from meeting the requirement of the Massage Therapy Act that, when it has a reason to question whether or not an individual has all of the education listed on their transcript, it "shall" investigate whether an applicant has received all of the required education before issuing a certificate. This bill would address this issue by changing the word "shall" to "may," giving CAMTC discretion as to whether to engage in those investigations.

Enforcement Process. Issue #18 in the sunset background paper for CAMTC raised the question of whether sufficient due process is provided throughout CAMTC's procedure for certificate revocation, suspension, or other discipline. The Massage Therapy Act grants CAMTC broad authority to take disciplinary action against certificate holders, including through suspensions and revocations of certificates. Statute identifies a broad range of specific causes for discipline for acts constituting professional misconduct. As with any regulatory program, taking swift and effective action against professionals who have engaged in misconduct or gross negligence is a core component of CAMTC's mission to protect the public.

Unlike other regulatory boards, however, the investigation, enforcement, and adjudication processes for allegations against massage therapists are all entirely placed within the purview of the council. Whereas boards and bureaus under the Department of Consumer Affairs typically utilize the Attorney General's office to prosecute discipline cases, with many ultimately being heard by an Administrative Law Judge within the Office of Administrative Hearings, CAMTC does not implicate any of these entities and handles all disciplinary matters itself. As previously discussed, the Administrative Procedures Act has limited applicability to CAMTC when it comes to how cases are brought and decided following a complaint or accusation.

Certificate holders are provided at least fifteen days' notice of a proposed disciplinary action in the form of a "Proposed Revocation/Discipline Letter" (PRL). This letter includes the factual and legal basis for the proposed action and the violations that the certificate holder is accused of. The certificate holder is then also notified of their opportunity to be heard. Certificate holders have the right to challenge the proposed action before it becomes final and effective by requesting an oral hearing or consideration of a written statement. If they do so, their matter is heard by dedicated Hearing Officers.

Certificate holders being accused of misconduct may pay CAMTC a fee to have either a telephonic hearing or to submit a written statement. CAMTC charges certificate holders a $270 fee for telephonic hearings and a $180 fee for consideration of a written statement. These hearings are then held by at least two Hearing Officers. These Hearing Officers are also employees of CAMTC and part of the Legal Department under the direct supervision of the Senior Staff Attorney. The Hearing Officers review all the evidence submitted, including evidence provided by the certificate holder in the hearing or through written statement, and decide whether to uphold, reject, or modify the proposed decision. According to CAMTC, "the decision of the Hearing Officers shall be final." If a certificate holder wishes to continue to appeal the decision, their only option is to file a lawsuit against CAMTC in superior court. This lawsuit must be filed within ninety days of the effective date of the discipline.

In essence, the Hearing Officers function much like administrative law judges (ALJs) in matters before boards and bureaus. The Hearing Officers consider proposed disciplinary action brought by BRD based on the recommendations and evidence submitted by Investigators or other BRD employees not involved in making the proposed decision to impose discipline. Each one of these individuals is an employee of CAMTC. At no point in time does an independent entity consider the case. CAMTC appears to believe that additional fair procedure is created by ensuring that those who review or investigate a matter are not the same individuals that make a proposed decision to discipline an individual, nor are they the same individuals that make a final decision when a proposed decision to discipline is opposed at a hearing. If a certificate holder truly believes CAMTC's employees acted wrongly in their proposed discipline, then a lawsuit against the council is their opportunity to have a third party weigh in.

It is additionally unclear whether CAMTC requires each of the employees involved in this process to meet any particular qualifications. For example, it is not apparent that either BRD or Investigations staff are required to have a law enforcement or criminal justice background, though it is possible that some do. While Hearing Officers are divisionally placed under CAMTC's Special Counsel and Senior Staff Attorney on its organizational chart, it is not known if these individuals themselves must be licensed attorneys. There is similarly no legal requirement for certified massage therapists to be involved in the investigation or enforcement of cases for discipline as subject matter experts. While nothing in the Massage Practice Act requires minimum qualifications for these employees, there is a question as to how distantly related these CAMTC employees are to the investigators, prosecutors, and judges involved in a disciplinary action brought by a board under the Department of Consumer Affairs.

While not establishing any minimal qualifications, this bill would require Hearing Officers to be formally approved by CAMTC's Board of Directors. Additionally, this bill would allow massage therapists to appeal a final decision by CAMTC to deny or revoke a certificate in a meeting of the Board of Directors in the same manner currently provided to massage schools. CAMTC would be further required to notify both massage therapists and schools of this right to appeal at the time of the final decision.

Additional Enforcement Recommendations. Issue #19 in the sunset background paper discussed recommendations that CAMTC believes would equip it to more effectively engage in its oversight and enforcement responsibilities under the Massage Therapy Act. First, the Massage Therapy Act requires every applicant for a certificate to submit their fingerprints for a criminal history background check through the California Department of Justice and the FBI, and this information is then reviewed by CAMTC to determine whether an application for certification should be denied for specified forms of prior misconduct. According to CAMTC, federal criminal history information is not received directly from the Department of Justice, nor is it receiving subsequent arrest notifications about federal level convictions. CAMTC has asked that specific language be placed into statute to allow for it to receive this information.

Another issue identified in CAMTC's report to the Committees involves notifications of a legal name change. Currently, CAMTC must be notified within 30 days when a certificate holder changes their home address, work address, or e-mail address. However, there is no similar requirement for legal name changes, and CAMTC says that this notification often does not occur until the certificate holder's next certification, which may be up to two years away. CAMTC has requested language to require notifications of legal name changes to be provided within 30 days, consistent with address changes.

CAMTC has also recommended modifying the Massage Therapy Act to enable it to more broadly engage in information sharing with state and federal law enforcement agencies, as well as professional licensing agencies. Current law allows specified information to be shared upon request with law enforcement agencies or other local government agencies responsible for enforcing local ordinances involving massage therapy establishments. CAMTC believes that this should be expanded to cover additional information and to specifically include state agencies.

Another recommendation from CAMTC involves the question of whether CAMTC can take action on a nolo contendere plea consistent with action it takes following a conviction. Current law empowers CAMTC to deny an application for certification or discipline a current certificate holder when the individual is convicted for an act considered to be substantially related to the qualifications, functions, or duties of a certificate holder. While CAMTC believes the Legislature's intent was for this to include a plea or verdict of guilty or a conviction after a plea of nolo contendere, it has stated that this is sometimes not clear to third parties. CAMTC has asked for language clarifying the law in these cases.

Finally, CAMTC requested statutory language allowing it to deny a certificate or discipline a certificate holder when the individual has been determined to be unfit to perform the duties of a certificate holder for mental health reasons or reasons of criminal insanity. The language requested by CAMTC would add "being determined to be a threat to public safety based on mental health reasons as determined by a medical or mental health professional or a finding of criminal insanity" to the list of examples of unprofessional conduct under the Massage Therapy Act. CAMTC argues that this addition would address situations where a certificate holder has exhibited violent or harmful behavior but has not yet been an instance where this behavior has occurred during the course and scope of providing a massage. CAMTC's position is that closing what it believes to be a loophole would help to protect the public.

Each of these recommendations made by CAMTC in its report to the Committees is currently included in this bill.

Healthcare Provider Status. Issue #21 in the sunset background paper for CAMTC discussed whether events that took place during the COVID-19 pandemic revealed a need to clarify the role played by massage therapists in their communities. While massage therapy is not a licensed profession in California, it is included in the acts listed "healing arts." As previously discussed, there has been extensive research into the therapeutic value of massage, including as a means of addressing specific symptoms of both acute and chronic medical conditions. The Legislature has repeatedly acted to reinforce massage therapy's status as a form of healthcare practice.

During its previous sunset review, CAMTC stated that during the initial stages of the pandemic, it assisted with seeking clarify for its certificate holders regarding how the stay-at-home orders impacted their services and whether they would be considered essential. According to the CAMTC, whether massage was considered "healthcare" was a central debate during the lockdown and a "hugely divisive and contested issue." CAMTC sent a formal letter to the Governor's Office seeking clarification of this issue. The California Department of Public Health clarified that only massage therapists providing "medical massage" based on the referral from a doctor or chiropractor would be permitted indoors as an essential service. Ultimately, massage therapy studios were included under the Governor's guidance for "personal care services" and massage services in non-healthcare settings became allowed indoors with modifications and restrictions.

CAMTC has indicated that while it is proud of what it was able to accomplish under the restrictions of the COVID-19 public health crisis, it does believe that it might be helpful for the Legislature to statutorily clarify that a certified massage therapy professional is a "healthcare provider." This distinction arguably became less semantic and more substantive during the pandemic, when it had immediate effects on the ability of therapists to keep their businesses open. Such a clarification would also likely be helpful for future scenarios when the Legislature is considering how best to enable healthcare providers to provide care to their communities. This bill would make that clarification through the codification of additional intent language.

Continued Regulation. Issue #23 in the sunset background paper for CAMTC posted the traditional question of whether the certification of massage professionals should be continued and be administered by the California Massage Therapy Council. The sunset background paper discussed the history of CAMTC and concluded that the state should not revert to the so-called "chaotic mish-mash" of local ordinances governing the requirements to practice massage therapy in California. The certificate program operated by CAMTC has greatly increased mobility and clarity within the profession, though as previously discussed, inconsistencies in whether the certificate is featured as a requirement for a particular locality continues to frustrate historical efforts by the profession to achieve the universal scheme that exists in other states. As discussed in the sunset background paper, this has led to the persistent debate about whether the Massage Therapy Act should transition from a Title Act to a Practice Act and require licensure for all massage therapists practicing within the state.

From an administrative perspective, CAMTC has certainly delivered upon the promises inherent with the nongovernmental regulator model. The council is able to act swiftly, flexibly, and inexpensively in its operations, particularly when compared to analogous boards and bureaus under the Department of Consumer Affairs. If the Legislature wishes to prioritize these traits in its regulation of professionals, then CAMTC could certainly be held up as a paragon of the nonprofit structure.

However, as discussed throughout the sunset background paper, there are a number of potential downsides to empowering an entity outside the auspices of state government to exercise oversight over a profession. Some may argue that the efficiencies boasted by CAMTC come at the cost of transparency, accountability, and due process. With so many so-called "good government laws" passed over the years to promote public confidence in bureaucracy inapplicable to CAMTC, the balance of interests remains subject to adjustment by the Legislature. Further prompting this deliberation is statements from some within the massage industry, including those representing societies and associations, that the current framework for CAMTC is unconducive to the persistent goal of elevating the profession as a healing art.

The sunset background paper for CAMTC concluded that reforms could be made to the Massage Therapy Act through sunset review, including options to revise statute to require the council to further emulate the state licensing board model in areas that would increase public confidence and allow the industry to more closely resemble other health care professionals, without changing CAMTC's status as a private nonprofit. The sunset background paper recommended that some mode of state-level oversight of the massage profession should be continued, with further discussion as to whether solutions to the issues raised in the sunset background paper may reasonably be implemented by CAMTC in its current form. This bill would extend the sunset date for the Massage Therapy Act and its administration by CAMTC by an additional four years, until January 1, 2030.

Current Related Legislation. AB 1501 (Committee on Business and Professions) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in this committee.*

AB 1502 (Committee on Business and Professions) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in this committee.*

AB 1503 (Committee on Business and Professions) is the sunset bill for the California State Board of Pharmacy. *This bill is pending in this committee.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. AB 1451 (Ashby), Chapter 481, Statutes of 2024 rescheduled the Legislature's sunset review of CAMTC and clarified the term lengths and removal process for its board of directors, among other provisions.

AB 2687 (Committee on Business and Professions), Chapter 236, Statutes of 2022 extended the sunset date for CAMTC by four years.

AB 1537 (Low), Chapter 179, Statutes of 2021 extended CAMTC's sunset date by one year.

AB 2194 (Salas), Chapter 411, Statutes of 2016 extended CAMTC's sunset date by four years and enacted reforms to the Massage Therapy Act.

AB 1147 (Bonilla), Chapter 406, Statutes of 2014 extended CAMTC's sunset date by two years and implemented a number of reforms to address issues raised in the background paper.

AB 731 (Oropeza), Chapter 384, Statutes of 2008 established the Massage Therapy Act.

ARGUMENTS IN SUPPORT:

The *American Massage Therapy Association* (AMTA) has taken a "support if amended" position on this bill. Specifically, the AMTA states that it "understands the need to extend the CAMTC during this sunset hearing but hope this is the beginning stages of a conversation about the next steps towards licensure. As such, AMTA respectfully requests that AB 1504 sunset the CAMTC and the legislature create a licensing structure. We believe that this will provide public safety to massage clients while supporting the efforts to allow local governments to appropriately ensure that they know who is practicing in their communities. A licensing structure would provide a state enforcement division to identify and eradicate bad actors in the massage wellness centers and spas. AMTA believes that a licensing structure would be a supportive step to protect massage consumers, massage therapists, and sex trafficking victims from the direct effects of sexualized client-initiated behaviors as identified by locals in massage workplaces."

ARGUMENTS IN OPPOSITION:

Santa Clara County District Attorney Jeff Rosen has taken an "oppose unless amended" position on this bill. Specifically, District Attorney Rosen opposes the provision in this bill requiring CAMTC to comply with the California Public Records Act, arguing that this requirement "will have a chilling effect on that collaboration, negatively impact our MOU, and hurt the most vulnerable. Santa Clara County regularly shares police reports and other highly confidential pieces of information with CAMTC so that they may take-action, with the understanding that the information shared is confidential and protected. If that were no longer the case due to PRA requirements, the Santa Clara County could no longer engage in the robust information sharing that has allowed us to strongly collaborate with CAMTC, successfully prosecute human traffickers, and rescue countless victims of human trafficking. It would weaken Santa Clara County's ability to protect local communities, massage therapists, and the massage clients they serve." District Attorney Rosen further expresses concern that the requirement to comply with the CPRA could result in the forced disclosure of "detailed declarations of sexual assault perpetrated against named victims would have a chilling effect on future victims' willingness to come forward."

IMPLEMENTATION ISSUES:

Clarification of Disclosure Requirements under the California Public Records Act. Stakeholders have expressed concerns regarding this bill's requirement that CAMTC comply with the CPRA. Specifically, concerns have been raised that compliance with the CPRA would compel the disclosure of records relating to law enforcement investigations or records containing personally identifying information of human trafficking victims and other individuals. The CPRA already contains a number of codified exemptions, which includes exemptions that would arguably allow CAMTC not to disclose the types of records that stakeholders in opposition have described. However, to provide greater reassurance, this bill should be amended to specifically apply existing the exemptions under the CPRA to the new compliance requirements for CAMTC.

AMENDMENTS:

1) To clarify the applicability of the exemptions contained within the CPRA to CAMTC, amend the proposed subdivision (o) in Section 2 of the bill as follows:

   (o) The records of the council shall be ~~open to public inspection pursuant~~ subject to the California Public Records Act (Chapter 1 (commencing with Section 7920.000) of Part 1 of Division 10 of Title 1 of the Government Code), including the exemptions provided by that act, as though the council were a public agency for purposes of that act.

2) Make additional technical and clarifying changes, including an amendment changing the author of the bill from the Committee on Business and Professions to Assemblymember Marc Berman.

REGISTERED SUPPORT:

American Massage Therapy Association *(If Amended)*
16 Individuals

REGISTERED OPPOSITION:

American Massage Therapy Council *(Unless Amended)*
Burke Williams Day Spas *(Unless Amended)*
California District Attorneys Association *(Unless Amended)*
Santa Clara County District Attorney's Office *(Unless Amended)*
3 Individuals

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