

Item: **2017-2018 Legislation of Interest**

Item Summary: Below are bills the Board adopted positions on at its February 2 and May 14, 2018 meetings including the outcome of each bill.

Board Action:

1. President calls the agenda item and it is presented by or as directed by the President.
2. For information purposes only. Discussion may ensue.

SB 715 (Newman) - Watch

Title: ~~Department of Consumer Affairs: regulatory boards: removal of board members:~~

Status: **This bill was amended to address an issue not applicable to the Board.**

~~This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board. The provisions of this bill were previously in SB 496.~~

SB 769 (Hill) - Support

Title: Baccalaureate Degree Pilot Program

Status: Held in Assembly Appropriations 9/1/17. **This bill has failed.**

This bill would extend the operation of the statewide baccalaureate degree pilot program until July 1, 2028, and would extend the time by which a student participating in a baccalaureate degree pilot program is required to complete his or her degree to the end of the 2027–28 academic year.

SB 984 (Skinner) - Staff Recommended Position: Watch

Title: State boards and commissions: representation: appointments

Status: Held in Assembly Appropriations 8/16/18. **This bill has failed.**

This bill would require the composition of each appointed state board and commission to have a specified number of women directors based on the number of board or commission members. The bill would also require the office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.

SB 1003 (Roth) - Support

Title: Respiratory Care

Status: **Signed by the Governor 8/20/18 [Chapter 180, Statutes of 2018].**

This bill would prohibit any state agency other than the Board from defining the practice of respiratory care or developing professional standards unless required by statute. This bill also authorizes the Board to promulgate regulations to further clarify the respiratory care practitioner scope.

SB 1137 (Vidak) - Staff Recommended Position: Watch

Title: Veterans: professional licensing benefits

Status: **Signed by the Governor 9/14/18 [Chapter 414, Statutes of 2018].**

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses, as specified.

SB 1491 (Senate BP&Ed Committee) - Staff Recommended Position: Support

Title: Healing Arts

Status: **Signed by the Governor 9/22/18 [Chapter 703, Statutes of 2018].**

This is the health care omnibus bill, and includes two amendments to the Board.

- Amend §3735 to accurately reflect the name(s) of examinations for licensure to ensure clarity in the law.
- Amend §3751 to require an individual petitioning for reinstatement of licensure to pass the current licensing exams to ensure competency at the current minimum required level.

AB 710 (Wood) - Staff Recommended Position: Watch

Title: Cannabidiol

Status: **Signed by the Governor 7/9/18 [Chapter 62, Statutes of 2018].**

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law designates cannabis in Schedule I. Cannabidiol is a compound contained in cannabis.

Existing law restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified.

This bill, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, would deem a physician, pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts. The bill would also provide that upon the effective date of one of those changes in federal law regarding cannabidiol, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, regulates the cultivation, processing, and sale of medicinal and adult-use cannabis within the state.

This bill would expressly exclude from regulation under that act, any medicinal product composed of cannabidiol approved by the federal Food and Drug Administration and either placed on a schedule of the federal Controlled Substances Act other than Schedule I, or exempted from one or more provisions of that act.

AB 1793 (Bonta) - Staff Recommended Position: Watch

Title: Cannabis Convictions

Status: **Signed by the Governor 9/30/18 [Chapter 993, Statutes of 2018].**

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for resentencing or dismissal recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. The bill would require the department to notify the courts of all cases in their jurisdiction that are eligible for recall or dismissal of a sentence, dismissal and sealing, or redesignation. The bill would require the courts to notify the prosecution of all cases under review and would authorize the prosecution to challenge the resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the court to automatically reduce or dismiss the conviction pursuant to AUMA if there is no challenge. The bill would require the department to modify the state summary criminal history information database in conformance with the recall or dismissal of sentence, dismissal and sealing, or redesignation within 30 days and to give specified notifications to the eligible person.

AB 2138 (Chiu) - Staff Recommended Position: Oppose

Title: Licensing boards: denial of application: criminal conviction

Status: **Signed by the Governor 9/30/18 [Chapter 995, Statutes of 2018].**

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license. This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would make these provisions operative on July 1, 2020.

AB 2409 (Kiley) - Staff Recommended Position: Oppose

Title: Professions and vocations: occupational regulations

Status: **Failed passage (with reconsideration) by Assembly Business and Professions 4/17/18.**

This bill would establish that a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation, as defined, that imposes a substantial burden on that right, and would require each occupational regulation to be limited to what is demonstrably necessary and narrowly tailored to fulfill a legitimate public health, safety, or welfare objective. The bill would include within this the right of a person with a criminal record to not have the person's criminal record used by a board as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation, except as specified, and the right of a person who is behind on his or her taxes or student loan payments to not have a board use that fact as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation.

The bill would authorize a person to petition a board to review an occupational regulation, as defined, within the board's jurisdiction for compliance with the above rights, as specified. The bill would authorize a person with a criminal record to petition a board at any time for a determination of whether the person's criminal record will automatically disqualify the person from obtaining a license from the board and would specify the criteria a board is allowed to use in making that determination. The bill would include related definitions and declare the intent of the Legislature in this regard.

AB 2483 (Voepel) - Staff Recommended Position: Watch

Title: Indemnification of public officers and employees: antitrust awards

Status: Ordered to Assembly Floor 4/26/18. **This bill has failed.**

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.



SB-1137 Veterans: professional licensing benefits. (2017-2018)

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Date Published: 09/17/2018 09:00 PM

Senate Bill No. 1137

CHAPTER 414

An act to add Section 714 to the Military and Veterans Code, relating to veterans.

[Approved by Governor September 14, 2018. Filed with Secretary of State September 14, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1137, Vidak. Veterans: professional licensing benefits.

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. Existing law provides for a variety of state benefits to veterans.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 714 is added to the Military and Veterans Code, to read:

714. (a) The Department of Veterans Affairs and the Department of Consumer Affairs shall both, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses.

(b) The awareness efforts in subdivision (a) shall include, but not be limited to, both of the following:

- (1) Posting information and resources on each department's respective Internet Web site.
- (2) Including information about these benefits in any communications that these agencies have with veterans when it is appropriate.



SB-1491 Healing arts. (2017-2018)



Date Published: 09/24/2018 09:00 PM

Senate Bill No. 1491

CHAPTER 703

An act to amend Sections 27, 865, 1607, 1611, 1611.3, 1611.5, 1612, 1614, 1615, 1621, 1645, 1680, 1750, 1750.2, 1750.4, 1751, 1753.7, 2290.5, 2556, 3004, 3040, 3146, 3735, 3751, 4848, 4980.37, 4980.39, 4980.41, 4980.72, 4980.78, 4980.79, 4990.30, 4992, 4996.17, 4999.14, 4999.22, 4999.32, 4999.48, 4999.60, 4999.62, 4999.63, and 4999.100 of, and to repeal Sections 650.4, 1601.5, and 1601.6 of, the Business and Professions Code, and to amend Section 6924 of the Family Code, relating to healing arts.

[Approved by Governor September 22, 2018. Filed with Secretary of State September 22, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, Committee on Business, Professions and Economic Development. Healing arts.

(1) The Dental Practice Act provides for the licensure and regulation of dentists and registered dental assistants by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to meet regularly once in San Francisco and once in Los Angeles each year after the commencement of dental schools for the purpose of examining applicants and at such other times as the board may designate. The act entitles the secretary of the board to traveling and other expenses and prohibits the secretary from receiving a salary. The act requires the board to examine all applicants for licensure to practice dentistry in the state and to issue licenses to those applicants that pass the examination of the board. That act requires the board to adopt reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental colleges. That act requires the board to only use examiners who have been appointed by the board and meet specified criteria, including that the examiner holds no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

This bill would delete the requirement that the board meet after the commencement of dental schools for the purpose of examining applicants, would delete the authorization for the secretary to receive expenses, and would delete the prohibition on the secretary receiving a salary. The bill would specify that the board is required to also examine applicants for a license to practice dental assisting and is required to issue a license to practice dentistry or a permit to practice dental assisting to an applicant who has successfully passed all licensing and permitting examinations administered by the board or any regional or national testing entity designated to administer an exam. The bill would require the board to adopt regulations instead of reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental assisting programs and educational courses. The bill would exempt a portfolio examiner from the above-described prohibition that he or she hold no position as an officer or faculty member.

The Dental Practice Act authorizes the board to inspect the books, records, and premises of any licensed dentist and makes failure to allow an inspection grounds for suspension or revocation of a license. That act requires the board to, among other things, keep a record of the names of all persons issued licenses to practice dentistry and issue a specified notice that it is the entity that regulates dentists.

This bill would specify that the above provisions also apply to the practice of dental assisting and to permitted dentists.

The Dental Practice Act also authorizes the board to require licensees to continue their education as a condition of licensure renewal and to submit assurances to the board that the licensees will inform themselves of new developments in the practice of dentistry since the licensees were originally licensed. The act authorizes a dental assistant to perform basic supportive dental procedures without a license under the supervision of a dentist if he or she meets certain requirements, including a board-approved course regarding the Dental Practice Act and a board-approved course in infection control, and requires the employer of the dental assistant to ensure that he or she has successfully completed or does successfully complete those required courses. The act authorizes the board to issue an orthodontic assistant permit or a dental sedation assistant permit to a person who files an application and meets specified requirements, including completion of at least 12 months of work experience as a dental assistant and completion of a board-approved course regarding the Dental Practice Act and a board-approved course in infection control.

This bill would instead require a licensee under the chapter to continue his or her education as a condition of licensure renewal and would require a licensee to obtain evidence satisfactory to the board that he or she has, in the preceding 2 years, obtained continuing education relevant to the developments in the practice of dentistry or dental assisting consistent with regulations established by the board. The bill would require a dental assistant and an applicant for an orthodontic assistant permit or a dental sedation assistant permit to complete a 2-hour board-approved course in the Dental Practice Act and an 8-hour board-approved course in infection control. The bill would also

require an applicant for an orthodontic assistant permit or a dental sedation assistant permit to have a current, active, and valid licensure as a registered dental assistant and at least 12 months of verifiable work experience as a dental assistant.

The Dental Practice Act requires the Dental Board of California to amend, consistent with the federal Centers for Disease Control and Prevention recommendations for water quality, the regulations on the minimum standards for infection control to require water or other methods used for irrigation to be sterile or contain recognized disinfecting or antibacterial properties when performing dental procedures that expose dental pulp.

This bill would repeal that provision and would instead make using water, or other methods used for irrigation, that are not sterile or that do not contain recognized disinfecting or antibacterial properties when performing dental procedures on exposed dental pulp unprofessional conduct by a person licensed pursuant to the Dental Practice Act.

(2) (A) The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, which is within the Department of Consumer Affairs, and requires a license issued under the act to expire at midnight in the last day of the licenseholder's birth month following its original issuance and thereafter at midnight on the last day of the licenseholder's birth month every 2 years if not renewed. That act makes it unlawful for a person to engage in the practice of optometry or to display a sign in any other way to advertise or hold himself or herself out as an optometrist without having first obtained an optometrist license from the board or under the provisions of any former act relating to the practice of optometry. That act makes a violation of its provisions punishable as a misdemeanor.

This bill would change the name of the State Board of Optometry to the California State Board of Optometry, and would require an optometric license to expire at midnight in the last day of the month in which the license was issued during the 2nd year of a 2-year term if not renewed. The bill would instead make it unlawful for a person to engage in the practice of optometry or to advertise himself or herself out as an optometrist without a valid, unrevoked California optometrist license. By changing the definition of an existing crime, this bill would result in a state-mandated local program.

(B) Under existing law, the State Board of Optometry is responsible for the registration and regulation of registered dispensing opticians and makes a violation of any of the provisions regulating registered dispensing opticians punishable as a misdemeanor. Existing law makes it unlawful, except as provided, for a registered dispensing optician to advertise the furnishing of, or to furnish, services of an optometrist or a physician and surgeon, to directly employ an optometrist or physician and surgeon for the purpose of any examination or treatment of the eyes, or to duplicate or change lenses without a prescription or order from a person duly licensed to issue such a prescription or order.

This bill would additionally make it unlawful, except as provided, for a person who engages in the business of, or holds himself or herself out to be, a dispensing optician to do any of those above-described acts. By changing the definition of an existing crime, this bill would result in a state-mandated local program.

(3) The Respiratory Care Practice Act establishes the Respiratory Care Board of California, which is within the Department of Consumer Affairs, for the licensure and regulation of respiratory care practitioners. That act prohibits an applicant for licensure from receiving a license without first successfully passing all parts of the national registered respiratory therapist examination, but exempts a person from taking that exam who provides evidence that he or she passed the National Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board. That act authorizes a person whose license has been revoked, surrendered, or suspended to petition the board for reinstatement and requires a person petitioning for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to meet current education requirements required for licensure.

This bill would require an applicant for licensure to successfully pass the National Board for Respiratory Care's Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Stimulation Examination, and the Clinical Stimulation Examination, or any succeeding examinations, and would deem a person who took the National Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board, to meet that requirement. The bill would require a person petitioning the board for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to also meet current examination requirements for initial licensure.

(4) The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians and the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and requires an applicant for licensure to demonstrate his or her competency by examination. That act requires the examination to consist of certain components, including an examination concerning the act that is required to be administered by the board by mail.

This bill would require that component of the examination to be administered by the board by regular mail, email, or by both regular mail and email.

(5) The Board of Behavioral Sciences, which is within the Department of Consumer Affairs, licenses and regulates marriage and family therapists under the Licensed Marriage and Family Therapist Act, clinical social workers under the Clinical Social Worker Practice Act, and professional clinical counselors under the Licensed Professional Clinical Counselor Act.

(A) Those acts require applicants for licensure to, among other things, take a clinical examination, and authorize an applicant for licensure who obtained a license or registration under another jurisdiction to apply for licensure with the board without taking that examination if specified conditions are met.

This bill would instead provide that such an applicant can qualify for licensure with the board if he or she obtained a license or registration under another jurisdiction and meet the specified conditions.

(B) The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide that any reference in the act to the term "intern" means an "associate." Those acts require an applicant for licensure to meet specified education requirements, including 6 semester units or 9 quarter units of practicum. Those acts also require applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018, to comply with specified educational and experience requirements and repeal those provisions on January 1, 2019.

3004. (a) As used in this chapter, "board" means the State Board of Optometry.

(b) Any reference in this code or any other code to the "State Board of Optometry" shall be deemed to refer to the "California State Board of Optometry."

SEC. 24. Section 3040 of the Business and Professions Code is amended to read:

3040. (a) It is unlawful for a person to engage in the practice of optometry or to advertise or hold himself or herself out as an optometrist without a valid, unrevoked California optometrist license. The practice of optometry includes the performing or controlling of any acts set forth in Section 3041.

(b) In any prosecution for a violation of this section, the use of test cards, test lenses, or of trial frames is prima facie evidence of the practice of optometry.

SEC. 25. Section 3146 of the Business and Professions Code is amended to read:

3146. An optometric license issued under this chapter expires at midnight on the last day of the month in which the license was issued during the second year of a two-year term if not renewed. To renew an unexpired license, the optometrist shall apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

SEC. 26. Section 3735 of the Business and Professions Code is amended to read:

3735. (a) Except as otherwise provided in this chapter, an applicant shall not receive a license under this chapter without first successfully passing the National Board for Respiratory Care's Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Simulation Examination, and the Clinical Simulation Examination, or any succeeding examinations.

(b) Notwithstanding subdivision (a), any person applying for licensure who provides evidence that he or she passed the national Certified Respiratory Therapist Examination or Written Registry Examination prior to January 1, 2015, shall be deemed to have met the examination requirement of subdivision (a), provided there is no evidence of prior license or job-related discipline, as determined by the board in its discretion.

SEC. 27. Section 3751 of the Business and Professions Code is amended to read:

3751. (a) A person whose license has been revoked, surrendered, or suspended, or placed on probation, may petition the board for reinstatement, modification, or termination of probation, provided the person has paid all outstanding fees, fines, and cost recovery in full, and monthly probation monitoring payments are current.

(b) A person petitioning for reinstatement of his or her license that has been revoked or surrendered for three or more years shall also meet the current education and examination requirements required for initial licensure.

(c) A petition may be filed only after a period of time has elapsed, but not less than the following minimum periods from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license that has been revoked or surrendered.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked or surrendered for mental or physical illness, or termination of probation of less than three years.

(d) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensed health care practitioners who have personal knowledge of the professional activities of the petitioner since the disciplinary penalty was imposed. The board may accept or reject the petition.

(e) Written or oral argument may be provided by the petitioner or, at the request of the board, by the Attorney General. Unless the board or the petitioner requests the presentation of oral argument, the petition shall be considered and voted upon by mail. If the petitioner or the board requests the opportunity for oral argument, the petition shall be heard by the board or the board may assign the petition to an administrative law judge.

(f) Consideration shall be given to all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(g) The board may deny the petition for reinstatement, reinstate the license without terms and conditions, require an examination for the reinstatement, restoration, or modification of probation, or reinstate the license with terms and conditions as it deems necessary. Where a petition is heard by an administrative law judge, the administrative law judge shall render a proposed decision to the board denying the petition for reinstatement, reinstating the license without terms and conditions, requiring an examination for the reinstatement, or reinstating the license with terms and conditions as he or she deems necessary. The board may take any action with respect to the proposed decision and petition as it deems appropriate.

(h) No petition shall be considered under either of the following circumstances:

(1) If the petitioner is under sentence for any criminal offense including any period during which the petitioner is on court-imposed probation or parole.

(2) If an accusation or a petition to revoke probation is pending against the person.

(i) The board may deny without a hearing or argument any petition filed pursuant to this section within a period of three years from the effective date of the prior decision.

(j) Petitions for reinstatement shall include a processing fee equal to fees charged pursuant to subdivisions (a) and (h) of Section 3775. In addition, petitions for reinstatement that are granted shall include a fee equal to the fee charged pursuant to subdivision (d) of Section 3775, before the license may be reinstated.

(k) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 28. Section 4848 of the Business and Professions Code is amended to read:

4848. (a) (1) The board shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of each of the following:

(A) A licensing examination that is administered on a national basis.

(B) A California state board examination.

(C) An examination concerning those statutes and regulations of the Veterinary Medicine Practice Act administered by the board. The examination shall be administered by regular mail, email, or by both regular mail and email, and provided to applicants within 10 to 20 days of eligibility determination. The board shall have 10 to 20 days from the date of receipt to process the examination and provide candidates with the results of the examination. The applicant shall certify that he or she personally completed the examination. Any false statement is a violation subject to Section 4831. University of California and Western University of Health Sciences veterinary medical students who have successfully completed a board-approved course on veterinary law and ethics covering the Veterinary Medicine Practice Act shall be exempt from this provision.

(3) The examinations may be given at the same time or at different times as determined by the board. For examination purposes, the board may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(4) The licensing examination may be waived by the board in any case in which it determines that the applicant has taken and passed an examination for licensure in another state substantially equivalent in scope and subject matter to the licensing examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the licensing examination administered in California.

(5) Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program, as determined by the board, in a veterinary college recognized by the board under Section 4846 to take any examination or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

(b) For purposes of reciprocity, the board shall waive the examination requirements of subdivision (a), and issue a license to an applicant to practice veterinary medicine if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and, within three years immediately preceding filing an application for licensure in this state, has practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,944 hours of clinical practice. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited institution's internship, residency, or specialty board training program shall be valid for meeting the minimum experience requirement.

The term "in good standing" means that an applicant under this section:

(A) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of veterinary medicine by any public agency, nor entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of veterinary medicine that the board determines constitutes evidence of a pattern of incompetence or negligence.

(B) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the applicant is unable to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

(2) At the time of original licensure, the applicant passed the national licensing requirement in veterinary science with a passing score or scores on the examination or examinations equal to or greater than the passing score required to pass the national licensing examination or examinations administered in this state.

(3) The applicant has either graduated from a veterinary college recognized by the board under Section 4846 or possesses a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG) or the Program for the Assessment of Veterinary Education Equivalence (PAVE).

(4) The applicant passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the board, pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(5) The applicant completes an approved educational curriculum on regionally specific and important diseases and conditions. The board, in consultation with the California Veterinary Medical Association (CVMA), shall approve educational curricula that cover appropriate regionally specific and important diseases and conditions that are common in California. The curricula shall focus on small and large animal



AB-710 Cannabidiol. (2017-2018)

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Date Published: 07/09/2018 09:00 PM

Assembly Bill No. 710

CHAPTER 62

An act to add Section 26002 to the Business and Professions Code, and to add Section 11150.2 to the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 09, 2018. Filed with Secretary of State July 09, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 710, Wood. Cannabidiol.

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law designates cannabis in Schedule I. Cannabidiol is a compound contained in cannabis.

Existing law restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified.

This bill, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, would deem a physician, pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts. The bill would also provide that upon the effective date of one of those changes in federal law regarding cannabidiol, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, regulates the cultivation, processing, and sale of medicinal and adult-use cannabis within the state.

This bill would expressly exclude from regulation under that act, any medicinal product composed of cannabidiol approved by the federal Food and Drug Administration and either placed on a schedule of the federal Controlled Substances Act other than Schedule I, or exempted from one or more provisions of that act.

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

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that both children and adults with epilepsy are in desperate need of new treatment options and that cannabidiol has shown potential as an effective treatment option. If federal laws prohibiting the prescription of medications composed of cannabidiol are repealed or if an exception from the general prohibition is enacted permitting the prescription of drugs composed of cannabidiol, patients should have rapid access to this treatment option. The availability of this new prescription medication is intended to augment, not to restrict or otherwise amend, other cannabinoid treatment modalities including, but not limited to, industrial hemp products and derivatives containing cannabidiol, currently available under state law.

SEC. 2. Section 26002 is added to the Business and Professions Code, to read:

26002. This division shall not apply to any product containing cannabidiol that has been approved by the federal Food and Drug Administration that has either been placed on a schedule of the federal Controlled Substances Act other than Schedule I or has been exempted from one or more provisions of that act, and that is intended for prescribed use for the treatment of a medical condition.

SEC. 3. Section 11150.2 is added to the Health and Safety Code, to read:

11150.2. (a) Notwithstanding any other law, if cannabidiol is excluded from Schedule I of the federal Controlled Substances Act and placed on a schedule of the act other than Schedule I, or if a product composed of cannabidiol is approved by the federal Food and Drug

Administration and either placed on a schedule of the act other than Schedule I, or exempted from one or more provisions of the act, so as to permit a physician, pharmacist, or other authorized healing arts licensee acting within his or her scope of practice, to prescribe, furnish, or dispense that product, the physician, pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses that product in accordance with federal law shall be deemed to be in compliance with state law governing those acts.

(b) For purposes of this chapter, upon the effective date of one of the changes in federal law described in subdivision (a), notwithstanding any other state law, a product composed of cannabidiol may be prescribed, furnished, dispensed, transferred, transported, possessed, or used in accordance with federal law and is authorized pursuant to state law.

(c) This section does not apply to any product containing cannabidiol that is made or derived from industrial hemp, as defined in Section 11018.5 and regulated pursuant to that section.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that patients are able to obtain access to a new treatment modality as soon as federal law makes it available, it is necessary that this act take effect immediately.



AB-1793 Cannabis convictions: resentencing. (2017-2018)



Date Published: 10/01/2018 09:00 PM

Assembly Bill No. 1793

CHAPTER 993

An act to add Section 11361.9 to the Health and Safety Code, relating to cannabis.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, Bonta. Cannabis convictions: resentencing.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. The bill would require the department to notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of a sentence, dismissal and sealing, or redesignation. The bill would require the prosecution to, on or before July 1, 2020, review all cases and determine whether to challenge the resentencing, dismissal and sealing, or redesignation. The bill would authorize the prosecution to challenge the resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the prosecution to notify the public defender and the court when they are challenging a particular resentencing, dismissal and sealing, or redesignation, and would require the prosecution to notify the court if they are not challenging a particular resentencing, dismissal and sealing, or redesignation. By imposing additional duties on local entities, this bill would create a state-mandated local program. The bill would require the court to automatically reduce or dismiss the conviction pursuant to AUMA if there is no challenge by July 1, 2020. The bill would require the department to modify the state summary criminal history information database in conformance with the recall or dismissal of sentence, dismissal and sealing, or redesignation within 30 days and to post specified information on its Internet Web site.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11361.9 is added to the Health and Safety Code, to read:

11361.9. (a) On or before July 1, 2019, the Department of Justice shall review the records in the state summary criminal history information database and shall identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to Section 11361.8. The department shall notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation.

(b) The prosecution shall have until July 1, 2020, to review all cases and determine whether to challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation.

(c) (1) The prosecution may challenge the resentencing of a person pursuant to this section when the person does not meet the criteria established in Section 11361.8 or presents an unreasonable risk to public safety.

(2) The prosecution may challenge the dismissal and sealing or redesignation of a person pursuant to this section who has completed his or her sentence for a conviction when the person does not meet the criteria established in Section 11361.8.

(3) On or before July 1, 2020, the prosecution shall inform the court and the public defender's office in their county when they are challenging a particular recall or dismissal of sentence, dismissal and sealing, or redesignation. The prosecution shall inform the court when they are not challenging a particular recall or dismissal of sentence, dismissal and sealing, or redesignation.

(4) The public defender's office, upon receiving notice from the prosecution pursuant to paragraph (3), shall make a reasonable effort to notify the person whose resentencing or dismissal is being challenged.

(d) If the prosecution does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court shall reduce or dismiss the conviction pursuant to Section 11361.8.

(e) The court shall notify the department of the recall or dismissal of sentence, dismissal and sealing, or redesignation and the department shall modify the state summary criminal history information database accordingly.

(f) The department shall post general information on its Internet Web site about the recall or dismissal of sentences, dismissal and sealing, or redesignation authorized in this section.

(g) It is the intent of the Legislature that persons who are currently serving a sentence or who proactively petition for a recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to Section 11361.8 be prioritized for review.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



AB-2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction. (2017-2018)

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Date Published: 10/01/2018 09:00 PM

Assembly Bill No. 2138

CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 1 (commencing with Section 5000) of Division 3.

(ii) Chapter 6 (commencing with Section 6500) of Division 3.

(iii) Chapter 9 (commencing with Section 7000) of Division 3.

(iv) Chapter 11.3 (commencing with Section 7512) of Division 3.

(v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

(1) Been convicted of a crime.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

- (1) Grant the license effective upon completion of all licensing requirements by the applicant.
- (2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (3) Deny the license.
- (4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (1) Considering the denial of a license by the board under Section 480; or
- (2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

- (1) Considering the denial of a license by the board under Section 480.
- (2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

- (1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.
- (2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (1) Grant the license effective upon completion of all licensing requirements by the applicant.
- (2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (3) Deny the license.
- (4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (1) Grant the license effective upon completion of all licensing requirements by the applicant.
- (2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (3) Deny the license.
- (4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.