

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE MAY 10, 2016
AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 1033

Introduced by Senator Hill

February 12, 2016

An act to amend Sections 125.3, 803.1, 2027, 2221, 2221.05, 2228, and 3663 of, and to add Sections 1006 and 4962 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1033, as amended, Hill. Medical professionals: probation.

(1) Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee in the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the

licensing and regulation of acupuncturists. Existing law authorizes each of these regulatory entities to discipline its licensee by placing her or him on probation, as specified.

This bill, on and after January 1, 2018, would require these regulatory entities to require a licensee *on probation pursuant to a probationary order made after January 1, 2017*, to disclose on a separate document her or his probationary status, certain information related to his or her probation, the address of his or her ~~BreEze BreEZe~~ profile Internet Web page or a specified Internet Web site, and the regulatory entity's telephone number to a patient, the patient's guardian, or the health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation under specified circumstances, including an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion finding the licensee committed gross negligence or the licensee having been on probation more than once, among others. The bill would require the licensee to obtain from the patient a signed receipt containing specified information following the disclosure. The bill would exempt a licensee, except for a licensed chiropractor, from that disclosure requirement if the patient is unable to comprehend the disclosure and sign an acknowledgment and a guardian or health care surrogate is unavailable. The bill would require in that instance that the doctor disclose his or her status as soon as either the patient can comprehend and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt. The bill would also exempt a licensee from that disclosure requirement if the visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(2) Existing law requires the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine to disclose to an inquiring member of the public and to post on their Internet Web sites specified information concerning each licensee including revocations, suspensions, probations, or limitations on practice.

This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Naturopathic Medicine Committee, and the Acupuncture Board by January 1, 2018, to develop a standardized format for listing specified information related to the probation and to provide that information to

an inquiring member of the public, on any documents informing the public of probation orders, and on a specified profile Internet Web page of each licensee subject to probation, or an Internet Web site, as specified.

(3) Existing law, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding unless the entity is the Medical Board of California, authorizes the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, as specified.

This bill would authorize the Medical Board of California to request and obtain from a physician and surgeon the investigation and prosecution costs for a disciplinary proceeding in which the physician and surgeon’s license is placed on probation.

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

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

1 SECTION 1. Section 125.3 of the Business and Professions
2 Code is amended to read:

3 125.3. (a) Except as otherwise provided by law, in any order
4 issued in resolution of a disciplinary proceeding before any board
5 within the department or before the Osteopathic Medical Board,
6 upon request of the entity bringing the proceeding, the
7 administrative law judge may direct a licentiate found to have
8 committed a violation or violations of the licensing act to pay a
9 sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 (b) In the case of a disciplined licentiate that is a corporation or
12 a partnership, the order may be made against the licensed corporate
13 entity or licensed partnership.

14 (c) A certified copy of the actual costs, or a good faith estimate
15 of costs where actual costs are not available, signed by the entity
16 bringing the proceeding or its designated representative shall be
17 prima facie evidence of reasonable costs of investigation and
18 prosecution of the case. The costs shall include the amount of
19 investigative and enforcement costs up to the date of the hearing,

1 including, but not limited to, charges imposed by the Attorney
2 General.

3 (d) The administrative law judge shall make a proposed finding
4 of the amount of reasonable costs of investigation and prosecution
5 of the case when requested pursuant to subdivision (a). The finding
6 of the administrative law judge with regard to costs shall not be
7 reviewable by the board to increase the cost award. The board may
8 reduce or eliminate the cost award, or remand to the administrative
9 law judge if the proposed decision fails to make a finding on costs
10 requested pursuant to subdivision (a).

11 (e) If an order for recovery of costs is made and timely payment
12 is not made as directed in the board's decision, the board may
13 enforce the order for repayment in any appropriate court. This
14 right of enforcement shall be in addition to any other rights the
15 board may have as to any licentiate to pay costs.

16 (f) In any action for recovery of costs, proof of the board's
17 decision shall be conclusive proof of the validity of the order of
18 payment and the terms for payment.

19 (g) (1) Except as provided in paragraph (2), the board shall not
20 renew or reinstate the license of any licentiate who has failed to
21 pay all of the costs ordered under this section.

22 (2) Notwithstanding paragraph (1), the board may, in its
23 discretion, conditionally renew or reinstate for a maximum of one
24 year the license of any licentiate who demonstrates financial
25 hardship and who enters into a formal agreement with the board
26 to reimburse the board within that one-year period for the unpaid
27 costs.

28 (h) All costs recovered under this section shall be considered a
29 reimbursement for costs incurred and shall be deposited in the
30 fund of the board recovering the costs to be available upon
31 appropriation by the Legislature.

32 (i) Nothing in this section shall preclude a board from including
33 the recovery of the costs of investigation and enforcement of a
34 case in any stipulated settlement.

35 (j) This section does not apply to any board if a specific statutory
36 provision in that board's licensing act provides for recovery of
37 costs in an administrative disciplinary proceeding.

38 (k) Notwithstanding the provisions of this section, the Medical
39 Board of California shall not request nor obtain from a physician
40 and surgeon investigation and prosecution costs for a disciplinary

1 proceeding against the licentiate, except for a disciplinary
2 proceeding in which the licentiate's license is placed on probation.
3 The board shall ensure that this subdivision is revenue neutral with
4 regard to it and that any loss of revenue or increase in costs
5 resulting from this subdivision is offset by an increase in the
6 amount of the initial license fee and the biennial renewal fee, as
7 provided in subdivision (e) of Section 2435.

8 SEC. 2. Section 803.1 of the Business and Professions Code
9 is amended to read:

10 803.1. (a) Notwithstanding any other law, the Medical Board
11 of California, the Osteopathic Medical Board of California, the
12 California Board of Podiatric Medicine, and the Physician Assistant
13 Board shall disclose to an inquiring member of the public
14 information regarding any enforcement actions taken against a
15 licensee, including a former licensee, by the board or by another
16 state or jurisdiction, including all of the following:

- 17 (1) Temporary restraining orders issued.
- 18 (2) Interim suspension orders issued.
- 19 (3) Revocations, suspensions, probations, or limitations on
20 practice ordered by the board, including those made part of a
21 probationary order or stipulated agreement.
- 22 (4) Public letters of reprimand issued.
- 23 (5) Infractions, citations, or fines imposed.

24 (b) Notwithstanding any other law, in addition to the information
25 provided in subdivision (a), the Medical Board of California, the
26 Osteopathic Medical Board of California, the California Board of
27 Podiatric Medicine, and the Physician Assistant Board shall
28 disclose to an inquiring member of the public all of the following:

29 (1) Civil judgments in any amount, whether or not vacated by
30 a settlement after entry of the judgment, that were not reversed on
31 appeal and arbitration awards in any amount of a claim or action
32 for damages for death or personal injury caused by the physician
33 and surgeon's negligence, error, or omission in practice, or by his
34 or her rendering of unauthorized professional services.

35 (2) (A) All settlements in the possession, custody, or control
36 of the board shall be disclosed for a licensee in the low-risk
37 category if there are three or more settlements for that licensee
38 within the last 10 years, except for settlements by a licensee
39 regardless of the amount paid where (i) the settlement is made as
40 a part of the settlement of a class claim, (ii) the licensee paid in

1 settlement of the class claim the same amount as the other licensees
2 in the same class or similarly situated licensees in the same class,
3 and (iii) the settlement was paid in the context of a case where the
4 complaint that alleged class liability on behalf of the licensee also
5 alleged a products liability class action cause of action. All
6 settlements in the possession, custody, or control of the board shall
7 be disclosed for a licensee in the high-risk category if there are
8 four or more settlements for that licensee within the last 10 years
9 except for settlements by a licensee regardless of the amount paid
10 where (i) the settlement is made as a part of the settlement of a
11 class claim, (ii) the licensee paid in settlement of the class claim
12 the same amount as the other licensees in the same class or
13 similarly situated licensees in the same class, and (iii) the
14 settlement was paid in the context of a case where the complaint
15 that alleged class liability on behalf of the licensee also alleged a
16 products liability class action cause of action. Classification of a
17 licensee in either a “high-risk category” or a “low-risk category”
18 depends upon the specialty or subspecialty practiced by the licensee
19 and the designation assigned to that specialty or subspecialty by
20 the Medical Board of California, as described in subdivision (f).
21 For the purposes of this paragraph, “settlement” means a settlement
22 of an action described in paragraph (1) entered into by the licensee
23 on or after January 1, 2003, in an amount of thirty thousand dollars
24 (\$30,000) or more.

25 (B) The board shall not disclose the actual dollar amount of a
26 settlement but shall put the number and amount of the settlement
27 in context by doing the following:

28 (i) Comparing the settlement amount to the experience of other
29 licensees within the same specialty or subspecialty, indicating if
30 it is below average, average, or above average for the most recent
31 10-year period.

32 (ii) Reporting the number of years the licensee has been in
33 practice.

34 (iii) Reporting the total number of licensees in that specialty or
35 subspecialty, the number of those who have entered into a
36 settlement agreement, and the percentage that number represents
37 of the total number of licensees in the specialty or subspecialty.

38 (3) Current American Board of Medical Specialties certification
39 or board equivalent as certified by the Medical Board of California,

1 the Osteopathic Medical Board of California, or the California
2 Board of Podiatric Medicine.

3 (4) Approved postgraduate training.

4 (5) Status of the license of a licensee. By January 1, 2004, the
5 Medical Board of California, the Osteopathic Medical Board of
6 California, and the California Board of Podiatric Medicine shall
7 adopt regulations defining the status of a licensee. The board shall
8 employ this definition when disclosing the status of a licensee
9 pursuant to Section 2027. By January 1, 2018, the Medical Board
10 of California, the Osteopathic Medical Board of California, and
11 the California Board of Podiatric Medicine shall include the
12 information described in subdivision (f) of Section 2228.

13 (6) Any summaries of hospital disciplinary actions that result
14 in the termination or revocation of a licensee’s staff privileges for
15 medical disciplinary cause or reason, unless a court finds, in a final
16 judgment, that the peer review resulting in the disciplinary action
17 was conducted in bad faith and the licensee notifies the board of
18 that finding. In addition, any exculpatory or explanatory statements
19 submitted by the licentiate electronically pursuant to subdivision
20 (f) of that section shall be disclosed. For purposes of this paragraph,
21 “peer review” has the same meaning as defined in Section 805.

22 (c) Notwithstanding any other law, the Medical Board of
23 California, the Osteopathic Medical Board of California, the
24 California Board of Podiatric Medicine, and the Physician Assistant
25 Board shall disclose to an inquiring member of the public
26 information received regarding felony convictions of a physician
27 and surgeon or doctor of podiatric medicine.

28 (d) The Medical Board of California, the Osteopathic Medical
29 Board of California, the California Board of Podiatric Medicine,
30 and the Physician Assistant Board may formulate appropriate
31 disclaimers or explanatory statements to be included with any
32 information released, and may by regulation establish categories
33 of information that need not be disclosed to an inquiring member
34 of the public because that information is unreliable or not
35 sufficiently related to the licensee’s professional practice. The
36 Medical Board of California, the Osteopathic Medical Board of
37 California, the California Board of Podiatric Medicine, and the
38 Physician Assistant Board shall include the following statement
39 when disclosing information concerning a settlement:

40

1 “Some studies have shown that there is no significant correlation
2 between malpractice history and a doctor’s competence. At the
3 same time, the State of California believes that consumers should
4 have access to malpractice information. In these profiles, the State
5 of California has given you information about both the malpractice
6 settlement history for the doctor’s specialty and the doctor’s history
7 of settlement payments only if in the last 10 years, the doctor, if
8 in a low-risk specialty, has three or more settlements or the doctor,
9 if in a high-risk specialty, has four or more settlements. The State
10 of California has excluded some class action lawsuits because
11 those cases are commonly related to systems issues such as product
12 liability, rather than questions of individual professional
13 competence and because they are brought on a class basis where
14 the economic incentive for settlement is great. The State of
15 California has placed payment amounts into three statistical
16 categories: below average, average, and above average compared
17 to others in the doctor’s specialty. To make the best health care
18 decisions, you should view this information in perspective. You
19 could miss an opportunity for high-quality care by selecting a
20 doctor based solely on malpractice history.

21 When considering malpractice data, please keep in mind:

22 Malpractice histories tend to vary by specialty. Some specialties
23 are more likely than others to be the subject of litigation. This
24 report compares doctors only to the members of their specialty,
25 not to all doctors, in order to make an individual doctor’s history
26 more meaningful.

27 This report reflects data only for settlements made on or after
28 January 1, 2003. Moreover, it includes information concerning
29 those settlements for a 10-year period only. Therefore, you should
30 know that a doctor may have made settlements in the 10 years
31 immediately preceding January 1, 2003, that are not included in
32 this report. After January 1, 2013, for doctors practicing less than
33 10 years, the data covers their total years of practice. You should
34 take into account the effective date of settlement disclosure as well
35 as how long the doctor has been in practice when considering
36 malpractice averages.

37 The incident causing the malpractice claim may have happened
38 years before a payment is finally made. Sometimes, it takes a long
39 time for a malpractice lawsuit to settle. Some doctors work
40 primarily with high-risk patients. These doctors may have

1 malpractice settlement histories that are higher than average
2 because they specialize in cases or patients who are at very high
3 risk for problems.

4 Settlement of a claim may occur for a variety of reasons that do
5 not necessarily reflect negatively on the professional competence
6 or conduct of the doctor. A payment in settlement of a medical
7 malpractice action or claim should not be construed as creating a
8 presumption that medical malpractice has occurred.

9 You may wish to discuss information in this report and the
10 general issue of malpractice with your doctor.”

11
12 (e) The Medical Board of California, the Osteopathic Medical
13 Board of California, the California Board of Podiatric Medicine,
14 and the Physician Assistant Board shall, by regulation, develop
15 standard terminology that accurately describes the different types
16 of disciplinary filings and actions to take against a licensee as
17 described in paragraphs (1) to (5), inclusive, of subdivision (a). In
18 providing the public with information about a licensee via the
19 Internet pursuant to Section 2027, the Medical Board of California,
20 the Osteopathic Medical Board of California, the California Board
21 of Podiatric Medicine, and the Physician Assistant Board shall not
22 use the terms “enforcement,” “discipline,” or similar language
23 implying a sanction unless the physician and surgeon has been the
24 subject of one of the actions described in paragraphs (1) to (5),
25 inclusive, of subdivision (a).

26 (f) The Medical Board of California shall adopt regulations no
27 later than July 1, 2003, designating each specialty and subspecialty
28 practice area as either high risk or low risk. In promulgating these
29 regulations, the board shall consult with commercial underwriters
30 of medical malpractice insurance companies, health care systems
31 that self-insure physicians and surgeons, and representatives of
32 the California medical specialty societies. The board shall utilize
33 the carriers’ statewide data to establish the two risk categories and
34 the averages required by subparagraph (B) of paragraph (2) of
35 subdivision (b). Prior to issuing regulations, the board shall
36 convene public meetings with the medical malpractice carriers,
37 self-insurers, and specialty representatives.

38 (g) The Medical Board of California, the Osteopathic Medical
39 Board of California, the California Board of Podiatric Medicine,
40 and the Physician Assistant Board shall provide each licensee,

1 including a former licensee under subdivision (a), with a copy of
2 the text of any proposed public disclosure authorized by this section
3 prior to release of the disclosure to the public. The licensee shall
4 have 10 working days from the date the board provides the copy
5 of the proposed public disclosure to propose corrections of factual
6 inaccuracies. Nothing in this section shall prevent the board from
7 disclosing information to the public prior to the expiration of the
8 10-day period.

9 (h) Pursuant to subparagraph (A) of paragraph (2) of subdivision
10 (b), the specialty or subspecialty information required by this
11 section shall group physicians by specialty board recognized
12 pursuant to paragraph (5) of subdivision (h) of Section 651 unless
13 a different grouping would be more valid and the board, in its
14 statement of reasons for its regulations, explains why the validity
15 of the grouping would be more valid.

16 (i) By January 1, 2018, the Medical Board of California, the
17 Osteopathic Medical Board of California, and the California Board
18 of Podiatric Medicine shall include the information listed in
19 subdivision (f) of Section 2228 on any board documents informing
20 the public of probation orders and probationary licenses, including,
21 but not limited to, newsletters.

22 SEC. 3. Section 1006 is added to the Business and Professions
23 Code, to read:

24 1006. (a) On and after January 1, 2018, except as provided by
25 subdivision (c), the State Board of Chiropractic Examiners shall
26 require a licensee to disclose on a separate document her or his
27 probationary status, all of the information described in subdivision
28 (d), the address of the board's Internet Web site, and the board's
29 telephone number to a patient, the patient's guardian, or health
30 care surrogate prior to the patient's first visit following the
31 probationary order while the licensee is on probation *pursuant to*
32 *a probationary order made after January 1, 2017*, in any of the
33 following circumstances:

34 (1) The accusation alleges, the statement of issues indicates, or
35 the legal conclusions of an administrative law judge find that the
36 licensee is implicated in any of the following:

37 (A) Gross negligence.

38 (B) Repeated negligent acts involving a departure from the
39 standard of care with multiple patients.

- 1 (C) Drug or alcohol abuse that threatens to impair a licensee's
2 ability to practice chiropractic safely, including practicing under
3 the influence of drugs or alcohol.
- 4 (D) Felony conviction arising from or occurring during patient
5 care or treatment.
- 6 (E) Mental illness or other cognitive impairment that impedes
7 a licensee's ability to safely practice chiropractic.
- 8 (2) The board ordered any of the following in conjunction with
9 placing the licensee on probation:
- 10 (A) That a third-party chaperone be present when the licensee
11 examines patients as a result of sexual misconduct.
- 12 (B) That the licensee submit to drug testing as a result of drug
13 or alcohol abuse.
- 14 (C) That the licensee have a monitor.
- 15 (3) The licensee has not successfully completed a training
16 program or any associated examinations required by the board as
17 a condition of probation.
- 18 (4) The licensee has been on probation more than once.
- 19 (b) The licensee shall obtain from each patient a signed receipt
20 following the disclosure that includes a written explanation of how
21 the patient can find further information on the licensee's probation
22 on the board's Internet Web site.
- 23 (c) The licensee shall not be required to provide the disclosure
24 prior to the visit as required by subdivision (a) if the visit occurs
25 in an emergency room and the licensee who will be treating the
26 patient during the visit is not known to the patient until immediately
27 prior to the start of the visit.
- 28 (d) By January 1, 2018, the board shall develop a standardized
29 format for listing the following information pursuant to subdivision
30 (e):
- 31 (1) The listing of the causes for probation alleged in the
32 accusation, the statement of issues, or the legal conclusions of an
33 administrative law judge.
- 34 (2) The length of the probation and the end date.
- 35 (3) All practice restrictions placed on the licensee by the board.
- 36 (e) By January 1, 2018, the board shall provide the information
37 listed in subdivision (d) as follows:
- 38 (1) To an inquiring member of the public.

1 (2) On any board documents informing the public of probation
2 orders and probationary licenses, including, but not limited to,
3 newsletters.

4 (3) On the board's Internet Web site.

5 SEC. 4. Section 2027 of the Business and Professions Code is
6 amended to read:

7 2027. (a) The board shall post on its Internet Web site the
8 following information on the current status of the license for all
9 current and former licensees:

10 (1) Whether or not the licensee is presently in good standing.

11 (2) Current American Board of Medical Specialties certification
12 or board equivalent as certified by the board.

13 (3) Any of the following enforcement actions or proceedings
14 to which the licensee is actively subjected:

15 (A) Temporary restraining orders.

16 (B) Interim suspension orders.

17 (C) (i) Revocations, suspensions, probations, or limitations on
18 practice ordered by the board or the board of another state or
19 jurisdiction, including those made part of a probationary order or
20 stipulated agreement.

21 (ii) By January 1, 2018, the board, the Osteopathic Medical
22 Board of California, and the California Board of Podiatric Medicine
23 shall include, in plain view on the BreEZe profile Internet Web
24 page of each licensee subject to probation or a probationary license,
25 the information described in subdivision (f) of Section 2228. For
26 purposes of this subparagraph, a BreEZe profile Internet Web page
27 is a profile Internet Web page on the BreEZe system pursuant to
28 Section 210.

29 (D) Current accusations filed by the Attorney General, including
30 those accusations that are on appeal. For purposes of this paragraph,
31 "current accusation" means an accusation that has not been
32 dismissed, withdrawn, or settled, and has not been finally decided
33 upon by an administrative law judge and the board unless an appeal
34 of that decision is pending.

35 (E) Citations issued that have not been resolved or appealed
36 within 30 days.

37 (b) The board shall post on its Internet Web site all of the
38 following historical information in its possession, custody, or
39 control regarding all current and former licensees:

40 (1) Approved postgraduate training.

1 (2) Any final revocations and suspensions, or other equivalent
2 actions, taken against the licensee by the board or the board of
3 another state or jurisdiction or the surrender of a license by the
4 licensee in relation to a disciplinary action or investigation,
5 including the operative accusation resulting in the license surrender
6 or discipline by the board.

7 (3) Probation or other equivalent action ordered by the board,
8 or the board of another state or jurisdiction, completed or
9 terminated, including the operative accusation resulting in the
10 discipline by the board.

11 (4) Any felony convictions. Upon receipt of a certified copy of
12 an expungement order granted pursuant to Section 1203.4 of the
13 Penal Code from a licensee, the board shall, within six months of
14 receipt of the expungement order, post notification of the
15 expungement order and the date thereof on its Internet Web site.

16 (5) Misdemeanor convictions resulting in a disciplinary action
17 or accusation that is not subsequently withdrawn or dismissed.
18 Upon receipt of a certified copy of an expungement order granted
19 pursuant to Section 1203.4 of the Penal Code from a licensee, the
20 board shall, within six months of receipt of the expungement order,
21 post notification of the expungement order and the date thereof on
22 its Internet Web site.

23 (6) Civil judgments issued in any amount, whether or not
24 vacated by a settlement after entry of the judgment, that were not
25 reversed on appeal, and arbitration awards issued in any amount,
26 for a claim or action for damages for death or personal injury
27 caused by the physician and surgeon's negligence, error, or
28 omission in practice, or by his or her rendering of unauthorized
29 professional services.

30 (7) Except as provided in subparagraphs (A) and (B), a summary
31 of any final hospital disciplinary actions that resulted in the
32 termination or revocation of a licensee's hospital staff privileges
33 for a medical disciplinary cause or reason. The posting shall
34 provide any additional explanatory or exculpatory information
35 submitted by the licensee pursuant to subdivision (f) of Section
36 805. The board shall also post on its Internet Web site a factsheet
37 that explains and provides information on the reporting
38 requirements under Section 805.

39 (A) If a licensee's hospital staff privileges are restored and the
40 licensee notifies the board of the restoration, the information

1 pertaining to the termination or revocation of those privileges shall
2 remain posted on the Internet Web site for a period of 10 years
3 from the restoration date of the privileges, and at the end of that
4 period shall be removed.

5 (B) If a court finds, in a final judgment, that peer review
6 resulting in a hospital disciplinary action was conducted in bad
7 faith and the licensee notifies the board of that finding, the
8 information concerning that hospital disciplinary action posted on
9 the Internet Web site shall be immediately removed. For purposes
10 of this subparagraph, “peer review” has the same meaning as
11 defined in Section 805.

12 (8) Public letters of reprimand issued within the past 10 years
13 by the board or the board of another state or jurisdiction, including
14 the operative accusation, if any, resulting in discipline by the board.

15 (9) Citations issued within the last three years that have been
16 resolved by payment of the administrative fine or compliance with
17 the order of abatement.

18 (10) All settlements within the last five years in the possession,
19 custody, or control of the board shall be disclosed for a licensee
20 in the low-risk category if there are three or more settlements for
21 that licensee within the last five years, and for a licensee in the
22 high-risk category if there are four or more settlements for that
23 licensee within the last five years. Classification of a licensee in
24 either a “high-risk category” or a “low-risk” category depends
25 upon the specialty or subspecialty practiced by the licensee and
26 the designation assigned to that specialty or subspecialty by the
27 board pursuant to subdivision (f) of Section 803.1.

28 (A) For the purposes of this paragraph, “settlement” means a
29 settlement in an amount of thirty thousand dollars (\$30,000) or
30 more of any claim or action for damages for death or personal
31 injury caused by the physician and surgeon’s negligence, error, or
32 omission in practice, or by his or her rendering of unauthorized
33 professional services.

34 (B) For the purposes of this paragraph, “settlement” does not
35 include a settlement by a licensee, regardless of the amount paid,
36 when (i) the settlement is made as a part of the settlement of a
37 class claim, (ii) the amount paid in settlement of the class claim
38 is the same amount paid by the other licensees in the same class
39 or similarly situated licensees in the same class, and (iii) the
40 settlement was paid in the context of a case for which the complaint

1 that alleged class liability on behalf of the licensee also alleged a
2 products liability class action cause of action.

3 (C) The board shall not disclose the actual dollar amount of a
4 settlement, but shall disclose settlement information in the same
5 manner and with the same disclosures required under subparagraph
6 (B) of paragraph (2) of subdivision (b) of Section 803.1.

7 (11) Appropriate disclaimers and explanatory statements to
8 accompany the information described in paragraphs (1) to (10),
9 inclusive, including an explanation of what types of information
10 are not disclosed. These disclaimers and statements shall be
11 developed by the board and shall be adopted by regulation.

12 (c) The board shall provide links to other Internet Web sites
13 that provide information on board certifications that meet the
14 requirements of subdivision (h) of Section 651. The board may
15 also provide links to any other Internet Web sites that provide
16 information on the affiliations of licensed physicians and surgeons.
17 The board may provide links to other Internet Web sites on the
18 Internet that provide information on health care service plans,
19 health insurers, hospitals, or other facilities.

20 SEC. 5. Section 2221 of the Business and Professions Code is
21 amended to read:

22 2221. (a) The board may deny a physician's and surgeon's
23 certificate to an applicant guilty of unprofessional conduct or of
24 any cause that would subject a licensee to revocation or suspension
25 of his or her license.

26 (b) The board in its sole discretion, may issue a probationary
27 physician's and surgeon's certificate to an applicant subject to
28 terms and conditions, including, but not limited to, any of the
29 following conditions of probation:

30 (1) Practice limited to a supervised, structured environment
31 where the licensee's activities shall be supervised by another
32 physician and surgeon.

33 (2) Total or partial restrictions on drug prescribing privileges
34 for controlled substances.

35 (3) Continuing medical or psychiatric treatment.

36 (4) Ongoing participation in a specified rehabilitation program.

37 (5) Enrollment and successful completion of a clinical training
38 program.

39 (6) Abstention from the use of alcohol or drugs.

1 (7) Restrictions against engaging in certain types of medical
2 practice.

3 (8) Compliance with all provisions of this chapter.

4 (9) Payment of the cost of probation monitoring.

5 (10) Disclosing probationary license status to patients, pursuant
6 to subdivision (b) of Section 2228.

7 (c) The board may modify or terminate the terms and conditions
8 imposed on the probationary certificate upon receipt of a petition
9 from the licensee; however, the provisions of subdivision (b) of
10 Section 2228 are mandatory with any probationary licensee. The
11 board may assign the petition to an administrative law judge
12 designated in Section 11371 of the Government Code. After a
13 hearing on the petition, the administrative law judge shall provide
14 a proposed decision to the board.

15 (d) The board shall deny a physician’s and surgeon’s certificate
16 to an applicant who is required to register pursuant to Section 290
17 of the Penal Code. This subdivision does not apply to an applicant
18 who is required to register as a sex offender pursuant to Section
19 290 of the Penal Code solely because of a misdemeanor conviction
20 under Section 314 of the Penal Code.

21 (e) An applicant shall not be eligible to reapply for a physician’s
22 and surgeon’s certificate for a minimum of three years from the
23 effective date of the denial of his or her application, except that
24 the board may, in its discretion and for good cause demonstrated,
25 permit reapplication after not less than one year has elapsed from
26 the effective date of the denial.

27 SEC. 6. Section 2221.05 of the Business and Professions Code
28 is amended to read:

29 2221.05. (a) Notwithstanding subdivisions (a) and (b) of
30 Section 2221, the board may issue a physician’s and surgeon’s
31 certificate to an applicant who has committed minor violations
32 that the board deems, in its discretion, do not merit the denial of
33 a certificate or require probationary status under Section 2221, and
34 may concurrently issue a public letter of reprimand.

35 (b) A public letter of reprimand issued concurrently with a
36 physician’s and surgeon’s certificate shall be purged three years
37 from the date of issuance.

38 (c) A public letter of reprimand issued pursuant to this section
39 shall be disclosed to an inquiring member of the public and shall
40 be posted on the board’s Internet Web site.

1 (d) Nothing in this section shall be construed to affect the
2 board's authority to issue an unrestricted license.

3 SEC. 7. Section 2228 of the Business and Professions Code is
4 amended to read:

5 2228. (a) The authority of the board or the California Board
6 of Podiatric Medicine to discipline a licensee by placing him or
7 her on probation includes, but is not limited to, the following:

8 (1) Requiring the licensee to obtain additional professional
9 training and to pass an examination upon the completion of the
10 training. The examination may be written or oral, or both, and may
11 be a practical or clinical examination, or both, at the option of the
12 board or the administrative law judge.

13 (2) Requiring the licensee to submit to a complete diagnostic
14 examination by one or more physicians and surgeons appointed
15 by the board. If an examination is ordered, the board shall receive
16 and consider any other report of a complete diagnostic examination
17 given by one or more physicians and surgeons of the licensee's
18 choice.

19 (3) Restricting or limiting the extent, scope, or type of practice
20 of the licensee, including requiring notice to applicable patients
21 that the licensee is unable to perform the indicated treatment, where
22 appropriate.

23 (4) Providing the option of alternative community service in
24 cases other than violations relating to quality of care.

25 (b) On and after January 1, 2018, except as provided by
26 subdivision (d), the board or the California Board of Podiatric
27 Medicine shall require a licensee to disclose on a separate
28 document her or his probationary status, all of the information
29 described in subdivision (f), the address of his or her BreZE
30 profile Internet Web page, and the telephone number of the board,
31 if the probation was imposed by the board, or the California Board
32 of Podiatric Medicine, if the probation was imposed by the
33 California Board of Podiatric Medicine, to a patient, the patient's
34 guardian, or health care surrogate prior to the patient's first visit
35 following the probationary order while the licensee is on probation
36 *pursuant to a probationary order made after January 1, 2017*, in
37 any of the following circumstances:

38 (1) The accusation alleges, the statement of issues indicates, or
39 the legal conclusions of an administrative law judge find that the
40 licensee is implicated in any of the following:

- 1 (A) Gross negligence.
- 2 (B) Repeated negligent acts involving a departure from the
- 3 standard of care with multiple patients.
- 4 (C) Repeated acts of inappropriate and excessive prescribing
- 5 of controlled substances, including, but not limited to, prescribing
- 6 controlled substances without appropriate prior examination or
- 7 without medical reason documented in medical records.
- 8 (D) Drug or alcohol abuse that threatens to impair a licensee’s
- 9 ability to practice medicine safely, including practicing under the
- 10 influence of drugs or alcohol.
- 11 (E) Felony conviction arising from or occurring during patient
- 12 care or treatment.
- 13 (F) Mental illness or other cognitive impairment that impedes
- 14 a licensee’s ability to safely practice medicine.
- 15 (2) The board ordered any of the following in conjunction with
- 16 placing the licensee on probation:
 - 17 (A) That a third-party chaperone be present when the licensee
 - 18 examines patients as a result of sexual misconduct.
 - 19 (B) That the licensee submit to drug testing as a result of drug
 - 20 or alcohol abuse.
 - 21 (C) That the licensee have a monitor.
 - 22 (D) Restricting the licensee totally or partially from prescribing
 - 23 controlled substances.
- 24 (3) The licensee has not successfully completed a training
- 25 program or any associated examinations required by the board as
- 26 a condition of probation.
- 27 (4) The licensee has been on probation more than once.
- 28 (c) The licensee shall obtain from each patient a signed receipt
- 29 following the disclosure that includes a written explanation of how
- 30 the patient can find further information on the licensee’s probation
- 31 on the board’s Internet Web site.
- 32 (d) The licensee shall not be required to provide the disclosure
- 33 prior to the visit as required by subdivision (b) if either of the
- 34 following applies:
 - 35 (1) The patient is unconscious or otherwise unable to
 - 36 comprehend the disclosure and sign the receipt pursuant to
 - 37 subdivision (c) and a guardian or health care surrogate is
 - 38 unavailable to comprehend the disclosure and sign the receipt. In
 - 39 that instance, the licensee shall disclose her or his status as soon
 - 40 as either the patient can comprehend the disclosure and sign the

1 receipt or a guardian or health care surrogate is available to
2 comprehend the disclosure and sign the receipt.

3 (2) The visit occurs in an emergency room and the licensee who
4 will be treating the patient during the visit is not known to the
5 patient until immediately prior to the start of the visit.

6 (e) Section 2314 shall not apply to subdivision (b), (c), or (d).

7 (f) By January 1, 2018, the board shall develop a standardized
8 format for listing the following information pursuant to paragraph
9 (5) of subdivision (b) of Section 803.1, subdivision (i) of Section
10 803.1, and clause (ii) of subparagraph (C) of paragraph (1) of
11 subdivision (a) of Section 2027:

12 (1) The listing of the causes for probation alleged in the
13 accusation, the statement of issues, or the legal conclusions of an
14 administrative law judge.

15 (2) The length of the probation and the end date.

16 (3) All practice restrictions placed on the licensee by the board.

17 SEC. 8. Section 3663 of the Business and Professions Code is
18 amended to read:

19 3663. (a) The committee shall have the responsibility for
20 reviewing the quality of the practice of naturopathic medicine
21 carried out by persons licensed as naturopathic doctors pursuant
22 to this chapter.

23 (b) The committee may discipline a naturopathic doctor for
24 unprofessional conduct. After a hearing conducted in accordance
25 with the Administrative Procedure Act (Chapter 5 (commencing
26 with Section 11500) of Part 1 of Division 3 of Title 2 of the
27 Government Code), the committee may deny, suspend, revoke, or
28 place on probation the license of, or reprimand, censure, or
29 otherwise discipline a naturopathic doctor in accordance with
30 Division 1.5 (commencing with Section 475).

31 (c) On and after January 1, 2018, except as provided by
32 subdivision (e), the committee shall require a naturopathic doctor
33 to disclose on a separate document her or his probationary status,
34 all of the information described in subdivision (f), the address of
35 his or her BreEZe profile Internet Web page, and the committee's
36 telephone number to a patient, the patient's guardian, or health
37 care surrogate prior to the patient's first visit following the
38 probationary order while the naturopathic doctor is on probation
39 *pursuant to a probationary order made after January 1, 2017*, in
40 any of the following circumstances:

1 (1) The accusation alleges, the statement of issues indicates, or
2 the legal conclusions of an administrative law judge find that the
3 naturopathic doctor is implicated in any of the following:

4 (A) Gross negligence.

5 (B) Repeated negligent acts involving a departure from the
6 standard of care with multiple patients.

7 (C) Repeated acts of inappropriate and excessive prescribing
8 of controlled substances, including, but not limited to, prescribing
9 controlled substances without appropriate prior examination or
10 without medical reason documented in medical records.

11 (D) Drug or alcohol abuse that threatens to impair a naturopathic
12 doctor's ability to practice medicine safely, including practicing
13 under the influence of drugs or alcohol.

14 (E) Felony conviction arising from or occurring during patient
15 care or treatment.

16 (F) Mental illness or other cognitive impairment that impedes
17 a naturopathic doctor's ability to safely practice medicine.

18 (2) The committee ordered any of the following in conjunction
19 with placing the naturopathic doctor on probation:

20 (A) That a third-party chaperone be present when the
21 naturopathic doctor examines patients as a result of sexual
22 misconduct.

23 (B) That the naturopathic doctor submit to drug testing as a
24 result of drug or alcohol abuse.

25 (C) That the naturopathic doctor have a monitor.

26 (D) Restricting the naturopathic doctor totally or partially from
27 prescribing controlled substances.

28 (3) The naturopathic doctor has not successfully completed a
29 training program or any associated examinations required by the
30 committee as a condition of probation.

31 (4) The naturopathic doctor has been on probation more than
32 once.

33 (d) The naturopathic doctor shall obtain from each patient a
34 signed receipt following the disclosure that includes a written
35 explanation of how the patient can find further information on the
36 naturopathic doctor's probation on the committee's Internet Web
37 site.

38 (e) The naturopathic doctor shall not be required to provide the
39 disclosure prior to the visit as required by subdivision (c) if either
40 of the following applies:

1 (1) The patient is unconscious or otherwise unable to
2 comprehend the disclosure and sign the receipt pursuant to
3 subdivision (d) and a guardian or health care surrogate is
4 unavailable to comprehend the disclosure and sign the receipt. In
5 that instance, the naturopathic doctor shall disclose her or his status
6 as soon as either the patient can comprehend the disclosure and
7 sign the receipt or a guardian or health care surrogate is available
8 to comprehend the disclosure and sign the receipt.

9 (2) The visit occurs in an emergency room and the naturopathic
10 doctor who will be treating the patient during the visit is not known
11 to the patient until immediately prior to the start of the visit.

12 (f) By January 1, 2018, the committee shall develop a
13 standardized format for listing the following information pursuant
14 to subdivision (g):

15 (1) The listing of the causes for probation alleged in the
16 accusation, the statement of issues, or the legal conclusions of an
17 administrative law judge.

18 (2) The length of the probation and the end date.

19 (3) All practice restrictions placed on the naturopathic doctor
20 by the committee.

21 (g) By January 1, 2018, the committee shall provide the
22 information listed in subdivision (f) as follows:

23 (1) To an inquiring member of the public.

24 (2) On any committee documents informing the public of
25 probation orders and probationary licenses, including, but not
26 limited to, newsletters.

27 (3) In plain view on the BreEZe profile Internet Web page of a
28 naturopathic doctor subject to probation or a probationary license.

29 SEC. 9. Section 4962 is added to the Business and Professions
30 Code, to read:

31 4962. (a) On and after January 1, 2018, except as provided by
32 subdivision (c), the board shall require a licensee to disclose on a
33 separate document her or his probationary status, all of the
34 information described in subdivision (e), the address of his or her
35 BreEZe profile Internet Web page, and the board's telephone
36 number to a patient, the patient's guardian, or health care surrogate
37 prior to the patient's first visit following the probationary order
38 while the licensee is on probation *pursuant to a probationary order*
39 *made after January 1, 2017*, in any of the following circumstances:

- 1 (1) The accusation alleges, the statement of issues indicates, or
2 the legal conclusions of an administrative law judge find that the
3 licensee is implicated in any of the following:
- 4 (A) Gross negligence.
 - 5 (B) Repeated negligent acts involving a departure from the
6 standard of care with multiple patients.
 - 7 (C) Drug or alcohol abuse that threatens to impair a licensee's
8 ability to practice acupuncture safely, including practicing under
9 the influence of drugs or alcohol.
 - 10 (D) Felony conviction arising from or occurring during patient
11 care or treatment.
 - 12 (E) Mental illness or other cognitive impairment that impedes
13 a licensee's ability to safely practice acupuncture.
- 14 (2) The board ordered any of the following in conjunction with
15 placing the licensee on probation:
- 16 (A) That a third-party chaperone be present when the licensee
17 examines patients as a result of sexual misconduct.
 - 18 (B) That the licensee submit to drug testing as a result of drug
19 or alcohol abuse.
 - 20 (C) That the licensee have a monitor.
- 21 (3) The licensee has not successfully completed a training
22 program or any associated examinations required by the board as
23 a condition of probation.
- 24 (4) The licensee has been on probation more than once.
- 25 (b) The licensee shall obtain from each patient a signed receipt
26 following the disclosure that includes a written explanation of how
27 the patient can find further information on the licensee's probation
28 on the board's Internet Web site.
- 29 (c) The licensee shall not be required to provide the disclosure
30 prior to the visit as required by subdivision (a) if either of the
31 following applies:
- 32 (1) The patient is unconscious or otherwise unable to
33 comprehend the disclosure and sign the receipt pursuant to
34 subdivision (b) and a guardian or health care surrogate is
35 unavailable to comprehend the disclosure and sign the receipt. In
36 that instance, the licensee shall disclose her or his status as soon
37 as either the patient can comprehend the disclosure and sign the
38 receipt or a guardian or health care surrogate is available to
39 comprehend the disclosure and sign the receipt.

1 (2) The visit occurs in an emergency room and the licensee who
2 will be treating the patient during the visit is not known to the
3 patient until immediately prior to the start of the visit.

4 (d) Section 4935 shall not apply to subdivision (a), (b), or (c).

5 (e) By January 1, 2018, the board shall develop a standardized
6 format for listing the following information pursuant to subdivision

7 (f):

8 (1) The listing of the causes for probation alleged in the
9 accusation, the statement of issues, or the legal conclusions of an
10 administrative law judge.

11 (2) The length of the probation and the end date.

12 (3) All practice restrictions placed on the licensee by the board.

13 (f) By January 1, 2018, the board shall provide the information
14 listed in subdivision (e) as follows:

15 (1) To an inquiring member of the public.

16 (2) On any board documents informing the public of probation
17 orders and probationary licenses, including, but not limited to,
18 newsletters.

19 (3) Upon availability of a licensee's BreEZe profile Internet
20 Web page on the BreEZe system pursuant to Section 210, in plain
21 view on the BreEZe profile Internet Web page of a licensee subject
22 to probation or a probationary license.