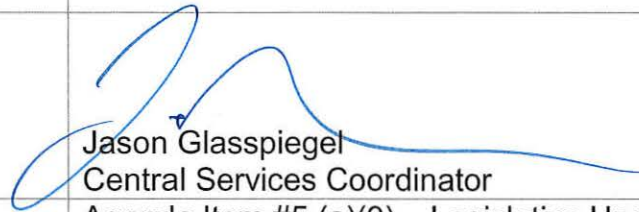


MEMORANDUM

DATE	March 30, 2016
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #5 (a)(9) – Legislative Update – SB 1033 (Hill) Medical Board: Disclosure of Probationary Status

Background:

The 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 July 1, 2018, to develop a standardized format for listing specified information related to the probation of a licensee 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, as specified.

Location: Senate Business, Professions & Economic Development Committee

Status: From Senate Committee on Business, Professions and Economic Development with author's amendments.

Hearing: 04/11/2016, Room 3191

Action Requested:

The staff recommendation is to "Watch" SB 1033 (Hill).

Attachment A is the language of SB 1033 (Hill)



California
LEGISLATIVE INFORMATION

SB-1033 Medical Board: disclosure of probationary status. (2015-2016)

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

No. 1033

Introduced by Senator Hill

February 12, 2016

An act to amend Sections 803.1, 2027, ~~and 2228 of~~ 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 Board: disclosure of probationary status.

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 ~~the board~~ each of these regulatory agencies to discipline ~~a physician or a surgeon~~ its licensee by placing her or him on ~~probation, which may include requiring the physician or surgeon to complete specified trainings, examinations, or community service or restricting the extent, scope, or type of practice, probation,~~ probation, as specified.

This bill would require ~~the board~~ these regulatory entities to require a ~~physician or surgeon~~ licensee to disclose on a separate document her or his probationary status to ~~patients before each a patient, the patient's guardian, or the health care surrogate prior to the patient's first visit following the probationary order~~ while the ~~physician or surgeon~~ licensee is on probation under specified circumstances, including ~~the board an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion~~ finding the ~~physician or surgeon~~ licensee committed gross negligence or the ~~physician or surgeon~~ licensee having been on probation ~~repeatedly, more than once,~~ among others. The bill would require the ~~board, by July 1, 2018, to adopt related regulations that include requiring the physician or surgeon licensee~~ to obtain from the patient a signed receipt containing specified information following the disclosure. *The bill would exempt a licensee from disclosing her or his probationary status prior to a visit or treatment if the patient is unable to comprehend the disclosure or 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.

Existing law requires the ~~board~~ 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 ~~its~~ *their* Internet Web ~~site~~ *sites* specified information concerning each ~~physician and surgeon~~ *licensee* including revocations, suspensions, probations, or limitations on practice.

~~This~~

The bill would require ~~the board~~, 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 July 1, 2018, to ~~include in each order of probation a written summary containing specified information~~ *develop a standardized format for listing specified information related to the probation* and to ~~include the summary in the disclosure~~ *provide that information* to an inquiring member of the public, on any ~~board~~ documents informing the public of probation orders, and on a specified profile ~~web~~ *Internet Web* page of each ~~physician and surgeon~~ *licensee* subject to ~~probation~~ *probation, 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 803.1 of the Business and Professions Code is amended to read:

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

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

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

- (1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.
- (2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in

either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars (\$30,000) or more.

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

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

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

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

(3) Current American Board of Medical Specialties certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027. By July 1, 2018, the Medical Board of ~~California~~ *California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine* shall include the ~~summary of each probation order as written pursuant to information described in subdivision (e)~~ *(f)* of Section 2228.

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

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

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

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

When considering malpractice data, please keep in mind:

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

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

The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to settle. Some doctors work primarily with high-risk patients. These doctors may have malpractice settlement histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.

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

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

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

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

(g) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, *and* the Physician Assistant Board shall provide each licensee, including a former licensee under subdivision (a), with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

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

(i) By July 1, 2018, the ~~board~~ *Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine* shall include ~~each licensee's probation summary written pursuant to subdivision (e) the information listed in subdivision (f)~~ of Section 2228 on any board documents informing the public of probation ~~orders, orders and probationary licenses~~, including, but not limited to, newsletters.

SEC. 2. *Section 1006 is added to the Business and Professions Code, to read:*

1006. *(a) Except as provided by subdivision (c), the State Board of Chiropractic Examiners shall require a licensee to disclose on a separate document her or his probationary status to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:*

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

(A) Gross negligence.

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

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

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

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

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

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

(D) Restricting the licensee totally or partially from prescribing controlled substances.

(3) The licensee has not successfully completed a clinical training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if the patient is unconscious or otherwise unable to comprehend the disclosure and sign the receipt pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt. In that instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

(d) By July 1, 2018, the board shall develop a standardized format for listing the following information pursuant to subdivision (e):

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

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

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

(e) By July 1, 2018, the board shall provide the information listed in subdivision (d) as follows:

(1) To an inquiring member of the public.

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

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

SEC. 2. SEC. 3. Section 2027 of the Business and Professions Code is amended to read:

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

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

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

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

(A) Temporary restraining orders.

(B) Interim suspension orders.

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

(ii) By July 1, 2018, the ~~board board, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine~~ shall include, in plain view on the BreEZe profile ~~web Internet Web~~ page of each licensee subject to ~~probation, the summary of each probation order as written pursuant to~~ *probation or a probationary license, the information described in* subdivision ~~(e)~~ (f) of Section 2228. For purposes of this subparagraph, a BreEZe profile ~~web Internet Web~~ page is a profile ~~web Internet Web~~ page on the BreEZe system pursuant to Section 210.

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

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

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

(1) Approved postgraduate training.

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

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

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

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

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

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

(A) If a licensee's hospital staff privileges are restored and the licensee notifies the board of the restoration, the information pertaining to the termination or revocation of those privileges shall remain posted on the Internet Web site for a period of 10 years from the restoration date of the privileges, and at the end of that period shall

be removed.

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

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

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

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

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

(B) For the purposes of this paragraph, "settlement" does not include a settlement by a licensee, regardless of the amount paid, when (i) the settlement is made as a part of the settlement of a class claim, (ii) the amount paid in settlement of the class claim is the same amount paid by the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case for which the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action.

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

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

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

SEC. 4. *Section 2221 of the Business and Professions Code is amended to read:*

2221. (a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her ~~license; or, the~~ *license*.

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

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

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

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

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

- (6) Abstention from the use of alcohol or drugs.
- (7) Restrictions against engaging in certain types of medical practice.
- (8) Compliance with all provisions of this chapter.
- (9) Payment of the cost of probation monitoring.

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

(b)

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

(e)

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

(d)

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

SEC. 5. *Section 2221.05 of the Business and Professions Code is amended to read:*

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

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

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

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

SEC. 3. **SEC. 6.** *Section 2228 of the Business and Professions Code is amended to read:*

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

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

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

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

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

(b) ~~The board~~ *board or the California Board of Podiatric Medicine* shall require a licensee to disclose *on a separate document* her or his probationary status to ~~patients before each visit a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order~~ while the licensee is on probation in any of the following circumstances:

(1) ~~The board made a finding in the probation order~~ *accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge finds* that the licensee ~~committed~~ *is implicated* in any of the following:

(A) Gross negligence.

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

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

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

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

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

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That ~~a third-party~~ *third-party* chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

(D) Restricting totally or partially the licensee from prescribing controlled substances.

~~(E) Suspending the licensee from practice in cases related to quality of care.~~

(3) The licensee has not successfully completed a clinical training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation ~~repeatedly~~ *more than once*.

~~(c) The board shall adopt regulations by July 1, 2018, to implement subdivision (b). The board shall include in these regulations a requirement that the~~ licensee *shall* obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's *discipline probation* on the board's Internet Web site.

(d) A licensee shall not be required to provide the disclosure prior to a visit as required by subdivision (b) if the patient is unconscious or otherwise unable to comprehend the disclosure and sign the receipt pursuant to subdivision (c) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt. In that instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

~~(d)~~

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

~~(e)~~

~~(f) By July 1, 2018, the board shall include, in the first section of each order of probation, a standardized, single paragraph, plain language summary that contains the accusations that led to the licensee's probation, the develop a standardized format for listing the following information pursuant to paragraph (5) of subdivision (b) of Section 803.1, subdivision (i) of Section 803.1, and clause (ii) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 2027:~~

(1) The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal

conclusions of an administrative law judge.

(2) The length of the probation and the end ~~date, and all~~ date.

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

SEC. 7. *Section 3663 of the Business and Professions Code is amended to read:*

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

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

(c) Except as provided by subdivision (e), the committee shall require a naturopathic doctor to disclose on a separate document her or his probationary status to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the naturopathic doctor is on probation in any of the following circumstances:

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

(A) Gross negligence.

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

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

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

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

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

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

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

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

(C) That the naturopathic doctor have a monitor.

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

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

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

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

(e) The naturopathic doctor shall not be required to provide the disclosure prior to the visit as required by subdivision (c) if the patient is unconscious or otherwise unable to comprehend the disclosure or sign the receipt pursuant to subdivision (d) and a guardian or health care surrogate is unavailable to comprehend the disclosure or sign the receipt. In such an instance, the naturopathic doctor shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is

available to comprehend the disclosure and sign the receipt.

(f) By July 1, 2018, the committee shall develop a standardized format for listing the following information pursuant to:

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

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

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

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

(1) To an inquiring member of the public.

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

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

SEC. 8. *Section 4962 is added to the Business and Professions Code, to read:*

4962. *(a) Except as provided by subdivision (c), the board shall require a licensee to disclose on a separate document her or his probationary status to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:*

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

(A) Gross negligence.

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

(C) Drug or alcohol abuse that threatens to impair a licensee's ability to practice acupuncture safely, including practicing under the influence of drugs or alcohol.

(D) Felony conviction arising from or occurring during patient care or treatment.

(E) Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice acupuncture.

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

(3) The licensee has not successfully completed a training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if the patient is unconscious or otherwise unable to comprehend the disclosure or sign the receipt pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure or sign the receipt. In such an instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

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

(e) By July 1, 2018, the committee shall develop a standardized format for listing the following information pursuant to subdivision (f):

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

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

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

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

(1) To an inquiring member of the public.

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

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