

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Berman

February 4, 2025

An act to repeal and add Article 14 (commencing with Section 2340) of Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Berman. ~~Healing arts.~~ *Physician Health and Wellness Program.*

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons and licensed midwives by the Medical Board of California. A violation of the act is a crime. Existing law authorizes the board to establish a Physician and Surgeon Health and Wellness Program to support a physician and surgeon in their rehabilitation from substance abuse to ensure the physician and surgeon remains able to practice medicine in a manner that will not endanger the public health and safety and that will maintain the integrity of the medical profession. Existing law requires the board to contract with a third party for the program's administration in accordance with specified provisions of the Public Contract Code. Existing law provides that participation in the program shall not be a defense to any disciplinary action that may be taken by the board. Existing law requires the program to comply with the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees adopted by the Substance Abuse Coordination Committee of the Department of Consumer Affairs. Existing law establishes the Physician and Surgeon Health and Wellness

Program Account in the Contingent Fund of the Medical Board of California for the support of the program.

This bill would revise and recast those provisions and would instead authorize the board to establish a Physician Health and Wellness Program to support, treat, monitor, and rehabilitate physicians and surgeons and other professionals licensed by the board with impairing physical and mental health conditions that may impact their ability to practice their profession in a reasonably safe, competent, and professional manner. The bill would require the administering entity to be a nonprofit entity and would require the contract with the administering entity to include procedures on specified topics. The bill would exempt the program from the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. The bill would exempt program records relating to program participants from disclosure under the California Public Records Act, except as specified. The bill would authorize the board to establish advisory committees to assist in carrying out the duties of the administering entity, and would establish duties and responsibilities authorized to be performed by a committee. The bill would rename the Physician and Surgeon Health and Wellness Program Account as the Physician Health and Wellness Program Account, and would authorize the board to seek and use grant funds and gifts from public or private sources to pay any cost associated with the program. The bill would require the board to annually report to the Legislature and make available to the public the amount and source of funds. The bill would require a licensee to report a license to the administering entity or the board if they believe the licensee is impaired. By expanding the scope of a crime under the Medical Practice Act, the bill would impose a state-mandated local program. The bill would make a person who, in good faith, reports information or takes action in connection with the bill's provisions immune from civil liability for reporting information or taking the action. The bill would make the program inapplicable to the Osteopathic Medical Board of California.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons.

This bill would state the intent of the Legislature to enact legislation to revise the authority of the Medical Board of California to establish a physician health and wellness program.

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

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

1 *SECTION 1. Article 14 (commencing with Section 2340) of*
2 *Chapter 5 of Division 2 of the Business and Professions Code is*
3 *repealed.*

4 *SEC. 2. Article 14 (commencing with Section 2340) is added*
5 *to Chapter 5 of Division 2 of the Business and Professions Code,*
6 *to read:*

7
8 *Article 14. Physician Health and Wellness Program*
9

10 2340. (a) *The board may establish a Physician Health and*
11 *Wellness Program for the early identification of, and appropriate*
12 *interventions to support, treat, monitor, and rehabilitate physicians*
13 *and surgeons and allied health care professionals licensed by the*
14 *board, as well as applicants, prospective applicants, trainees, and*
15 *students, with impairing or potentially impairing physical or mental*
16 *health conditions, including substance use disorders, that may*
17 *impact their ability to practice their profession in a reasonably*
18 *safe, competent, and professional manner.*

19 (b) *For purposes of this article, the following definitions apply:*

20 (1) *“Administering entity” means a nonprofit, third-party*
21 *independent administering entity qualified under Section 501(c)(3)*
22 *of the Internal Revenue Code of 1986 that has expertise in mental*
23 *health disorders, including substance use disorders and other*
24 *potentially impairing health conditions, that has been designated*
25 *pursuant to a request for proposal to perform any of the activities*

1 set forth in this article and any applicable regulations pursuant
2 to a contract with the board.

3 (2) “Applicant” means an individual who has applied for
4 licensure with the board.

5 (3) “Board” means the Medical Board of California or its
6 designee. If the board establishes one or more committees pursuant
7 to this article, “board” may also refer to a board committee to
8 the extent duties have been delegated to the committee, or to its
9 designee.

10 (4) “Disruptive behavior” means aberrant behavior exhibited
11 through personal interaction with others, including, but not limited
12 to, health care professionals, facility staff, or patients, clients, or
13 their family members, which interferes with patient or client care
14 or could reasonably be expected to interfere with the process of
15 delivering health care in a reasonably safe, competent, and
16 professional manner.

17 (5) “Impaired,” “impairing,” or “impairment” means the
18 inability to practice medicine or other health care profession
19 regulated by the board in a reasonably safe, competent, and
20 professional manner due to mental illness, physical illness,
21 disruptive behavior, or substance use disorder.

22 (6) “Licensee” means an individual licensed by the board.

23 (7) “Mental illness” means an illness or condition characterized
24 by a clinically significant disturbance in an individual’s cognition,
25 emotion regulation, or behavior, including disruptive behavior,
26 that reflects a dysfunction in the psychological, biological, or
27 developmental processes underlying mental functioning.

28 (8) “Participant” means a licensee, applicant, prospective
29 applicant, trainee, or student who was or is enrolled in the program
30 for evaluation, treatment, or monitoring pursuant to an agreement
31 between that person and the program, including voluntary
32 participants and those referred by the board pursuant to an order
33 of probation.

34 (9) “Physical illness” means an illness or condition that would
35 adversely affect cognitive, motor, or perceptive skills, including,
36 but not limited to, deterioration through the aging process.

37 (10) “Physician Health and Wellness Program” or “program”
38 means the confidential resource operated by the administering
39 entity for licensees, applicants, prospective applicants, trainees,

1 *and students suffering from impairing or potentially impairing*
2 *health conditions.*

3 *(11) "Prospective applicant" means an individual who has*
4 *graduated from a school approved by the board and is*
5 *contemplating applying for licensure with the board.*

6 *(12) "Student" means an individual enrolled in a school*
7 *approved by the board studying to enter a profession regulated*
8 *by the board. For an individual participating in the program, the*
9 *program shall make any required reports pursuant to this article*
10 *to the individual's oversight entity, such as the individual's school,*
11 *program, or supervisor as specified in the individual's*
12 *participation agreement, instead of to the board, unless otherwise*
13 *specified in this article.*

14 *(13) "Substance use disorder" means a disease in which the*
15 *essential feature is a cluster of cognitive, behavioral, and*
16 *physiological symptoms indicating that the individual continues*
17 *using the substance despite significant substance-related problems.*

18 *(14) "Trainee" means an individual who has graduated from*
19 *a school approved by the board who is in training to enter a*
20 *profession regulated by the board, and who is currently unlicensed*
21 *to practice in California, including, but not limited to, those who*
22 *are practicing during the exemption period under Section 2064.5*
23 *or 2065. For an individual participating in the program, the*
24 *program shall make any required reports pursuant to this article*
25 *to the individual's oversight entity, such as the individual's training*
26 *program or supervisor, as specified in the individual's*
27 *participation agreement, instead of to the board, unless otherwise*
28 *specified in this article.*

29 *(15) "Treatment" means a course of inpatient or outpatient*
30 *care or rehabilitation services provided pursuant to*
31 *recommendations by the administering entity or its designee*
32 *authorized to make those recommendations.*

33 *(16) "Voluntary participant" means a participant who*
34 *voluntarily enrolled in the program for evaluation, monitoring,*
35 *or treatment services, including an individual referred by the board*
36 *in lieu of the board pursuing disciplinary action, and is not*
37 *required by the board to participate in the program pursuant to*
38 *an order of probation.*

39 *2341. (a) A program established pursuant to this article shall*
40 *do all of the following:*

1 (1) Educate the public, licensees, applicants, prospective
2 applicants, trainees, students, health facilities, medical groups,
3 health care service plans, health insurers, and other relevant
4 organizations on the following topics:

5 (A) Early identification and prevention of threats to patient
6 safety due to health care providers who may be impaired.

7 (B) How to refer eligible individuals to the program, including
8 relevant ethical and legal obligations to refer impaired individuals
9 to the program or board.

10 (C) Other information that furthers the purposes of the program.

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

14 (3) Receive and assess reports of suspected impairment from
15 any source.

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

19 (5) Upon reasonable cause, refer participants for evaluation,
20 treatment, monitoring, or other appropriate services.

21 (6) Provide consistent and regular monitoring, care management
22 support, or other appropriate services for program participants.

23 (7) Advocate on behalf of participants, with their consent, to
24 the board to allow them to participate in the program as an
25 alternative to disciplinary action, when appropriate.

26 (8) Offer guidance on participants' fitness for duty with current
27 or potential workplaces, when appropriate.

28 (9) Perform other services as agreed between the program and
29 the board.

30 (b) Notwithstanding any other law, the board and program shall
31 be exempt from being mandated to impose or follow the
32 requirements of the Uniform Standards Regarding
33 Substance-Abusing Healing Arts Licensees adopted by the
34 Substance Abuse Coordination Committee of the Department of
35 Consumer Affairs pursuant to Section 315 (Uniform Standards),
36 for those who are voluntary participants.

37 (c) A participant who is subject to a board order of probation,
38 including, but not limited to, an order imposing the Uniform
39 Standards, shall comply with the terms of their probation, and the
40 program shall provide the required evaluations, treatment,

1 monitoring, and reports to the board consistent with the
2 participant's order of probation. A participant who commits a
3 violation of their order of probation shall be subject to the
4 consequences required by the order.

5 2342. (a) If the board chooses to establish a program, the
6 board shall contract for the program's administration with a
7 third-party independent administering entity that is a nonprofit
8 entity that qualifies under Section 501(c)(3) of the United States
9 Internal Revenue Code of 1986, pursuant to a request for
10 proposals. The process for procuring the services for the program
11 shall be administered by the board pursuant to Article 4
12 (commencing with Section 10335) of Chapter 2 of Part 2 of
13 Division 2 of the Public Contract Code. However, Section 10425
14 of the Public Contract Code shall not apply to this subdivision.
15 The board may enter into a multiyear contract with the
16 administering entity without having to obtain the approval of the
17 Department of General Services, the Office of Legal Services, or
18 any other state entity to justify a multiyear term.

19 (b) The administering entity shall have expertise and experience
20 in the areas of impairment and rehabilitation in health care
21 providers. The leadership of the administering entity shall have
22 at least one medical director, who is specially trained or board
23 certified in addiction medicine or addiction psychiatry and has
24 expertise in health programs for health care providers.

25 (c) The administering entity shall identify and use a national
26 treatment resource network that includes in-person and telehealth
27 evaluations, treatment programs, and support groups and shall
28 establish a process for evaluating the effectiveness of those
29 resources and programs.

30 (d) The administering entity shall identify other individuals
31 affiliated with the participant who would benefit from counseling
32 and may refer them to services appropriate for the circumstances.

33 (e) The administering entity shall make the program services
34 available to all board licensees, applicants, prospective applicants,
35 trainees, and students.

36 (f) The administering entity shall make prompt and diligent
37 efforts to contact and conduct an appropriate assessment and
38 referral for an independent evaluation, when indicated, with each
39 licensee, applicant, prospective applicant, trainee, and student
40 who has been referred to the program. The administering entity

1 shall attempt to enroll the referred individual if, in the good faith
2 judgment of the administering entity, the individual has a condition
3 that impairs or may impair their ability to practice their profession
4 in a reasonably safe, competent, and professional manner.

5 (g) The administering entity shall have a board-approved system
6 for immediately reporting a participant to the board when required
7 by this article, including, but not limited to, a participant who
8 withdraws or is terminated from the program prior to completion.
9 This system shall ensure absolute confidentiality in the
10 communication to the board. The administering entity shall not
11 provide this information to any other individual or entity unless
12 authorized by the participant or this article.

13 (h) The administering entity shall provide regular
14 communication to the board, including, but not limited to, the
15 following:

16 (1) Participate at board meetings, which may include presenting
17 at meetings or providing reports, as requested by the board, on
18 matters relevant to the program and participants.

19 (2) Provide annual reports to the board with program statistics
20 requested by the board.

21 (3) Provide reports regarding participants and other individuals
22 as required by this article.

23 (4) Reports provided during an open meeting or published in
24 open meeting materials, including to provide program statistics,
25 shall not disclose any personally identifiable information relating
26 to any participant without the express written consent of the
27 participant.

28 (i) Upon request of the board, the administering entity shall
29 submit to periodic quality and compliance evaluations of all or
30 select operations, fund conditions, records, and management
31 related to the program to ensure compliance with the requirements
32 of this article, applicable regulations, and the contract with the
33 board. The evaluation shall be conducted by an independent third
34 party approved by the board. Any report on the evaluation
35 conducted pursuant to this section shall maintain the confidentiality
36 of all records reviewed and information obtained in the course of
37 conducting the evaluation and shall not disclose any information
38 identifying a program participant.

1 2343. A contract entered into pursuant to this article with the
2 administering entity shall include procedures on all of the following
3 topics:

4 (a) Regular participation at board meetings, which may include
5 presenting at meetings or providing reports, as requested by the
6 board.

7 (b) Regular reporting of statistical information related to the
8 program and participants, including for the board's annual report.

9 (c) Periodic disclosure and joint review of information the board
10 may deem appropriate regarding referrals, including the contacts,
11 evaluations, and investigations made, and the disposition of each
12 referral. However, with respect to nonboard referrals, the
13 administering entity shall not disclose any personally identifiable
14 information to the board except as provided in subdivision (d) or
15 (e), or when required by the board following consideration of
16 information provided under subdivision (f).

17 (d) Immediate reporting to the board the name, last known
18 contact information, and a factual summary of events and findings
19 regarding any suspected or verified impaired licensee, applicant,
20 or trainee practicing during the exemption period under Section
21 2064.5 or 2065, who, in the opinion of the administering entity, is
22 probably an imminent danger to the public. Other program records
23 pertaining to the participant shall be confidential and not
24 accessible to the board, unless the individual is participating in
25 the program pursuant to an order of probation.

26 (e) Timely reporting to the board the name, last known contact
27 information, and a factual summary of events and findings
28 regarding any suspected or verified impaired licensee, applicant,
29 or trainee practicing during the exemption period under Section
30 2064.5 or 2065, who fails to cooperate with the program, fails to
31 submit to an evaluation, treatment, or monitoring, or whose
32 impairment is not substantially alleviated through treatment, or
33 who, in the opinion of the administering entity, is probably unable
34 to practice their profession in a reasonably safe, competent, and
35 professional manner. Other program records pertaining to the
36 participant shall be confidential and not accessible to the board,
37 unless the individual is participating in the program pursuant to
38 an order of probation.

39 (f) Timely reporting to the board, when required under the
40 criteria established pursuant to subdivision (e) of Section 2345,

1 *for the board's evaluation and direction, deidentified voluntary*
2 *participants who commit a program violation. After consulting*
3 *with the administering entity, if the board requests that the*
4 *individual be identified, the administering entity shall provide to*
5 *the board the name, last known contact information, and a factual*
6 *summary of events and findings relating to the individual's*
7 *participation in the program. Other program records pertaining*
8 *to the participant shall be confidential and not accessible to the*
9 *board.*

10 *(g) Informing each participant of the program procedures, the*
11 *responsibilities of participants, and the possible consequences of*
12 *noncompliance with the program.*

13 *(h) Qualifications and requirements for individuals and entities*
14 *providing services to participants, including, but not limited to,*
15 *treatment facilities, evaluators, testing locations, laboratories,*
16 *treatment providers, support group facilitators, and monitors.*

17 *(i) Prevention of personal, financial, business, or professional*
18 *conflicts of interests that may compromise the program's*
19 *responsibilities, including, but not limited to, conflicts that may*
20 *unduly influence decisions regarding the selection of treatment*
21 *options, evaluators, testing locations, laboratories, treatment*
22 *providers, support group facilitators, or monitors.*

23 *(j) Quality assurance and quality improvement principles.*

24 *(k) Confidentiality and maintenance of program records.*

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

29 *(m) Standardized data collection to allow for data analysis and*
30 *research.*

31 *(n) Research processes and methodologies.*

32 *(o) Education and outreach to stakeholders.*

33 *(p) Interstate monitoring to support communication and*
34 *accountability of program participants across jurisdictions.*

35 *(q) Notification of program evaluations required pursuant to*
36 *subdivision (i) of Section 2342, compliance with those evaluations,*
37 *and opportunities to cure deficiencies identified in those*
38 *evaluations.*

39 *(r) Any other topic pertinent to the program as determined by*
40 *the board.*

1 2344. (a) *In lieu of disciplinary action, if the board determines*
2 *that the unprofessional conduct may be the result of an impairing*
3 *or potentially impairing condition, the board may refer the licensee*
4 *to the program. If the unprofessional conduct involves allegations*
5 *of patient or client harm or sexual misconduct with a patient,*
6 *client, or any other person, referral to the program shall not be*
7 *an option for avoiding disciplinary action.*

8 (b) *Referral of the licensee to the program in lieu of disciplinary*
9 *action shall be done only with the consent of the licensee. If the*
10 *licensee does not consent to be referred to the program, or does*
11 *not successfully complete the program, the board may take*
12 *appropriate disciplinary action.*

13 (c) *The cost of evaluation and treatment shall be the sole*
14 *responsibility of the participant, and this responsibility does not*
15 *preclude payment by an employer, insurer, or other sources.*

16 (d) *Evaluation, monitoring, and treatment shall be conducted*
17 *by providers with expertise in working with health care*
18 *professionals with impairing or potentially impairing conditions*
19 *approved by the administering entity or the board.*

20 (e) *Upon receiving a report from the program that is required*
21 *under the criteria established pursuant to subdivision (e) of Section*
22 *2345 that a deidentified voluntary participant committed a program*
23 *violation, the board may do any of the following:*

24 (1) *Encourage continued program participation with additional*
25 *conditions, in lieu of disciplinary action, when the board*
26 *determines that the licensee is able to continue to practice in a*
27 *reasonably safe, competent, and professional manner.*

28 (2) *Request the participant's identity, last known contact*
29 *information, and a factual summary of events and findings relating*
30 *to the individual's participation in the program so that the board*
31 *may investigate and pursue disciplinary action, as warranted.*

32 (3) *Take other action consistent with the agreed-upon*
33 *procedures.*

34 (f) *A participant shall sign a waiver allowing the program to*
35 *release information to the board as required by this article or their*
36 *program agreement, including, but not limited to, if the participant*
37 *does not comply with their program agreement, or, in the opinion*
38 *of the administering entity, is unable to practice in a reasonably*
39 *safe, competent, and professional manner. The program shall*
40 *report to the board a participant who fails to comply with their*

1 *program agreement when required under the criteria established*
2 *pursuant to subdivision (e) of Section 2345, or who, in the opinion*
3 *of the administering entity, is unable to practice their profession*
4 *in a reasonably safe, competent, and professional manner.*

5 *(g) The administering entity shall report to the board a licensee,*
6 *applicant, or trainee practicing during the exemption period under*
7 *Section 2064.5 or 2065, who fails to enter into a program*
8 *agreement, and who, in the opinion of the administering entity, is*
9 *unable to practice their profession in a reasonably safe, competent,*
10 *and professional manner.*

11 *(h) A licensee, applicant, or trainee practicing during the*
12 *exemption period under Section 2064.5 or 2065 shall notify the*
13 *board in writing on a form approved by the board within three*
14 *calendar days from the date they withdraw or are terminated from*
15 *the program without completing the program's requirements.*

16 *(i) A licensee, applicant, or trainee practicing during the*
17 *exemption period under Section 2064.5 or 2065 who previously*
18 *withdrew or was terminated from the program without completing*
19 *the program's requirements may, upon the agreement of the*
20 *administering entity and the board, reenter the program.*

21 *(j) This section does not restrict the authority of the board to*
22 *take disciplinary action against a licensee or to deny a license to*
23 *an individual who withdraws or is terminated from the program*
24 *without completing the program's requirements or for any other*
25 *unprofessional conduct, including, but not limited to, its authority*
26 *under Section 820.*

27 *2345. A participant shall, as a condition of participation in*
28 *the program, enter into an individual agreement with the program.*
29 *The agreement shall include, but not be limited to, all of the*
30 *following, to the extent they are applicable to the services to be*
31 *provided by the program to the individual participant:*

32 *(a) A jointly agreed-upon plan and mandatory conditions and*
33 *procedures for monitoring of compliance with the program. For*
34 *individuals who are referred to the program pursuant to an order*
35 *of probation, the program's written agreement shall require*
36 *compliance with the terms of their order of probation, in addition*
37 *to any other program requirements.*

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

40 *(c) Criteria for program completion.*

1 (d) *Criteria for termination from the program.*

2 (e) *Criteria for when the administering entity will report a*
3 *participant to the board for noncompliance with the program*
4 *requirements.*

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

8 (g) *Acknowledgment that the administering entity is required*
9 *to report to the board, pursuant to subdivision (e) of Section 2343,*
10 *the participant's withdrawal or termination before completion of*
11 *program requirements or if the administering entity determines*
12 *that the participant is unable to practice their profession in a*
13 *reasonably safe, competent, and professional manner.*

14 (h) *Acknowledgment that the report described in subdivision*
15 *(g) is required to include the participant's name, last known*
16 *contact information, and a factual summary of events and findings*
17 *relating to the individual's participation in the program.*

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

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

25 2346. (a) *Program records including, but not limited to, case*
26 *notes, progress notes, laboratory reports, evaluation and treatment*
27 *records, electronic and written correspondence within the program,*
28 *and between the program and the participant, board, or other*
29 *involved entities including, but not limited to, employers,*
30 *credentialing bodies, referents, or other collateral sources, relating*
31 *to participants are confidential and exempt from disclosure under*
32 *the California Public Records Act (Division 10 (commencing with*
33 *Section 7920.000) of Title 1 of the Government Code) and shall*
34 *not be subject to discovery by subpoena or admissible as evidence*
35 *except:*

36 (1) *To defend a program professional in any civil or*
37 *administrative action involving a participant regarding the*
38 *restriction or revocation of that participant's clinical or staff*
39 *privileges, or termination of the participant from employment, a*
40 *school, or training program. In such an action, the program shall,*

1 upon subpoena issued by any party to the action and upon the
2 requesting party seeking a protective order for the requested
3 disclosure, provide to the parties to the action written disclosure
4 that includes all of the following information:

5 (A) Verification of the individual's participation in the program
6 as it relates to aspects of program involvement at issue in the
7 action.

8 (B) The dates of participation.

9 (C) Whether the program identified an impairing or potentially
10 impairing health condition.

11 (D) Whether the individual was compliant with their program
12 agreement.

13 (E) Whether the individual successfully completed the program.

14 (2) Records provided to the board as required by this article.

15 (b) Records held by the board under this section are also exempt
16 from the California Public Records Act (Division 10 (commencing
17 with Section 7920.000) of Title 1 of the Government Code) and
18 are not subject to discovery by subpoena. These records are
19 available to the individual only pursuant to Section 11507.6 of the
20 Government Code, and the board may use those records as
21 evidence in a licensing or disciplinary action against the individual.

22 2347. (a) A person who, in good faith, reports information or
23 takes action in connection with this article is immune from civil
24 liability for reporting information or taking the action.

25 (1) The immunity from civil liability provided by this section
26 shall be liberally construed to accomplish the purposes of this
27 section. The persons and entities entitled to immunity shall include
28 all of the following:

29 (A) The administering entity, board, and committees.

30 (B) Members, employees, and agents of the administering entity,
31 board, and committees.

32 (C) Persons reporting a licensee, trainee, applicant, or
33 prospective applicant for licensure as being possibly impaired or
34 providing information about the subject's impairment to the board
35 or administering entity.

36 (D) Professionals supervising or monitoring the course of the
37 program participant's treatment or rehabilitation, including when
38 they report progress or noncompliance to the board as warranted.

39 (2) The courts are strongly encouraged to impose sanctions on
40 program participants and their attorneys whose allegations

1 *regarding violations of this article are not made in good faith and*
2 *are without either reasonable objective or substantive grounds,*
3 *or both.*

4 *(3) The immunity provided in this section is in addition to any*
5 *other immunity provided by law.*

6 *(b) This section does not require the board to defend or*
7 *indemnify a person in an action described in subdivision (a).*

8 2348. *(a) If the board establishes a program pursuant to this*
9 *article, the board may establish one or more advisory committees*
10 *to assist it in carrying out its duties under this article. A committee*
11 *created under this article shall operate under the direction of the*
12 *board's executive director or their designee.*

13 *(b) Appointments to a committee shall be by the affirmative vote*
14 *of a majority of members appointed to the board. Each appointment*
15 *shall be at the pleasure of the board for a term not to exceed four*
16 *years. The board may stagger the terms of the initial committee*
17 *members appointed, and may remove a committee member for any*
18 *reason.*

19 *(c) Any committee established by the board shall have at least*
20 *three members, who are unaffiliated with the program or any*
21 *contractors thereof, including at least one member who is not*
22 *licensed by the board and who is knowledgeable in a*
23 *board-recognized field relating to substance use disorders, mental*
24 *illness, or physical illness. Each licensee appointed shall have*
25 *experience in the evaluation or management of health care*
26 *professionals who are impaired due to substance use disorders,*
27 *mental illness, or physical illness. At least one licensee appointed*
28 *shall specialize in the diagnosis and treatment of substance use*
29 *disorders in health care professionals.*

30 *(d) A majority of the members of a committee shall constitute*
31 *a quorum for the transaction of business. Any action requires an*
32 *affirmative vote of a majority of those members present at a*
33 *meeting constituting at least a quorum, or a majority of the*
34 *members on the committee if a decision is made through electronic*
35 *voting. Each committee shall elect from its membership a*
36 *chairperson and a vice chairperson.*

37 *(e) Notwithstanding the Bagley-Keene Open Meeting Act (Article*
38 *9 (commencing with Section 11120) of Chapter 1 of Part 1 of*
39 *Division 3 of Title 2 of the Government Code), a committee may*
40 *convene in closed session, in person or remotely, to review*

1 information relating to any participant, any licensee being
2 considered for enrollment in the program in lieu of board
3 disciplinary action, or any individual the program is required to
4 report to the board pursuant to this article. A meeting that will be
5 convened entirely in closed session pursuant to this subdivision is
6 exempt from Section 11125 of the Government Code. A committee
7 shall only convene in closed session pursuant to this subdivision
8 to the extent that it is necessary to protect the privacy of individuals
9 being reviewed.

10 (f) Each member of a committee shall receive a per diem and
11 shall be reimbursed for expenses as provided in Section 103.

12 2349. (a) A committee established pursuant to Section 2348
13 may have the following duties and responsibilities as determined
14 by the board or its designee:

15 (1) To evaluate licensees for possible referral to the program
16 in lieu of board discipline and to make recommendations to the
17 executive director or their designee. In making recommendations,
18 a committee shall consider any recommendations from professional
19 consultants on the admission of licensees to the program.

20 (2) To review information concerning individuals participating
21 in the program, and any individual the administering entity is
22 required to report to the board pursuant to this article, and to
23 make recommendations to the executive director or their designee.

24 (3) To consider information provided by the administering entity
25 and make recommendations to the executive director or their
26 designee as to whether the administering entity should report the
27 participant to the board for noncompliance or continue to evaluate,
28 treat, or monitor the participant and under what conditions.

29 (4) To call meetings as necessary to consider the requests of
30 licensees to participate in the program, to consider reports
31 regarding participants in the program or regarding any individual
32 the administering entity is required to report to the board pursuant
33 to this article, and to consider any other matters referred to it by
34 the board.

35 (5) To periodically hold open public meetings to evaluate the
36 program's progress, to prepare reports to be submitted to the
37 board, to consider proposals for changes in the program, and to
38 consider other matters as requested by the board.

39 (b) For the purposes of the Government Claims Act (Division
40 3.6 (commencing with Section 810) of Title 1 of the Government

1 *Code), any member of a committee shall be considered a public*
2 *employee. No board or committee member, contractor, or agent*
3 *thereof, shall be liable for any civil damage because of acts or*
4 *omissions that may occur while acting in good faith pursuant to*
5 *this article.*

6 2350. (a) *The Physician Health and Wellness Program Account*
7 *is hereby continued in existence within the Contingent Fund of the*
8 *Medical Board of California. Any funds collected or allocated by*
9 *the board pursuant to this article or the article repealed by the act*
10 *adding this article shall be deposited into the Physician Health*
11 *and Wellness Program Account and shall be available, upon*
12 *appropriation by the Legislature, for the support of the program.*

13 (b) *The board may seek and use grant funds and gifts of financial*
14 *support from public or private sources to pay any cost associated*
15 *with the program. The board shall annually report to the*
16 *Legislature and make available to the public the amount and source*
17 *of funds it receives for support of the program. The report shall*
18 *be submitted in compliance with Section 9795 of the Government*
19 *Code.*

20 (c) *Any reference in law or regulation to the Physician and*
21 *Surgeon Health and Wellness Program Account shall be deemed*
22 *to refer to the Physician Health and Wellness Program Account.*

23 2351. (a) *If the board establishes the program, a licensee shall*
24 *report to the administering entity or the board, the name and*
25 *current contact information of another licensee if they, in their*
26 *good faith judgment, believe that the other licensee may be*
27 *impaired.*

28 (b) *Program staff and agents are exempt from this reporting*
29 *mandate when the licensee is compliant with program requirements*
30 *and does not pose a risk to patient safety.*

31 (c) *The administering entity or board shall not disclose the name*
32 *of the referring individual to the referred licensee under any*
33 *circumstances, except with the express written permission of the*
34 *referring individual, or if otherwise required by law.*

35 2352. *This article does not apply to the Osteopathic Medical*
36 *Board of California or its licensees, applicants, prospective*
37 *applicants, students, or trainees.*

38 SEC. 3. *The Legislature finds and declares that Section 2 of*
39 *this act, which adds Sections 2342, 2346, and 2348 to the Business*
40 *and Professions Code, imposes a limitation on the public's right*

1 of access to the meetings of public bodies or the writings of public
2 officials and agencies within the meaning of Section 3 of Article
3 I of the California Constitution. Pursuant to that constitutional
4 provision, the Legislature makes the following findings to
5 demonstrate the interest protected by this limitation and the need
6 for protecting that interest:

7 It is in the public interest to limit the disclosure of information
8 relating to program participants to encourage individuals in need
9 to participate in the program and ensure the safe practice of
10 medicine.

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 ~~SECTION 1. It is the intent of the Legislature to enact~~
21 ~~legislation to revise the authority of the Medical Board of~~
22 ~~California to establish a physician health and wellness program.~~