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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5] (*Heading of Division 1 amended by Stats. 1973, Ch. 77.*)

CHAPTER 4. Consumer Affairs [300 - 337] (*Chapter 4 added by Stats. 1970, Ch. 1394.*)

ARTICLE 3. Powers and Duties [310 - 314] (*Article 3 added by Stats. 1970, Ch. 1394.*)

310. The director shall have the following powers and it shall be his duty to:

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.
- (c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.
- (d) Study, investigate, research, and analyze matters affecting the interests of consumers.
- (e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.
- (f) Propose and assist in the creation and development of consumer education programs.
- (g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.
- (h) Advise the Governor and Legislature on all matters affecting the interests of consumers.
- (i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.
- (j) Maintain contact and liaison with consumer groups in California and nationally.

(Amended by Stats. 1975, Ch. 1262.)

311. The director may create an interdepartmental committee to assist and advise him in the implementation of his duties. The members of such committee shall consist of the heads of state departments, or their designees. Members of such committee shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

(Added by Stats. 1970, Ch. 1394.)

312. (a) The director shall submit to the Governor and the Legislature on or before January 1, 2003, and annually thereafter, a report of programmatic and statistical information regarding the activities of the department and its constituent entities for the previous fiscal year. The report shall include information concerning the director's activities pursuant to Section 326, including the number and general patterns of consumer complaints and the action taken on those complaints.

(b) The report shall include information relative to the performance of each constituent entity, including, but not limited to, length of time for a constituent entity to reach each of the following milestones in the enforcement process:

- (1) Average number of days from when a constituent entity receives a complaint until the constituent entity assigns an investigator to the complaint.
- (2) Average number of days from a constituent entity opening an investigation conducted by the constituent entity staff or the Division of Investigation to closing the investigation regardless of outcome.
- (3) Average number of days from a constituent entity closing an investigation to imposing formal discipline.

(c) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2014, Ch. 395, Sec. 6. (SB 1243) Effective January 1, 2015.)

312.1. The Office of Administrative Hearings shall submit a report to the department, the Governor, and the Legislature on or before January 1, 2016, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year:

- (a) Number of cases referred by each constituent entity to each office of the Office of Administrative Hearings for a hearing.
- (b) Average number of days from receiving a request to setting a hearing date at each office of the Office of Administrative Hearings.
- (c) Average number of days from setting a hearing to conducting the hearing.
- (d) Average number of days after conducting a hearing to transmitting the proposed decision by each office of the Office of Administrative Hearings.

(Added by Stats. 2014, Ch. 395, Sec. 7. (SB 1243) Effective January 1, 2015.)

312.2. (a) The Attorney General shall submit a report to the department, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2018, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:

- (1) The number of accusation matters referred to the Attorney General.
- (2) The number of accusation matters rejected for filing by the Attorney General.
- (3) The number of accusation matters for which further investigation was requested by the Attorney General.
- (4) The number of accusation matters for which further investigation was received by the Attorney General.
- (5) The number of accusations filed by each constituent entity.
- (6) The number of accusations a constituent entity withdraws.
- (7) The number of accusation matters adjudicated by the Attorney General.

(b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:

- (1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.
- (2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.
- (3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.
- (4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.
- (5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.
- (6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.

(c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2015, Ch. 656, Sec. 1. (SB 467) Effective January 1, 2016.)

313. The director shall provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems.

(Amended by Stats. 1975, Ch. 1262.)

313.1. (a) Notwithstanding any other provision of law to the contrary, no rule or regulation, except those relating to examinations and qualifications for licensure, and no fee change proposed or promulgated by any of the boards, commissions, or committees within the department, shall take effect pending compliance with this section.

(b) The director shall be formally notified of and shall be provided a full opportunity to review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, and this section, all of the following:

(1) All notices of proposed action, any modifications and supplements thereto, and the text of proposed regulations.

(2) Any notices of sufficiently related changes to regulations previously noticed to the public, and the text of proposed regulations showing modifications to the text.

(3) Final rulemaking records.

(c) The submission of all notices and final rulemaking records to the director and the completion of the director's review, as authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the completion of the director's review and only then if the director has not disapproved it. The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.

(d) Following the receipt of any final rulemaking record subject to subdivision (a), the director shall have the authority for a period of 30 days to disapprove a proposed rule or regulation on the ground that it is injurious to the public health, safety, or welfare.

(e) Final rulemaking records shall be filed with the director within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.

(1) In the event that the one-year notice period lapses during the director's 30-day review period, or within 60 days following the notice of the director's disapproval, it may be extended for a maximum of 90 days.

(2) If the director approves the final rulemaking record or declines to take action on it within 30 days, the board, commission, or committee shall have five days from the receipt of the record from the director within which to file it with the Office of Administrative Law.

(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1994, Ch. 26, Sec. 13. Effective March 30, 1994.)

313.2. The director shall adopt regulations to implement, interpret, and make specific the provisions of the Americans with Disabilities Act (P.L. 101-336), as they relate to the examination process for professional licensing and certification programs under the purview of the department.

(Added by Stats. 1992, Ch. 1289, Sec. 3. Effective January 1, 1993.)

313.5. The director shall periodically publish a bibliography of consumer information available in the department library and elsewhere. Such bibliography shall be sent to subscribers upon payment of a reasonable fee therefor.

(Amended by Stats. 1975, Ch. 1262.)

314. (a) The department or board shall not approve an accrediting entity that prohibits earn and learn programs for training in a profession licensed or certified by the board. A board shall use licensing or certification standards that authorize the use of earn and

learn training.

(b) Notwithstanding subdivision (a), the department and its boards shall not be required to establish a mandate specifying an accrediting entity must provide earn and learn programs for training in a profession licensed or certified by a board.

(c) As used in this section, "earn and learn" has the same meaning as defined in subdivision (q) of Section 14005 of the Unemployment Insurance Code.

(d) This section shall become operative on January 1, 2024.

(Added by Stats. 2021, Ch. 477, Sec. 2. (AB 1273) Effective January 1, 2022. Operative January 1, 2024, by its own provisions.)