

**Introduced by Senator Ochoa Bogh  
(Coauthor: Senator Borgeas)**

February 19, 2021

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An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as introduced, Ochoa Bogh. Professions and vocations: citations: minor violations.

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

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

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

1 SECTION 1. Section 125.9 of the Business and Professions  
2 Code is amended to read:  
3 125.9. (a) Except with respect to persons regulated under  
4 Chapter 11 (commencing with Section 7500), any board, bureau,  
5 or commission within the department, the State Board of

1 Chiropractic Examiners, and the Osteopathic Medical Board of  
2 California, may establish, by regulation, a system for the issuance  
3 to a licensee of a citation which may contain an order of abatement  
4 or an order to pay an administrative fine assessed by the board,  
5 bureau, or commission where the licensee is in violation of the  
6 applicable licensing act or any regulation adopted pursuant thereto.

7 (b) The system shall contain the following provisions:

8 (1) Citations shall be in writing and shall describe with  
9 particularity the nature of the violation, including specific reference  
10 to the provision of law determined to have been violated.

11 (2) Whenever appropriate, the citation shall contain an order of  
12 abatement fixing a reasonable time for abatement of the violation.

13 (3) In no event shall the administrative fine assessed by the  
14 board, bureau, or commission exceed five thousand dollars (\$5,000)  
15 for each inspection or each investigation made with respect to the  
16 violation, or five thousand dollars (\$5,000) for each violation or  
17 count if the violation involves fraudulent billing submitted to an  
18 insurance company, the Medi-Cal program, or Medicare. In  
19 assessing a fine, the board, bureau, or commission shall give due  
20 consideration to the appropriateness of the amount of the fine with  
21 respect to factors such as the gravity of the violation, the good  
22 faith of the licensee, and the history of previous violations.

23 (4) A citation or fine assessment issued pursuant to a citation  
24 shall inform the licensee that if the licensee desires a hearing to  
25 contest the finding of a violation, that hearing shall be requested  
26 by written notice to the board, bureau, or commission within 30  
27 days of the date of issuance of the citation or assessment. If a  
28 hearing is not requested pursuant to this section, payment of any  
29 fine shall not constitute an admission of the violation charged.  
30 Hearings shall be held pursuant to Chapter 5 (commencing with  
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
32 Code.

33 (5) Failure of a licensee to pay a fine or comply with an order  
34 of abatement, or both, within 30 days of the date of assessment or  
35 order, unless the citation is being appealed, may result in  
36 disciplinary action being taken by the board, bureau, or  
37 commission. Where a citation is not contested and a fine is not  
38 paid, the full amount of the assessed fine shall be added to the fee  
39 for renewal of the license. A license shall not be renewed without  
40 payment of the renewal fee and fine.

1 (c) The system may contain the following provisions:

2 (1) A citation may be issued without the assessment of an  
3 administrative fine.

4 (2) Assessment of administrative fines may be limited to only  
5 particular violations of the applicable licensing act.

6 (d) Notwithstanding any other provision of law, if a fine is paid  
7 to satisfy an assessment based on the finding of a violation,  
8 payment of the fine and compliance with the order of abatement,  
9 if applicable, shall be represented as satisfactory resolution of the  
10 matter for purposes of public disclosure.

11 (e) Administrative fines collected pursuant to this section shall  
12 be deposited in the special fund of the particular board, bureau, or  
13 commission.

14 (f) *A licensee shall not be assessed an administrative fine for a*  
15 *violation of the applicable licensing act or any regulation adopted*  
16 *pursuant to the act if the violation is a minor violation. A violation*  
17 *shall be considered minor if all of the following conditions are*  
18 *satisfied:*

19 (1) *The violation did not pose a serious health or safety threat.*

20 (2) *There is no evidence that the violation was willful.*

21 (3) *The licensee was not on probation at the time of the*  
22 *violation.*

23 (4) *The licensee does not have a history of committing the*  
24 *violation.*

25 (5) *The licensee corrects the violation within 30 days from the*  
26 *date notice of the violation is sent to the licensee.*