

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 30, 2005

AMENDED IN ASSEMBLY MAY 16, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 302

Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Koretz, Maze, Nation, Tran, Vargas, and Yee)

February 9, 2005

An act to amend Sections 3613, 3624.5, 3633.1, 3635, 3640, 3640.5, 4024, 4039, 4040, 4059, 4059.5, 4060, 4061, 4076, 4142, 4170, 4174, and 4175 of, to add Sections 5588.1, 5588.2, 5588.3, and 5588.4 to, to repeal Section 5589 of, and to repeal and add Section 5588 of, the Business and Professions Code, relating to architecture and to amend Sections 94739, 94822, and 94931 of, to add Sections 94742.2 and 94781 to, and to repeal Section 94742.3 of, the Education Code, and to amend Sections 11150, 11165, and 11210 of the Health and Safety Code, relating to professions and vocations , and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 302, as amended, Committee on Business and Professions. ~~Architects: reporting requirements.~~ *Professions and Vocations.*

(1) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine in the Department of Consumer Affairs. Existing law authorizes the bureau to license an applicant who

graduated prior to 1986 if the applicant passed a state naturopathic licensing examination and certain requirements are satisfied.

This bill would also authorize the bureau to license an applicant who graduated prior to 1986 if the applicant passed a Canadian Province naturopathic licensing examination.

(2) Existing law, the Pharmacy Law, provides for the regulation of the practice of pharmacy by the California State Board of Pharmacy and makes a violation of its provisions a crime. Existing law prohibits a person from furnishing any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. Existing law, the Uniform Controlled Substances Act, authorizes a pharmacist, in specified circumstances, to write or issue a prescription. Existing law, the Naturopathic Doctors Act, authorizes naturopathic doctors to prescribe or order drugs in specified circumstances.

This bill would add naturopathic doctors who prescribe or order drugs in those specified circumstances to the list of persons authorized to furnish dangerous drugs and write or issue prescriptions under the Pharmacy Law and the Uniform Controlled Substances Act. The bill would charge the Bureau of Naturopathic Medicine with certain responsibilities with respect to compliance with and enforcement of the Pharmacy Law with respect to its licensees. The bill would also make related changes.

(3) Existing law provides for the licensing and regulation of architects by the California Architects Board. Existing law requires that a settlement or arbitration award in excess of \$5,000 of a claim or action for damages caused by a licensee's fraud, deceit, negligence, incompetence, or recklessness in practice be reported to the board by insurers and licensees.

This bill would delete these requirements and would instead require a licensee, a liability insurer, or a government agency that self insures a licensee to submit a report to the board meeting certain requirements where there is a civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in an action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of architecture if the amount or value of the judgment, settlement, or award is \$5,000 or more. The bill would authorize the board to adopt regulations defining the reporting requirements.

(4) Existing law provides for the licensing and regulation of architects by the California Architects Board. Existing law requires that a settlement or arbitration award in excess of \$5,000 of a claim or action for damages caused by a licensee's fraud, deceit, negligence, incompetence, or recklessness in practice be reported to the board by insurers and licensees.

This bill would delete these requirements and would instead require a licensee, a liability insurer, or a government agency that self insures a licensee to submit a report to the board meeting certain requirements where there is a civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in an action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of architecture if the amount or value of the judgment, settlement, or award is \$5,000 or more. The bill would authorize the board to adopt regulations defining the reporting requirements.

(5) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, until January 1, 2008, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act.

An existing provision of the act exempts from the scope of the act institutions that exclusively offer programs costing \$500 or less.

This bill would delete this provision, and instead provide that an educational service, costing more than \$500, that is offered to assist students to prepare for an examination for licensure, and which meets prescribed conditions, qualifies for registration status, and thus for exemption from some of the regulatory provisions of the act.

The bill would specify the procedures and standards to be followed under the act by institutions that exclusively offer programs that assist students to prepare for an examination for licensure and that cost less than \$500.

An existing provision of the act defines a "short-term education program" as, among other things, an educational service costing a

student more than \$500, but not exceeding \$2,000, consisting of 250 or less hours of training, not leading to a degree, and not financed by a federal or state loan or grant.

The bill would delete the definition of “short-term education program” and replace it with a definition of “short-term seminar training.” Under the bill, “short-term seminar training” would be, among other things, an educational service that consists of 100 hours or less of instruction, the total charge for which is less than \$1,000, and that does not include instruction leading to a degree, instruction financed by a federal or state loan or grant, instruction in how to prepare for, take, or pass a licensing examination or other test qualifying a person for employment, or instruction that is represented to lead to an occupation or job title.

The bill would provide that, if an institution, other than a correspondence school or home study school, delivers the course materials to a student before the first day of class and includes a preaddressed, prepaid means of returning the materials by mail, the student shall return the materials within 10 days of giving notice of cancellation. The bill would further provide that, if the student does not return the materials, the institution shall have no obligation to provide a refund. The bill would also provide that, if an institution, other than a correspondence school or home study school, delivers all of the course materials to a student before the first day of class and does not include a preaddressed, prepaid means of returning the materials by mail, the student shall have no obligation to return the materials if he or she cancels.

(6) Because a violation of the provisions relating to pharmacy would be a crime, the bill would impose a state-mandated local program.

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.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

*Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.*

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

1 SECTION 1. Section 3613 of the Business and Professions
2 Code is amended to read:

3 3613. The following definitions apply for the purposes of this
4 chapter:

5 (a) “Bureau” means the Bureau of Naturopathic Medicine
6 within the Department of Consumer Affairs.

7 (b) “Naturopathic childbirth attendance” means the specialty
8 practice of natural childbirth by a naturopathic doctor that
9 includes the management of normal pregnancy, normal labor and
10 delivery, and the normal postpartum period, including normal
11 newborn care.

12 (c) “Naturopathic medicine” means a distinct and
13 comprehensive system of primary health care practiced by a
14 naturopathic doctor for the diagnosis, treatment, and prevention
15 of human health conditions, injuries, and disease.

16 (d) “Naturopathic doctor” means a person who holds an active
17 license issued pursuant to this chapter.

18 (e) “Naturopathy” means a noninvasive system of health
19 practice that employs natural health modalities, substances, and
20 education to promote health.

21 (f) ~~“Prescription drug”~~ “Drug” means any ~~drug substance~~
22 defined as a drug by Section ~~503(b)~~ of the federal Food, Drug
23 and Cosmetic Act (21 U.S.C. Sec. 353) if its label is required to
24 bear the statement ~~“RX only.”~~ 11014 of the Health and Safety
25 Code.

26 SEC. 2. Section 3624.5 of the Business and Professions Code
27 is amended to read:

28 3624.5. (a) This chapter does not apply to a practitioner
29 licensed as a naturopathic doctor in another state or country who
30 meets both of the following requirements:

31 (1) The practitioner is in consultation with a licensed
32 practitioner of this state, or is an invited guest of any of the
33 following for the purpose of professional education through
34 lectures, clinics, or demonstrations:

35 (A) The California Medical Association.

36 (B) The California Podiatric Medical Association.

37 (C) The California ~~Association of Naturopathic Physicians~~
38 Doctors Association.

1 (D) A component county society of subparagraph (A), (B), or
2 (C).

3 (2) The practitioner does not open an office, appoint a place to
4 meet patients, receive calls from patients, give orders, or have
5 ultimate authority over the care or primary diagnosis of a patient.

6 *SEC. 3. Section 3633.1 of the Business and Professions Code*
7 *is amended to read:*

8 3633.1. The bureau may grant a license to an applicant who
9 meets the requirements of Section 3630, but who graduated prior
10 to 1986, pre-NPLEX, and passed a state *or Canadian Province*
11 naturopathic licensing examination. Applications under this
12 section shall be received no later than December 31, 2007.

13 *SEC. 4. Section 3635 of the Business and Professions Code is*
14 *amended to read:*

15 3635. (a) In addition to any other qualifications and
16 requirements for licensure renewal, the bureau shall require the
17 satisfactory completion of 60 hours of approved continuing
18 education biennially. This requirement is waived for the initial
19 license renewal. The continuing education shall meet the
20 following requirements:

- 21 (1) At least 20 hours shall be in pharmacotherapeutics.
- 22 (2) No more than 15 hours may be in naturopathic medical
23 journals or osteopathic or allopathic medical journals, or audio or
24 videotaped presentations, slides, programmed instruction, or
25 computer-assisted instruction or preceptorships.
- 26 (3) No more than 20 hours may be in any single topic.
- 27 (4) No more than 15 hours of the continuing education
28 requirements for the specialty certificate in naturopathic
29 childbirth attendance shall apply to the 60 hours of continuing
30 education requirement.

31 (b) The continuing education requirements of this section may
32 be met through continuing education courses approved by the
33 ~~California Association of Naturopathic Physicians~~ *Doctors*
34 *Association*, the American Association of Naturopathic
35 Physicians, the Medical Board of California, the California State
36 Board of Pharmacy, the State Board of Chiropractic Examiners,
37 or other courses approved by the bureau.

38 *SEC. 5. Section 3640 of the Business and Professions Code is*
39 *amended to read:*

1 3640. (a) A naturopathic doctor may order and perform
2 physical and laboratory examinations for diagnostic purposes,
3 including, but not limited to, phlebotomy, clinical laboratory
4 tests, speculum examinations, orificial examinations, and
5 physiological function tests.

6 (b) A naturopathic doctor may order diagnostic imaging
7 studies, including X-ray, ultrasound, mammogram, bone
8 densitometry, and others, consistent with naturopathic training as
9 determined by the bureau, but shall refer the studies to an
10 appropriately licensed health care professional to conduct the
11 study and interpret the results.

12 (c) A naturopathic doctor may dispense, administer, order, and
13 prescribe or perform the following:

14 (1) Food, extracts of food, nutraceuticals, vitamins, amino
15 acids, minerals, enzymes, botanicals and their extracts, botanical
16 medicines, homeopathic medicines, all dietary supplements and
17 nonprescription drugs as defined by the federal Food, Drug, and
18 Cosmetic Act, *consistent with the routes of administration*
19 *identified in subdivision (d) and pursuant to regulations*
20 *established by the bureau.*

21 (2) Hot or cold hydrotherapy; naturopathic physical medicine
22 inclusive of the manual use of massage, stretching, resistance, or
23 joint play examination but exclusive of small amplitude
24 movement at or beyond the end range of normal joint motion;
25 electromagnetic energy; colon hydrotherapy; and therapeutic
26 exercise.

27 (3) Devices, including, but not limited to, therapeutic devices,
28 barrier contraception, and durable medical equipment.

29 (4) Health education and health counseling.

30 (5) Repair and care incidental to superficial lacerations and
31 abrasions, except suturing.

32 (6) Removal of foreign bodies located in the superficial
33 tissues.

34 (d) A naturopathic doctor may utilize routes of administration
35 that include oral, nasal, auricular, ocular, rectal, vaginal,
36 transdermal, intradermal, subcutaneous, intravenous, and
37 intramuscular.

38 (e) The bureau may establish regulations regarding ocular or
39 intravenous routes of administration that are consistent with the
40 education and training of a naturopathic doctor.

1 (f) Nothing in this section shall exempt a naturopathic doctor
2 from meeting applicable licensure requirements for the
3 performance of clinical laboratory tests.

4 (g) The authority to use all routes for furnishing prescription
5 drugs as described in Section 3640.5 shall be consistent with the
6 oversight and supervision requirements of Section 2836.1.

7 *SEC. 6. Section 3640.5 of the Business and Professions Code*
8 *is amended to read:*

9 3640.5. Nothing in this chapter or any other provision of law
10 shall be construed to prohibit a naturopathic doctor from
11 furnishing or ordering drugs when all of the following apply:

12 (a) The drugs are furnished or ordered by a naturopathic
13 doctor in accordance with standardized procedures or protocols
14 developed by the naturopathic doctor and his or her supervising
15 physician and surgeon.

16 (b) The naturopathic doctor is functioning pursuant to
17 standardized procedure, as defined by ~~Section 2725 subdivisions~~
18 *(a), (b), (d), (e), (h), and (i) of Section 2836.1 and paragraph (1)*
19 *of subdivision (c) of Section 2836.1*, or protocol. The
20 standardized procedure or protocol shall be developed and
21 approved by the supervising physician and surgeon, the
22 naturopathic doctor, and, where applicable, the facility
23 administrator or his or her designee.

24 (c) The standardized procedure or protocol covering the
25 furnishing of drugs shall specify which naturopathic doctors may
26 furnish or order drugs, which drugs may be furnished or ordered
27 under what circumstances, the extent of physician and surgeon
28 supervision, the method of periodic review of the naturopathic
29 doctor's competence, including peer review, and review of the
30 provisions of the standardized procedure.

31 (d) The furnishing or ordering of drugs by a naturopathic
32 doctor occurs under physician and surgeon supervision.
33 Physician and surgeon supervision shall not be construed to
34 require the physical presence of the physician, but does include
35 all of the following:

36 (1) Collaboration on the development of the standardized
37 procedure.

38 (2) Approval of the standardized procedure.

39 (3) Availability by telephonic contact at the time of patient
40 examination by the naturopathic doctor.

1 (e) For purposes of this section, a physician and surgeon shall
2 not supervise more than four naturopathic doctors at one time.

3 (f) Drugs furnished or ordered by a naturopathic doctor may
4 include Schedule III through Schedule V controlled substances
5 under the California Uniform Controlled Substances Act
6 (Division 10 (commencing with Section 11000) of the Health and
7 Safety Code) and shall be further limited to those drugs agreed
8 upon by the naturopathic doctor and physician and surgeon ~~and~~
9 as specified in the standardized procedure. When Schedule III
10 controlled substances, as defined in Section 11056 of the Health
11 and Safety Code, are furnished or ordered by a naturopathic
12 doctor, the controlled substances shall be furnished or ordered in
13 accordance with a patient-specific protocol approved by the
14 treating or supervising physician. A copy of the section of the
15 naturopathic doctor's standardized procedure relating to
16 controlled substances shall be provided upon request, to a
17 licensed pharmacist who dispenses drugs, when there is
18 uncertainty about the naturopathic doctor furnishing the order.

19 (g) ~~The bureau has certified in accordance with Section 2836.3~~
20 that the naturopathic doctor has satisfactorily completed adequate
21 coursework in pharmacology covering the drugs to be furnished
22 or ordered under this section. The bureau shall establish the
23 requirements for satisfactory completion of this subdivision.

24 (h) Use of the term "furnishing" in this section, in health
25 facilities defined in subdivisions (b), (c), (d), (e), and (i) of
26 Section 1250 of the Health and Safety Code, shall include both of
27 the following:

28 (1) Ordering a drug in accordance with the standardized
29 procedure.

30 (2) Transmitting an order of a supervising physician and
31 surgeon.

32 (i) For purposes of this section, "drug order" or "order" means
33 an order for medication which is dispensed to or for an ultimate
34 user, issued by a naturopathic doctor as an individual
35 practitioner, within the meaning of Section 1306.02 of Title 21 of
36 the Code of Federal Regulations.

37 (j) Notwithstanding any other provision of law, the following
38 apply:

1 (1) A drug order issued pursuant to this section shall be treated
2 in the same manner as a prescription of the supervising
3 physician.

4 (2) All references to prescription in this code and the Health
5 and Safety Code shall include drug orders issued by naturopathic
6 doctors.

7 (3) The signature of a naturopathic doctor on a drug order
8 issued in accordance with this section shall be deemed to be the
9 signature of a prescriber for purposes of this code and the Health
10 and Safety Code.

11 *SEC. 7. Section 4024 of the Business and Professions Code is*
12 *amended to read:*

13 4024. (a) Except as provided in subdivision (b), “dispense”
14 means the furnishing of drugs or devices upon a prescription
15 from a physician, dentist, optometrist, podiatrist, veterinarian, *or*
16 *naturopathic doctor pursuant to Section 3640.7*, or upon an order
17 to furnish drugs or transmit a prescription from a certified nurse
18 midwife, nurse practitioner, physician assistant, *naturopathic*
19 *doctor pursuant to Section 3640.5*, or pharmacist acting within
20 the scope of his or her practice.

21 (b) “Dispense” also means and refers to the furnishing of
22 drugs or devices directly to a patient by a physician, dentist,
23 optometrist, podiatrist, or veterinarian, or by a certified nurse
24 midwife, nurse practitioner, *naturopathic doctor*, or physician
25 assistant acting within the scope of his or her practice.

26 *SEC. 8. Section 4039 of the Business and Professions Code is*
27 *amended to read:*

28 4039. “Physicians,” “dentists,” “optometrists,” “pharmacists,”
29 “podiatrists,” “veterinarians,” “veterinary surgeons,” “registered
30 nurses,” *“naturopathic doctors,”* and “physician’s assistants” are
31 persons authorized by a currently valid and unrevoked license to
32 practice their respective professions in this state. “Physician”
33 means and includes any person holding a valid and unrevoked
34 physician’s and surgeon’s certificate or certificate to practice
35 medicine and surgery, issued by the Medical Board of California
36 or the Osteopathic Medical Board of California, and includes an
37 unlicensed person lawfully practicing medicine pursuant to
38 Section 2065, when acting within the scope of that section.

39 *SEC. 9. Section 4040 of the Business and Professions Code is*
40 *amended to read:*

1 4040. (a) “Prescription” means an oral, written, or electronic
2 transmission order that is both of the following:

3 (1) Given individually for the person or persons for whom
4 ordered that includes all of the following:

5 (A) The name or names and address of the patient or patients.

6 (B) The name and quantity of the drug or device prescribed
7 and the directions for use.

8 (C) The date of issue.

9 (D) Either rubber stamped, typed, or printed by hand or
10 typeset, the name, address, and telephone number of the
11 prescriber, his or her license classification, and his or her federal
12 registry number, if a controlled substance is prescribed.

13 (E) A legible, clear notice of the condition for which the drug
14 is being prescribed, if requested by the patient or patients.

15 (F) If in writing, signed by the prescriber issuing the order, or
16 the certified nurse-midwife, nurse practitioner, ~~or~~ physician
17 assistant, *or naturopathic doctor* who issues a drug order
18 pursuant to Section 2746.51, 2836.1, ~~or~~ 3502.1, *or 3640.5*,
19 respectively, or the pharmacist who issues a drug order pursuant
20 to either subparagraph (D) of paragraph (4) of, or clause (iv) of
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section
22 4052.

23 (2) Issued by a physician, dentist, optometrist, podiatrist, ~~or~~
24 veterinarian, *or naturopathic doctor pursuant to Section 3640.7*
25 or, if a drug order is issued pursuant to Section 2746.51, 2836.1,
26 ~~or~~ 3502.1, *or 3460.5*, by a certified nurse-midwife, nurse
27 practitioner, ~~or~~ physician assistant, *or naturopathic doctor*
28 licensed in this state, or pursuant to either subparagraph (D) of
29 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
30 (5) of, subdivision (a) of Section 4052 by a pharmacist licensed
31 in this state.

32 (b) Notwithstanding subdivision (a), a written order of the
33 prescriber for a dangerous drug, except for any Schedule II
34 controlled substance, that contains at least the name and
35 signature of the prescriber, the name and address of the patient in
36 a manner consistent with paragraph (3) of subdivision (b) of
37 Section 11164 of the Health and Safety Code, the name and
38 quantity of the drug prescribed, directions for use, and the date of
39 issue may be treated as a prescription by the dispensing
40 pharmacist as long as any additional information required by

1 subdivision (a) is readily retrievable in the pharmacy. In the
2 event of a conflict between this subdivision and Section 11164 of
3 the Health and Safety Code, Section 11164 of the Health and
4 Safety Code shall prevail.

5 (c) “Electronic transmission prescription” includes both image
6 and data prescriptions. “Electronic image transmission
7 prescription” means any prescription order for which a facsimile
8 of the order is received by a pharmacy from a licensed prescriber.
9 “Electronic data transmission prescription” means any
10 prescription order, other than an electronic image transmission
11 prescription, that is electronically transmitted from a licensed
12 prescriber to a pharmacy.

13 (d) The use of commonly used abbreviations shall not
14 invalidate an otherwise valid prescription.

15 (e) Nothing in the amendments made to this section (formerly
16 Section 4036) at the 1969 Regular Session of the Legislature
17 shall be construed as expanding or limiting the right that a
18 chiropractor, while acting within the scope of his or her license,
19 may have to prescribe a device.

20 *SEC. 10. Section 4059 of the Business and Professions Code*
21 *is amended to read:*

22 4059. (a) A person may not furnish any dangerous drug,
23 except upon the prescription of a physician, dentist, podiatrist,
24 optometrist, ~~or~~ veterinarian, *or naturopathic doctor pursuant to*
25 *Section 3640.7.* A person may not furnish any dangerous device,
26 except upon the prescription of a physician, dentist, podiatrist,
27 optometrist, ~~or~~ veterinarian, *or naturopathic doctor pursuant to*
28 *Section 3640.7.*

29 (b) This section does not apply to the furnishing of any
30 dangerous drug or dangerous device by a manufacturer,
31 wholesaler, or pharmacy to each other or to a physician, dentist,
32 podiatrist, optometrist, ~~or~~ veterinarian, *or naturopathic doctor*
33 *pursuant to Section 3640.7,* or to a laboratory under sales and
34 purchase records that correctly give the date, the names and
35 addresses of the supplier and the buyer, the drug or device, and
36 its quantity. This section does not apply to the furnishing of any
37 dangerous device by a manufacturer, wholesaler, or pharmacy to
38 a physical therapist acting within the scope of his or her license
39 under sales and purchase records that correctly provide the date
40 the device is provided, the names and addresses of the supplier

1 and the buyer, a description of the device, and the quantity
2 supplied.

3 (c) A pharmacist, or a person exempted pursuant to Section
4 4054, may distribute dangerous drugs and dangerous devices
5 directly to dialysis patients pursuant to regulations adopted by the
6 board. The board shall adopt any regulations as are necessary to
7 ensure the safe distribution of these drugs and devices to dialysis
8 patients without interruption thereof. A person who violates a
9 regulation adopted pursuant to this subdivision shall be liable
10 upon order of the board to surrender his or her personal license.
11 These penalties shall be in addition to penalties that may be
12 imposed pursuant to Section 4301. If the board finds any dialysis
13 drugs or devices distributed pursuant to this subdivision to be
14 ineffective or unsafe for the intended use, the board may institute
15 immediate recall of any or all of the drugs or devices distributed
16 to individual patients.

17 (d) Home dialysis patients who receive any drugs or devices
18 pursuant to subdivision (c) shall have completed a full course of
19 home training given by a dialysis center licensed by the State
20 Department of Health Services. The physician prescribing the
21 dialysis products shall submit proof satisfactory to the
22 manufacturer or wholesaler that the patient has completed the
23 program.

24 (e) A pharmacist may furnish a dangerous drug authorized for
25 use pursuant to Section 2620.3 to a physical therapist. A record
26 containing the date, name and address of the buyer, and name
27 and quantity of the drug shall be maintained. This subdivision
28 shall not be construed to authorize the furnishing of a controlled
29 substance.

30 (f) A pharmacist may furnish electroneuromyographic needle
31 electrodes or hypodermic needles used for the purpose of placing
32 wire electrodes for kinesiological electromyographic testing to
33 physical therapists who are certified by the Physical Therapy
34 Examining Committee of California to perform tissue penetration
35 in accordance with Section 2620.5.

36 (g) Nothing in this section shall be construed as permitting a
37 licensed physical therapist to dispense or furnish a dangerous
38 device without a prescription of a physician, dentist, podiatrist,
39 optometrist, or veterinarian.

1 (h) A veterinary food-animal drug retailer shall dispense,
2 furnish, transfer, or sell veterinary food-animal drugs only to
3 another veterinary food-animal drug retailer, a pharmacy, a
4 veterinarian, or to a veterinarian's client pursuant to a
5 prescription from the veterinarian for food-producing animals.

6 *SEC. 11. Section 4059.5 of the Business and Professions*
7 *Code, as added by Section 11.5 of Chapter 857 of the Statutes of*
8 *2004, is amended to read:*

9 4059.5. (a) Except as otherwise provided in this chapter,
10 dangerous drugs or dangerous devices may only be ordered by an
11 entity licensed by the board and shall be delivered to the licensed
12 premises and signed for and received by a pharmacist. Where a
13 licensee is permitted to operate through a designated
14 representative, the designated representative may sign for and
15 receive the delivery.

16 (b) A dangerous drug or dangerous device transferred, sold, or
17 delivered to a person within this state shall be transferred, sold,
18 or delivered only to an entity licensed by the board, to a
19 manufacturer, or to an ultimate user or the ultimate user's agent.

20 (c) Notwithstanding subdivisions (a) and (b), deliveries to a
21 hospital pharmacy may be made to a central receiving location
22 within the hospital. However, the dangerous drugs or dangerous
23 devices shall be delivered to the licensed pharmacy premises
24 within one working day following receipt by the hospital, and the
25 pharmacist on duty at that time shall immediately inventory the
26 dangerous drugs or dangerous devices.

27 (d) Notwithstanding any other provision of law, a dangerous
28 drug or dangerous device may be ordered by and provided to a
29 manufacturer, physician, dentist, podiatrist, optometrist,
30 veterinarian, *naturopathic doctor pursuant to Section 3640.7*, or
31 laboratory, or a physical therapist acting within the scope of his
32 or her license. A person or entity receiving delivery of a
33 dangerous drug or dangerous device, or a duly authorized
34 representative of the person or entity, shall sign for the receipt of
35 the dangerous drug or dangerous device.

36 (e) A dangerous drug or dangerous device shall not be
37 transferred, sold, or delivered to a person outside this state,
38 whether foreign or domestic, unless the transferor, seller, or
39 deliverer does so in compliance with the laws of this state and of
40 the United States and of the state or country to which the

1 dangerous drugs or dangerous devices are to be transferred, sold,
2 or delivered. Compliance with the laws of this state and the
3 United States and of the state or country to which the dangerous
4 drugs or dangerous devices are to be delivered shall include, but
5 not be limited to, determining that the recipient of the dangerous
6 drugs or dangerous devices is authorized by law to receive the
7 dangerous drugs or dangerous devices.

8 (f) Notwithstanding subdivision (a), a pharmacy may take
9 delivery of dangerous drugs and dangerous devices when the
10 pharmacy is closed and no pharmacist is on duty if all of the
11 following requirements are met:

12 (1) The drugs are placed in a secure storage facility in the
13 same building as the pharmacy.

14 (2) Only the pharmacist-in-charge or a pharmacist designated
15 by the pharmacist-in-charge has access to the secure storage
16 facility after dangerous drugs or dangerous devices have been
17 delivered.

18 (3) The secure storage facility has a means of indicating
19 whether it has been entered after dangerous drugs or dangerous
20 devices have been delivered.

21 (4) The pharmacy maintains written policies and procedures
22 for the delivery of dangerous drugs and dangerous devices to a
23 secure storage facility.

24 (5) The agent delivering dangerous drugs and dangerous
25 devices pursuant to this subdivision leaves documents indicating
26 the name and amount of each dangerous drug or dangerous
27 device delivered in the secure storage facility.

28 The pharmacy shall be responsible for the dangerous drugs and
29 dangerous devices delivered to the secure storage facility. The
30 pharmacy shall also be responsible for obtaining and maintaining
31 records relating to the delivery of dangerous drugs and dangerous
32 devices to a secure storage facility.

33 (g) This section shall become operative on January 1, 2006.

34 *SEC. 12. Section 4060 of the Business and Professions Code*
35 *is amended to read:*

36 4060. No person shall possess any controlled substance,
37 except that furnished to a person upon the prescription of a
38 physician, dentist, podiatrist, optometrist, ~~or~~ veterinarian, *or*
39 *naturopathic doctor pursuant to Section 3640.7*, or furnished
40 pursuant to a drug order issued by a certified nurse-midwife

1 pursuant to Section 2746.51, a nurse practitioner pursuant to
2 Section 2836.1, a physician assistant pursuant to Section 3502.1,
3 *a naturopathic doctor pursuant to Section 3640.5*, or a
4 pharmacist pursuant to either subparagraph (D) of paragraph (4)
5 of, or clause (iv) of subparagraph (A) of paragraph (5) of,
6 subdivision (a) of Section 4052. This section shall not apply to
7 the possession of any controlled substance by a manufacturer,
8 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
9 optometrist, veterinarian, *naturopathic doctor*, certified
10 nurse-midwife, nurse practitioner, or physician assistant, when in
11 stock in containers correctly labeled with the name and address
12 of the supplier or producer.

13 Nothing in this section authorizes a certified nurse-midwife, a
14 nurse practitioner, ~~or~~ a physician assistant, *or a naturopathic*
15 *doctor*, to order his or her own stock of dangerous drugs and
16 devices.

17 *SEC. 13. Section 4061 of the Business and Professions Code*
18 *is amended to read:*

19 4061. (a) No manufacturer's sales representative shall
20 distribute any dangerous drug or dangerous device as a
21 complimentary sample without the written request of a physician,
22 dentist, podiatrist, optometrist, ~~or~~ veterinarian, *or naturopathic*
23 *doctor pursuant to Section 3640.7*. However, a certified
24 nurse-midwife who functions pursuant to a standardized
25 procedure or protocol described in Section 2746.51, a nurse
26 practitioner who functions pursuant to a standardized procedure
27 described in Section 2836.1, or protocol, ~~or~~ a physician assistant
28 who functions pursuant to a protocol described in Section 3502.1,
29 *or a naturopathic doctor who functions pursuant to a*
30 *standardized procedure or protocol described in Section 3640.5*,
31 may sign for the request and receipt of complimentary samples of
32 a dangerous drug or dangerous device that has been identified in
33 the standardized procedure, protocol, or practice agreement.
34 Standardized procedures, protocols, and practice agreements
35 shall include specific approval by a physician. A review process,
36 consistent with the requirements of Section 2725 ~~or~~, 3502.1, *or*
37 *3640.5*, of the complimentary samples requested and received by
38 a nurse practitioner, certified nurse-midwife, ~~or~~ physician
39 assistant, *or naturopathic doctor*, shall be defined within the
40 standardized procedure, protocol, or practice agreement.

1 (b) Each written request shall contain the names and addresses
2 of the supplier and the requester, the name and quantity of the
3 specific dangerous drug desired, the name of the certified
4 nurse-midwife, nurse practitioner, ~~or~~ physician assistant, *or*
5 *naturopathic doctor*, if applicable, receiving the samples
6 pursuant to this section, the date of receipt, and the name and
7 quantity of the dangerous drugs or dangerous devices provided.
8 These records shall be preserved by the supplier with the records
9 required by Section 4059.

10 (c) Nothing in this section is intended to expand the scope of
11 practice of a certified nurse-midwife, nurse practitioner, ~~or~~
12 physician assistant, *or naturopathic doctor*.

13 *SEC. 14. Section 4076 of the Business and Professions Code*
14 *is amended to read:*

15 4076. (a) A pharmacist shall not dispense any prescription
16 except in a container that meets the requirements of state and
17 federal law and is correctly labeled with all of the following:

18 (1) Except where the prescriber or the certified nurse-midwife
19 who functions pursuant to a standardized procedure or protocol
20 described in Section 2746.51, the nurse practitioner who
21 functions pursuant to a standardized procedure described in
22 Section 2836.1, or protocol, the physician assistant who functions
23 pursuant to Section 3502.1, *the naturopathic doctor who*
24 *functions pursuant to a standardized procedure or protocol*
25 *described in Section 3640.5*, or the pharmacist who functions
26 pursuant to a policy, procedure, or protocol pursuant to either
27 subparagraph (D) of paragraph (4) of, or clause (iv) of
28 subparagraph (A) of paragraph (5) of, subdivision (a) of Section
29 4052 orders otherwise, either the manufacturer's trade name of
30 the drug or the generic name and the name of the manufacturer.
31 Commonly used abbreviations may be used. Preparations
32 containing two or more active ingredients may be identified by
33 the manufacturer's trade name or the commonly used name or
34 the principal active ingredients.

35 (2) The directions for the use of the drug.

36 (3) The name of the patient or patients.

37 (4) The name of the prescriber or, if applicable, the name of
38 the certified nurse-midwife who functions pursuant to a
39 standardized procedure or protocol described in Section 2746.51,
40 the nurse practitioner who functions pursuant to a standardized

1 procedure described in Section 2836.1, or protocol, the physician
2 assistant who functions pursuant to Section 3502.1, *the*
3 *naturopathic doctor who functions pursuant to a standardized*
4 *procedure or protocol described in Section 3640.5*, or the
5 pharmacist who functions pursuant to a policy, procedure, or
6 protocol pursuant to either subparagraph (D) of paragraph (4) of,
7 or clause (iv) of subparagraph (A) of paragraph (5) of,
8 subdivision (a) of Section 4052.

9 (5) The date of issue.

10 (6) The name and address of the pharmacy, and prescription
11 number or other means of identifying the prescription.

12 (7) The strength of the drug or drugs dispensed.

13 (8) The quantity of the drug or drugs dispensed.

14 (9) The expiration date of the effectiveness of the drug
15 dispensed.

16 (10) The condition for which the drug was prescribed if
17 requested by the patient and the condition is indicated on the
18 prescription.

19 (11) (A) Commencing January 1, 2006, the physical
20 description of the dispensed medication, including its color,
21 shape, and any identification code that appears on the tablets or
22 capsules, except as follows:

23 (i) Prescriptions dispensed by a veterinarian.

24 (ii) An exemption from the requirements of this paragraph
25 shall be granted to a new drug for the first 120 days that the drug
26 is on the market and for the 90 days during which the national
27 reference file has no description on file.

28 (iii) Dispensed medications for which no physical description
29 exists in any commercially available database.

30 (B) This paragraph applies to outpatient pharmacies only.

31 (C) The information required by this paragraph may be printed
32 on an auxiliary label that is affixed to the prescription container.

33 (D) This paragraph shall not become operative if the board,
34 prior to January 1, 2006, adopts regulations that mandate the
35 same labeling requirements set forth in this paragraph.

36 (b) If a pharmacist dispenses a prescribed drug by means of a
37 unit dose medication system, as defined by administrative
38 regulation, for a patient in a skilled nursing, intermediate care, or
39 other health care facility, the requirements of this section will be
40 satisfied if the unit dose medication system contains the

1 aforementioned information or the information is otherwise
2 readily available at the time of drug administration.

3 (c) If a pharmacist dispenses a dangerous drug or device in a
4 facility licensed pursuant to Section 1250 of the Health and
5 Safety Code, it is not necessary to include on individual unit dose
6 containers for a specific patient, the name of the certified
7 nurse-midwife who functions pursuant to a standardized
8 procedure or protocol described in Section 2746.51, the nurse
9 practitioner who functions pursuant to a standardized procedure
10 described in Section 2836.1, or protocol, the physician assistant
11 who functions pursuant to Section 3502.1, *the naturopathic*
12 *doctor who functions pursuant to a standardized procedure or*
13 *protocol described in Section 3640.5, or the pharmacist who*
14 functions pursuant to a policy, procedure, or protocol pursuant to
15 either subparagraph (D) of paragraph (4) of, or clause (iv) of
16 subparagraph (A) of paragraph (5) of, subdivision (a) of Section
17 4052.

18 (d) If a pharmacist dispenses a prescription drug for use in a
19 facility licensed pursuant to Section 1250 of the Health and
20 Safety Code, it is not necessary to include the information
21 required in paragraph (11) of subdivision (a) when the
22 prescription drug is administered to a patient by a person licensed
23 under the Medical Practice Act (Chapter 5 (commencing with
24 Section 2000)), the Nursing Practice Act (Chapter 6
25 (commencing with Section 2700)), or the Vocational Nursing
26 Practice Act (Chapter 6.5 (commencing with Section 2840)),
27 who is acting within his or her scope of practice.

28 *SEC. 15. Section 4142 of the Business and Professions Code*
29 *is amended to read:*

30 4142. Except as otherwise provided by this article, no
31 hypodermic needle or syringe shall be sold at retail except upon
32 the prescription of a physician, dentist, veterinarian, ~~or~~ podiatrist,
33 *or naturopathic doctor pursuant to Section 3640.7.*

34 *SEC. 16. Section 4170 of the Business and Professions Code*
35 *is amended to read:*

36 4170. (a) No prescriber shall dispense drugs or dangerous
37 devices to patients in his or her office or place of practice unless
38 all of the following conditions are met:

1 (1) The dangerous drugs or dangerous devices are dispensed to
2 the prescriber's own patient, and the drugs or dangerous devices
3 are not furnished by a nurse or physician attendant.

4 (2) The dangerous drugs or dangerous devices are necessary in
5 the treatment of the condition for which the prescriber is
6 attending the patient.

7 (3) The prescriber does not keep a pharmacy, open shop, or
8 drugstore, advertised or otherwise, for the retailing of dangerous
9 drugs, dangerous devices, or poisons.

10 (4) The prescriber fulfills all of the labeling requirements
11 imposed upon pharmacists by Section 4076, all of the
12 recordkeeping requirements of this chapter, and all of the
13 packaging requirements of good pharmaceutical practice,
14 including the use of childproof containers.

15 (5) The prescriber does not use a dispensing device unless he
16 or she personally owns the device and the contents of the device,
17 and personally dispenses the dangerous drugs or dangerous
18 devices to the patient packaged, labeled, and recorded in
19 accordance with paragraph (4).

20 (6) The prescriber, prior to dispensing, offers to give a written
21 prescription to the patient that the patient may elect to have filled
22 by the prescriber or by any pharmacy.

23 (7) The prescriber provides the patient with written disclosure
24 that the patient has a choice between obtaining the prescription
25 from the dispensing prescriber or obtaining the prescription at a
26 pharmacy of the patient's choice.

27 (8) A certified nurse-midwife who functions pursuant to a
28 standardized procedure or protocol described in Section 2746.51,
29 a nurse practitioner who functions pursuant to a standardized
30 procedure described in Section 2836.1, or protocol, ~~or~~ a
31 physician assistant who functions pursuant to Section 3502.1, *or*
32 *a naturopathic doctor who functions pursuant to Section 3640.5,*
33 may hand to a patient of the supervising physician and surgeon a
34 properly labeled prescription drug prepackaged by a physician
35 and surgeon, a manufacturer as defined in this chapter, or a
36 pharmacist.

37 (b) The Medical Board of California, the State Board of
38 Optometry, *the Bureau of Naturopathic Medicine,* the Dental
39 Board of California, the Osteopathic Medical Board of
40 California, the Board of Registered Nursing, the Veterinary

1 Medical Board, and the Physician Assistant Committee shall
2 have authority with the California State Board of Pharmacy to
3 ensure compliance with this section, and those boards are
4 specifically charged with the enforcement of this chapter with
5 respect to their respective licensees.

6 (c) “Prescriber,” as used in this section, means a person, who
7 holds a physician’s and surgeon’s certificate, a license to practice
8 optometry, *a license to practice naturopathic medicine*, a license
9 to practice dentistry, a license to practice veterinary medicine, or
10 a certificate to practice podiatry, and who is duly registered by
11 the Medical Board of California, the State Board of Optometry,
12 *the Bureau of Naturopathic Medicine*, the Dental Board of
13 California, the Veterinary Medical Board, or the Board of
14 Osteopathic Examiners of this state.

15 *SEC. 17. Section 4174 of the Business and Professions Code*
16 *is amended to read:*

17 4174. Notwithstanding any other provision of law, a
18 pharmacist may dispense drugs or devices upon the drug order of
19 a nurse practitioner functioning pursuant to Section 2836.1 or a
20 certified nurse midwife functioning pursuant to Section 2746.51,
21 a drug order of a physician assistant functioning pursuant to
22 Section 3502.1 *or a naturopathic doctor functioning pursuant to*
23 *Section 3640.5*, or the order of a pharmacist acting under Section
24 4052.

25 *SEC. 18. Section 4175 of the Business and Professions Code*
26 *is amended to read:*

27 4175. (a) The California State Board of Pharmacy shall
28 promptly forward to the appropriate licensing entity, including
29 the Medical Board of California, the Veterinary Medical Board,
30 the Dental Board of California, the State Board of Optometry, the
31 Osteopathic Medical Board of California, the Board of
32 Registered Nursing, *the Bureau of Naturopathic Medicine*, or the
33 Physician Assistant Committee, all complaints received related to
34 dangerous drugs or dangerous devices dispensed by a prescriber,
35 certified nurse-midwife, nurse practitioner, *naturopathic doctor*,
36 or physician assistant pursuant to Section 4170.

37 (b) All complaints involving serious bodily injury due to
38 dangerous drugs or dangerous devices dispensed by prescribers,
39 certified nurse-midwives, nurse practitioners, *naturopathic*
40 *doctors*, or physician assistants pursuant to Section 4170 shall be

1 handled by the Medical Board of California, the Dental Board of
2 California, the State Board of Optometry, the Osteopathic
3 Medical Board of California, *the Bureau of Naturopathic*
4 *Medicine*, the Board of Registered Nursing, the Veterinary
5 Medical Board, or the Physician Assistant Committee as a case
6 of greatest potential harm to a patient.

7 ~~SECTION 1.~~

8 ~~SEC. 19.~~ Section 5588 of the Business and Professions Code
9 is repealed.

10 ~~SEC. 2.~~

11 ~~SEC. 20.~~ Section 5588 is added to the Business and
12 Professions Code, to read:

13 5588. (a) A licensee shall report to the board in writing
14 within 30 days of the date the licensee has knowledge of any
15 civil action judgment, settlement, arbitration award, or
16 administrative action resulting in a judgment, settlement, or
17 arbitration award against the licensee in any action alleging
18 fraud, deceit, ~~misrepresentation, breach or violation of contract,~~
19 negligence, incompetence, or recklessness by the licensee in the
20 practice of architecture if the amount or value of the judgment,
21 settlement, or arbitration award is five thousand dollars (\$5,000)
22 or greater.

23 (b) The report required by subdivision (a) shall be signed by
24 the licensee and shall set forth the facts that constitute the
25 reportable event. If the reportable event involves the action of an
26 administrative agency or court, the report shall set forth all of the
27 following:

- 28 (1) The title of the matter.
- 29 (2) The court or agency name.
- 30 (3) The docket number.
- 31 (4) The claim or file number.
- 32 (5) The date the reportable event occurred.

33 (c) A licensee shall promptly respond to oral or written
34 inquiries from the board concerning the reportable events,
35 including inquiries made by the board in conjunction with license
36 renewal.

37 (d) Failure of a licensee to report to the board in the time and
38 manner required by this section shall be grounds for disciplinary
39 action.

1 ~~SEC. 3.~~

2 *SEC. 21.* Section 5588.1 is added to the Business and
3 Professions Code, to read:

4 5588.1. (a) Within 30 days of payment of all or any portion
5 of a civil action judgment, settlement, or arbitration award
6 described in Section 5588 against a licensee of the board in
7 which the amount or value of the judgment, settlement, or
8 arbitration award is five thousand dollars (\$5,000) or greater, any
9 insurer providing professional liability insurance to that licensee
10 *or architectural entity* shall report to the board all of the
11 following:

12 (1) The name of the licensee.

13 (2) The claim or file number.

14 (3) The amount or value of the judgment, settlement, or
15 arbitration award.

16 (4) The amount paid by the insurer.

17 (5) The identity of the payee.

18 (b) Within 30 days of payment of all or any portion of any
19 civil action judgment, settlement, or arbitration award described
20 in Section 5588 against a licensee of the board in which the
21 amount or value of the judgment, settlement, or arbitration award
22 is five thousand dollars (\$5,000) or greater, any state or local
23 government agency that self insures that licensee shall report to
24 the board all of the following:

25 (1) The name of the licensee.

26 (2) The claim or file number.

27 (3) The amount or value of the judgment, settlement, or
28 arbitration award.

29 (4) The amount paid.

30 (5) The identity of the payee.

31 ~~SEC. 4.~~

32 *SEC. 22.* Section 5588.2 is added to the Business and
33 Professions Code, to read:

34 5588.2. The requirements of Section 5588 and 5588.1 shall
35 apply if a party to the civil action, settlement, arbitration award,
36 or administrative action is or was a sole proprietorship,
37 partnership, firm, corporation, or state or local government
38 agency in which ~~the~~ a licensee is or was an owner, partner,
39 member, officer, or employee and is or was ~~the~~ a licensee in
40 responsible ~~charge~~ *control* of that portion of the project that was

1 the subject of the civil judgment, settlement, arbitration award, or
2 administrative action.

3 ~~SEC. 5.~~

4 *SEC. 23.* Section 5588.3 is added to the Business and
5 Professions Code, to read:

6 5588.3. Notwithstanding any other provision of law, a
7 licensee shall not be considered to have violated a confidential
8 settlement agreement or other confidential agreement by
9 providing a report to the board as required by this article.

10 ~~SEC. 6.~~

11 *SEC. 24.* Section 5588.4 is added to the Business and
12 Professions Code, to read:

13 5588.4. The board may adopt regulations to further define the
14 reporting requirements of Sections 5588 and 5588.1.

15 ~~SEC. 7.~~

16 *SEC. 25.* Section 5589 of the Business and Professions Code
17 is repealed.

18 ~~SEC. 8.—~~

19 *SEC. 26.* *Section 94739 of the Education Code is amended to*
20 *read:*

21 94739. (a) “Private postsecondary educational institution”
22 means any person doing business in California that offers to
23 provide or provides, for a tuition, fee, or other charge, any
24 instruction, training, or education under any of the following
25 circumstances:

26 (1) A majority of the students to whom instruction, training, or
27 education is provided during any 12-month period is obtained
28 from, or on behalf of, students who have completed or terminated
29 their secondary education or are beyond the age of compulsory
30 high school attendance.

31 (2) More than 50 percent of the revenue derived from
32 providing instruction, training, or education during any 12-month
33 period is obtained from, or on behalf of, students who have
34 completed or terminated their secondary education or are beyond
35 the age of compulsory high school attendance.

36 (3) More than 50 percent of the hours of instruction, training,
37 or education provided during any 12-month period is provided to
38 students who have completed or terminated their secondary
39 education or are beyond the age of compulsory high school
40 attendance.

1 (4) A substantial portion, as determined by the ~~council~~ *bureau*,
2 by regulation, of the instruction, training, or education provided
3 is provided to students who have completed or terminated their
4 secondary education or are beyond the age of compulsory high
5 school attendance.

6 (b) The following are not considered to be private
7 postsecondary educational institutions under this chapter:

8 (1) Institutions exclusively offering instruction at any or all
9 levels from preschool through the 12th grade.

10 (2) Institutions offering education solely avocational or
11 recreational in nature, and institutions offering this education
12 exclusively.

13 (3) Institutions offering education sponsored by a bona fide
14 trade, business, professional, or fraternal organization, solely for
15 that organization's membership.

16 (4) Postsecondary or vocational educational institutions
17 established, operated, and governed by the federal government or
18 by this state, or its political subdivisions.

19 (5) Institutions offering continuing education where the
20 institution or the program is approved, certified, or sponsored by
21 any of the following:

22 (A) A government agency, other than the bureau, that licenses
23 persons in a particular profession, trade, or job category.

24 (B) A state-recognized professional licensing body, such as
25 the State Bar of California, that licenses persons in a particular
26 profession, trade, or job category.

27 (C) A bona fide trade, business, or professional organization.

28 (6) A nonprofit institution owned, controlled, and operated and
29 maintained by a bona fide church, religious denomination, or
30 religious organization comprised of multidenominational
31 members of the same well-recognized religion, lawfully
32 operating as a nonprofit religious corporation pursuant to Part 4
33 (commencing with Section 9110) of Division 2 of Title 1 of the
34 Corporations Code, if the education is limited to instruction in
35 the principles of that church, religious denomination, or religious
36 organization, or to courses offered pursuant to Section 2789 of
37 the Business and Professions Code, and the diploma or degree is
38 limited to evidence of completion of that education, and the
39 meritorious recognition upon which any honorary degree is
40 conferred is limited to the principles of that church, religious

1 denomination, or religious organization. Institutions operating
2 under this paragraph shall offer degrees and diplomas only in the
3 beliefs and practices of the church, religious denomination, or
4 religious organization. The enactment of this paragraph expresses
5 the legislative intent that the state shall not involve itself in the
6 content of degree programs awarded by any institution operating
7 under this paragraph, as long as the institution awards degrees
8 and diplomas only in the beliefs and practices of the church,
9 religious denomination, or religious organization. Institutions
10 operating under this paragraph shall not award degrees in any
11 area of physical science. Any degree or diploma granted in any
12 area of study under these provisions shall contain on its face, in
13 the written description of the title of the degree being conferred,
14 a reference to the theological or religious aspect of the degree's
15 subject area. Degrees awarded under this paragraph shall reflect
16 the nature of the degree title, such as "associate of religious
17 studies," or "bachelor of religious studies," or "master of
18 divinity" or "doctor of divinity." The use of the degree titles
19 "associate of arts" or "associate of science," "bachelor of arts" or
20 "bachelor of science," "master of arts" or "master of science," or
21 "doctor of philosophy" or "Ph.D." shall only be awarded by
22 institutions approved to operate under Article 8 (commencing
23 with Section 94900) or meeting the requirements for an
24 exemption under Section 94750. The enactment of this paragraph
25 is intended to prevent any entity claiming to be a nonprofit
26 institution owned, controlled, and operated and maintained by a
27 bona fide church, religious denomination, or religious
28 organization comprised of multidenominational members of the
29 same well-recognized religion, lawfully operating as a nonprofit
30 religious corporation pursuant to Part 4 (commencing with
31 Section 9110) of Division 2 of Title 1 of the Corporations Code,
32 from marketing and granting degrees or diplomas that are
33 represented as being linked to their church, religious
34 denomination, or religious organization, but which, in reality, are
35 degrees in secular areas of study. An institution operating under
36 this paragraph shall file annually with the ~~council~~ *bureau*
37 evidence to demonstrate its status as a nonprofit religious
38 corporation under the Corporations Code. A college or university
39 operating under this paragraph shall file annually with the

1 ~~council~~ *bureau* evidence to demonstrate its status as a nonprofit
2 religious corporation under the Corporations Code.

3 (7) (A) Public institutions accredited by the Accrediting
4 Commission for Senior Colleges and Universities or the
5 Accrediting Commission for Community and Junior Colleges of
6 the Western Association of Schools and Colleges.

7 (B) Institutions accredited by the Accrediting Commission for
8 Senior Colleges and Universities or the Accrediting Commission
9 for Community and Junior Colleges of the Western Association
10 of Schools and Colleges that are incorporated and lawfully
11 operating as a nonprofit public benefit corporation pursuant to
12 Part 2 (commencing with Section 5110) of Division 2 of Title 1
13 of the Corporations Code and that are not managed by any entity
14 for profit.

15 (C) For-profit institutions accredited by the Accrediting
16 Commission for Senior Colleges and Universities or the
17 Accrediting Commission for Community and Junior Colleges of
18 the Western Association of Schools and Colleges.

19 (D) Institutions accredited by the Western Association of
20 Schools and Colleges that do not meet all of the criteria in
21 subparagraph (B) and that are incorporated and lawfully
22 operating as a nonprofit public benefit corporation pursuant to
23 Part 2 (commencing with Section 5110) of Division 2 of Title 1
24 of the Corporations Code, that have been in continuous operation
25 since April 15, 1997, and that are not managed by any entity for
26 profit. Notwithstanding this subdivision, institutions that meet the
27 criteria in this subparagraph shall be subject to Section 94831,
28 except subdivision (c) of that section, and Sections 94832,
29 94834, 94838, and 94985.

30 ~~(8) Institutions that exclusively offer programs that cost five~~
31 ~~hundred dollars (\$500) or less.~~

32 *SEC. 27. Section 94742.2 is added to the Education Code, to*
33 *read:*

34 94742.2. (a) “*Short-term seminar training*” means an
35 educational service offered at a main location, branch, or
36 satellite, or any other location, consisting of 100 hours or less of
37 instruction, the total charge for which is less than one thousand
38 dollars (\$1,000).

39 (b) “*Short-term seminar training*” does not include any of the
40 following:

- 1 (1) *Instruction leading to a degree.*
 2 (2) *Instruction financed by a federal or state loan or grant.*
 3 (3) *Instruction in how to prepare for, take, or pass a licensing*
 4 *examination or other test qualifying a person for employment.*
 5 (4) *Instruction that is represented to lead to an occupation or*
 6 *job title.*
 7 (5) *Any educational service consisting of more than 100 hours*
 8 *of instruction or costing one thousand dollars (\$1,000) or more*
 9 *in total charges that is divided or structured into one or more*
 10 *segments that consist of 100 or fewer hours of instruction, the*
 11 *total charge for which is less than one thousand dollars (\$1,000).*
 12 (c) *Short-term seminar training may include an educational*
 13 *service licensed by another state agency so long as that*
 14 *educational service complies with subdivision (a) and Article 9.5*
 15 *(commencing with Section 94931).*
 16 *SEC. 28. Section 94742.3 of the Education Code is repealed.*
 17 ~~94742.3. “Short-term education program” means an~~
 18 ~~educational service meeting all of the following criteria:~~
 19 ~~(a) The total charge to the student is more than five hundred~~
 20 ~~dollars (\$500) and not more than two thousand dollars (\$2,000).~~
 21 ~~(b) The length of training is 250 hours or less.~~
 22 ~~(c) The service is not any of the following:~~
 23 ~~(1) Instruction leading to a degree.~~
 24 ~~(2) Instruction financed by a federal or state loan or grant.~~
 25 ~~(3) Any educational service that was originally longer than~~
 26 ~~250 hours or cost more than two thousand dollars (\$2,000), but~~
 27 ~~has been structured into segments to meet the requirement of~~
 28 ~~subdivision (a).~~
 29 ~~(e) The service is offered by approved institutions or~~
 30 ~~institutions registered pursuant to Article 9.5 (commencing with~~
 31 ~~Section 94931).~~
 32 *SEC. 29. Section 94781 is added to the Education Code, to*
 33 *read:*
 34 *94781. (a) Notwithstanding any other provision of this*
 35 *chapter, an institution that exclusively offers programs that cost*
 36 *five hundred dollars (\$500) or less is subject to this section and,*
 37 *unless expressly provided in this section, is not subject to other*
 38 *provisions of this chapter.*
 39 *(b) An institution subject to this section shall also be subject to*
 40 *all of the following:*

- 1 (1) Section 94812.
- 2 (2) Sections 94822 to 94825, inclusive.
- 3 (3) Sections 94829 to 94838, inclusive.
- 4 (4) Article 1 (commencing with Section 94700).
- 5 (5) Article 2 (commencing with Section 94710).
- 6 (6) Article 3.5 (commencing with Section 94760).

7 SEC. 30. Section 94822 of the Education Code is amended to
8 read:

9 94822. (a) Institutions, for all students, without penalty or
10 obligation, shall refund 100 percent of the amount paid for
11 institutional charges, less a reasonable deposit or application fee
12 not to exceed one hundred dollars (\$100), if notice of
13 cancellation is made prior to or on the first day of instruction. If
14 the first lesson in a home study or correspondence course is sent
15 to the student by mail, the institution shall send it by first-class
16 mail, postage prepaid, documented by a certificate of mailing,
17 and the student shall have the right to cancel until midnight of the
18 eighth business day after the first lesson was mailed. The
19 institution shall advise each student that any notification of
20 withdrawal or cancellation and any request for a refund is
21 required to be made in writing.

22 (b) *If an institution, other than a correspondence school or*
23 *home study school, delivers the course materials to a student*
24 *before the first day of class and includes a preaddressed, prepaid*
25 *means of returning the materials by mail, the student shall return*
26 *the materials within 10 days of giving notice of cancellation. If*
27 *the student does not return the materials, the institution shall*
28 *have no obligation under this section to provide a refund. If an*
29 *institution, other than a correspondence school or home study*
30 *school, delivers all of the course materials to a student before the*
31 *first day of class and does not include a preaddressed, prepaid*
32 *means of returning the materials by mail, the student shall have*
33 *no obligation to return the materials if he or she cancels.*

34 SEC. 31. Section 94931 of the Education Code is amended to
35 read:

36 94931. (a) No private postsecondary educational institution,
37 except those offering degrees and approved under Article 8
38 (commencing with Section 94900) or offering vocational and
39 nondegree granting programs and approved under Article 9
40 (commencing with Section 94915), or those that are exempt from

1 this chapter, may offer educational services or programs—~~or~~
2 ~~short-term educational programs~~ unless the institution has been
3 registered by the bureau as meeting the requirements of this
4 article.

5 (b) An institution approved to offer degrees under Article 8
6 (commencing with Section 94900) or approved to offer
7 vocational and nondegree granting programs under Article 9
8 (commencing with Section 94915) may offer registered
9 ~~short-term education~~ programs without affecting its status under
10 either of those articles so long as the registered—~~short-term~~
11 ~~education~~ program is disclosed in its approval to operate
12 application or the institution completes a registration application
13 and receives specific authorization for the program, maintains
14 compliance for all registered programs in conformity with this
15 article, and maintains a set of student records for registered
16 programs separate from its approved programs. Any registered
17 institution that offers an educational program not specified in
18 subdivision (c) or not otherwise exempt from this chapter shall
19 be approved under Article 8 (commencing with Section 94900)
20 or Article 9 (commencing with Section 94915) and shall comply
21 with this chapter.

22 (c) Except as otherwise provided in this article, this chapter
23 does not apply to an educational service that qualifies for
24 registration status and that complies with this article. The
25 educational services that qualify for registration status are limited
26 to:

27 (1) An educational service, as defined in Section 94733, that is
28 offered to provide an intensive English language program.

29 (2) An educational service, as defined in Section 94742.1, that
30 is offered to provide short-term career training.

31 (3) An educational service, as defined in Section 94742.2, that
32 is offered to provide short-term seminar training.

33 (4) An educational service that is offered to assist students to
34 prepare for an examination for licensure *and costs more than five*
35 *hundred dollars (\$500)*, except as provided in Section 94787.

36 (5) An educational service that consists of continuing
37 education not otherwise exempt from this chapter.

38 (d) An institution that qualifies under any of paragraphs (1) to
39 (4), inclusive, of subdivision (c) shall complete a registration
40 form provided by the bureau, including a signed declaration by

1 the chief executive officer of the institution under penalty of
2 perjury, and provide all of the following information for public
3 disclosure:

4 (1) The owner's legal name, headquarters address, and the
5 name of an agent for the service of process within California.

6 (2) All names, whether real or fictitious, under which the
7 owner is doing and will do business.

8 (3) The names and addresses of the principal officers of the
9 institution.

10 (4) A list of all California locations at which the institution
11 operates, its offerings, and, if previously registered, the number
12 of students enrolled in California during the preceding year.

13 (5) A copy of the registration form or agreement that enrolls
14 the student in the educational service that contains all of the
15 following:

16 (A) The name and address of the location where instruction
17 will be provided.

18 (B) The title of the educational program.

19 (C) The total amount the student is obligated to pay for the
20 educational service.

21 (D) A clear and conspicuous statement that the enrollment
22 form or agreement is a legally binding instrument when signed
23 by the student and accepted by the institution.

24 (E) The refund policy developed by the institution unless this
25 article specifies a different refund policy.

26 (F) Unless this article specifies that the institution is required
27 to participate in the Student Tuition Recovery Fund, a statement
28 that the institution does not participate in that fund.

29 (G) In 10-point boldface type or larger, the following
30 statement: "Any questions or problems concerning this school
31 that have not been satisfactorily answered or resolved by the
32 school should be directed to the Bureau for Private
33 Postsecondary and Vocational Education in the Department of
34 Consumer Affairs (insert city, address, CA ZIP Code number,
35 and telephone number)."

36 (H) Schools approved under paragraph (1) of subdivision (c)
37 of ~~Section 94931~~ shall also include with the statement required
38 by subparagraph (G) information referring the student to a
39 consulate of his or her country and the United States Immigration
40 and Naturalization Service.

1 (6) A brochure or catalog and a sample advertisement used to
2 promote the educational service.

3 (7) A copy of its certificate of completion.

4 (8) If the educational service offers short-term career training,
5 the institution shall comply with the requirements of Sections
6 94804 and 94806.

7 (9) If the institution assists students in obtaining financing
8 from a third party for the cost of the educational services at the
9 institution, a copy of the contract or finance agreement reflecting
10 that financing.

11 (e) The bureau shall establish the initial registration fee and
12 the annual fee to be paid by institutions registered under this
13 article. No institution shall be registered pursuant to this article
14 unless it has paid the appropriate fees required by the bureau.
15 Upon receipt of an institution's initial application for registration
16 for a program, the bureau may conduct a site visit pursuant to
17 subdivision (c) of Section 94915.

18 (f) For the purposes of communication with other state
19 agencies, any organization or individual registered to offer
20 short-term seminar training may state that they are "authorized"
21 by the State of California.

22 (g) (1) Except as provided by subdivision (f), any institution
23 registered pursuant to this article shall be restricted to stating that
24 their training is "registered" with the State of California and is
25 prohibited from using the words "approval," "approved,"
26 "approval to operate," "approved to operate," "authorized,"
27 "licensed," or "licensed to operate."

28 (2) The institution shall place the following statement in all
29 brochures, catalogues, enrollment agreements, and registration
30 forms, in a conspicuous location in at least 12-point boldfaced
31 type:

32 "We are registered with the State of California. Registration
33 means we have met certain minimum standards imposed by the
34 state for registered schools on the basis of our written application
35 to the state. Registration does not mean we have met all of the
36 more extensive standards required by the state for schools that
37 are approved to operate or licensed or that the state has verified
38 the information we submitted with our registration form."

39 (h) The bureau may require, at least every three years
40 following the initial registration date, that a registered institution

1 verify all or part of the information required to be provided with
2 the registration form under subdivision (d).

3 (i) Sections 94812 and 94818, Sections 94822 to 94825,
4 inclusive, ~~and~~ Sections 94829 to 94838, inclusive, and Sections
5 94841 and 94846 shall apply to any institution registered
6 pursuant to this article.

7 (j) Article 1 (commencing with Section 94700), Article 2
8 (commencing with Section 94710), Article 3 (commencing with
9 Section 94750), Article 3.5 (commencing with Section 94760),
10 Article 4 (commencing with Section 94770), and Article 13
11 (commencing with Section 94950) shall apply to any institution
12 registered pursuant to this article.

13 *SEC. 32. Section 11150 of the Health and Safety Code is*
14 *amended to read:*

15 11150. No person other than a physician, dentist, podiatrist,
16 or veterinarian, *or naturopathic doctor acting pursuant to Section*
17 *3640.7 of the Business and Professions Code*, or pharmacist
18 acting within the scope of a project authorized under Article 1
19 (commencing with Section 128125) of Chapter 3 of Part 3 of
20 Division 107 or within the scope of either subparagraph (D) of
21 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
22 (5) of, subdivision (a) of Section 4052 of the Business and
23 Professions Code, a registered nurse acting within the scope of a
24 project authorized under Article 1 (commencing with Section
25 128125) of Chapter 3 of Part 3 of Division 107, a certified
26 nurse-midwife acting within the scope of Section 2746.51 of the
27 Business and Professions Code, a nurse practitioner acting within
28 the scope of Section 2836.1 of the Business and Professions
29 Code, a physician assistant acting within the scope of a project
30 authorized under Article 1 (commencing with Section 128125) of
31 Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the
32 Business and Professions Code, *a naturopathic doctor acting*
33 *within the scope of Section 3640.5 of the Business and*
34 *Professions Code*, or an optometrist acting within the scope of
35 Section 3041 of the Business and Professions Code, or an
36 out-of-state prescriber acting pursuant to Section 4005 of the
37 Business and Professions Code shall write or issue a prescription.

38 *SEC. 33. Section 11165 of the Health and Safety Code is*
39 *amended to read:*

1 11165. (a) To assist law enforcement and regulatory
2 agencies in their efforts to control the diversion and resultant
3 abuse of Schedule II and Schedule III controlled substances, and
4 for statistical analysis, education, and research, the Department
5 of Justice shall, contingent upon the availability of adequate
6 funds from the Contingent Fund of the Medical Board of
7 California, the Pharmacy Board Contingent Fund, the State
8 Dentistry Fund, the Board of Registered Nursing Fund, and the
9 Osteopathic Medical Board of California Contingent Fund,
10 maintain the Controlled Substance Utilization Review and
11 Evaluation System (CURES) for the electronic monitoring of the
12 prescribing and dispensing of Schedule II and Schedule III
13 controlled substances by all practitioners authorized to prescribe
14 or dispense these controlled substances.

15 (b) The reporting of Schedule III controlled substance
16 prescriptions to CURES shall be contingent upon the availability
17 of adequate funds from the Department of Justice. The
18 Department of Justice may seek and use grant funds to pay the
19 costs incurred from the reporting of controlled substance
20 prescriptions to CURES. Funds shall not be appropriated from
21 the Contingent Fund of the Medical Board of California, the
22 Pharmacy Board Contingent Fund, the State Dentistry Fund, the
23 Board of Registered Nursing Fund, *the Naturopathic Doctor's*
24 *Fund*, or the Osteopathic Medical Board of California Contingent
25 Fund to pay the costs of reporting Schedule III controlled
26 substance prescriptions to CURES.

27 (c) CURES shall operate under existing provisions of law to
28 safeguard the privacy and confidentiality of patients. Data
29 obtained from CURES shall only be provided to appropriate
30 state, local, and federal persons or public agencies for
31 disciplinary, civil, or criminal purposes and to other agencies or
32 entities, as determined by the Department of Justice, for the
33 purpose of educating practitioners and others in lieu of
34 disciplinary, civil, or criminal actions. Data may be provided to
35 public or private entities, as approved by the Department of
36 Justice, for educational, peer review, statistical, or research
37 purposes, provided that patient information, including any
38 information that may identify the patient, is not compromised.
39 Further, data disclosed to any individual or agency as described

1 in this subdivision shall not be disclosed, sold, or transferred to
2 any third party.

3 (d) For each prescription for a Schedule II or Schedule III
4 controlled substance, the dispensing pharmacy shall provide the
5 following information to the Department of Justice in a
6 frequency and format specified by the Department of Justice:

7 (1) Full name, address, gender, and date of birth of the patient.

8 (2) The prescriber's category of licensure and license number;
9 federal controlled substance registration number; and the state
10 medical license number of any prescriber using the federal
11 controlled substance registration number of a
12 government-exempt facility.

13 (3) Pharmacy prescription number, license number, and
14 federal controlled substance registration number.

15 (4) NDC (National Drug Code) number of the controlled
16 substance dispensed.

17 (5) Quantity of the controlled substance dispensed.

18 (6) ICD-9 (diagnosis code), if available.

19 (7) Date of issue of the prescription.

20 (8) Date of dispensing of the prescription.

21 (e) This section shall become operative on January 1, 2005.

22 *SEC. 34. Section 11210 of the Health and Safety Code is*
23 *amended to read:*

24 11210. A physician, surgeon, dentist, veterinarian,
25 *naturopathic doctor acting pursuant to Section 3640.7 of the*
26 *Business and Professions Code*, or podiatrist, or pharmacist
27 acting within the scope of a project authorized under Article 1
28 (commencing with Section 128125) of Chapter 3 of Part 3 of
29 Division 107, or registered nurse acting within the scope of a
30 project authorized under Article 1 (commencing with Section
31 128125) of Chapter 3 of Part 3 of Division 107, or physician
32 assistant acting within the scope of a project authorized under
33 Article 1 (commencing with Section 128125) of Chapter 3 of
34 Part 3 of Division 107, *or naturopathic doctor acting within the*
35 *scope of Section 3640.5 of the Business and Professions Code*, or
36 an optometrist acting within the scope of Section 3041 of the
37 Business and Professions Code may prescribe for, furnish to, or
38 administer controlled substances to his or her patient when the
39 patient is suffering from a disease, ailment, injury, or infirmities

1 attendant upon old age, other than addiction to a controlled
2 substance.

3 The physician, surgeon, dentist, veterinarian, *naturopathic*
4 *doctor acting pursuant to Section 3640.7 of the Business and*
5 *Professions Code*, or podiatrist, or pharmacist acting within the
6 scope of a project authorized under Article 1 (commencing with
7 Section 128125) of Chapter 3 of Part 3 of Division 107, or
8 registered nurse acting within the scope of a project authorized
9 under Article 1 (commencing with Section 128125) of Chapter 3
10 of Part 3 of Division 107, or physician assistant acting within the
11 scope of a project authorized under Article 1 (commencing with
12 Section 128125) of Chapter 3 of Part 3 of Division 107, *or*
13 *naturopathic doctor acting within the scope of Section 3640.5 of*
14 *the Business and Professions Code*, or an optometrist acting
15 within the scope of Section 3041 of the Business and Professions
16 Code shall prescribe, furnish, or administer controlled substances
17 only when in good faith he or she believes the disease, ailment,
18 injury, or infirmity requires the treatment.

19 The physician, surgeon, dentist, veterinarian, *or naturopathic*
20 *doctor acting pursuant to Section 3640.7 of the Business and*
21 *Professions Code*, or podiatrist, or pharmacist acting within the
22 scope of a project authorized under Article 1 (commencing with
23 Section 128125) of Chapter 3 of Part 3 of Division 107, or
24 registered nurse acting within the scope of a project authorized
25 under Article 1 (commencing with Section 128125) of Chapter 3
26 of Part 3 of Division 107, or physician assistant acting within the
27 scope of a project authorized under Article 1 (commencing with
28 Section 128125) of Chapter 3 of Part 3 of Division 107, *or a*
29 *naturopathic doctor acting within the scope of Section 3640.5 of*
30 *the Business and Professions Code*, or an optometrist acting
31 within the scope of Section 3041 of the Business and Professions
32 Code shall prescribe, furnish, or administer controlled substances
33 only in the quantity and for the length of time as are reasonably
34 necessary.

35 *SEC. 35. No reimbursement is required by this act pursuant*
36 *to Section 6 of Article XIII B of the California Constitution*
37 *because the only costs that may be incurred by a local agency or*
38 *school district will be incurred because this act creates a new*
39 *crime or infraction, eliminates a crime or infraction, or changes*
40 *the penalty for a crime or infraction, within the meaning of*

1 *Section 17556 of the Government Code, or changes the definition*
2 *of a crime within the meaning of Section 6 of Article XIII B of the*
3 *California Constitution.*

4 *SEC. 36.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order to make needed changes to licensing and regulatory
9 provisions relative to ~~architects~~ *professions and vocations* as
10 soon as possible, it is necessary that this act take effect
11 immediately.