

**Introduced by Committee on Business, Professions and Economic Development (Negrete McLeod (chair), Aanestad, Corbett, Correa, Florez, Oropeza, Romero, Walters, Wyland, and Yee)**

March 10, 2009

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An act to amend Sections 27, 101, 128.5, 144, 146, 149, 683, 733, 800, 801, 801.01, 803, 2089.5, 2096, 2102, 2107, 2135, 2168.4, 2175, 2221, 2307, 2335, 2486, 2488, 2570.5, 2570.6, 2570.7, 2570.185, 2760.1, 3503, 3517, 3518, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4161, 4174, 4231, 4301, 4305, 4329, 4330, 4857, 4980.30, 4980.43, 4996.2, 4996.17, 4996.18, 5801, 6534, 6536, 6561, 7616, 7629, 8740, and 8746 of, to add Sections 2169, 2570.36, 4036.5, 4980.04, 4990.09, 5515.5, and 9855.15 to, and to repeal Sections 2172, 2173, 2174, 4981, 4994.1, 4996.20, 4996.21, and 6761 of, the Business and Professions Code, to amend Section 8659 of the Government Code, to amend Sections 8778.5, 11150, and 11165 of the Health and Safety Code, and to amend Section 14132.100 of the Welfare and Institutions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as introduced, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs.

Existing law requires certain boards and bureaus to disclose on the Internet information on licensees.

This bill would require the Cemetery and Funeral Bureau to disclose on the Internet information on specified licensees.

(2) Under existing law, if, upon investigation, a specified state regulatory agency has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with that agency, the agency is authorized to issue a specified citation.

This bill would add the Physical Therapy Board of California to those authorized agencies.

Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the names of its licensees and to prescribe and promulgate written complaint forms, as specified.

Existing law requires specified healing arts licensees, insurers providing professional liability insurance to those licensees, and governmental agencies that self-insure those licensees to report settlements over \$30,000 to the licensee's board if the settlement is for damages for death or personal injury caused by or is based on the licensee's alleged negligence, error, or omission in practice, or his or her rendering unauthorized professional services.

This bill would instead require that report if the settlement is based on the licensee's alleged negligence, error, or omission in practice in California or rendering unauthorized professional services in California.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act

authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met. Under existing law, any person who meets certain eligibility requirements, including, but not limited to, the requirement that the person is academically eminent, as defined, may apply for a special faculty permit that authorizes the holder to practice medicine, without a physician's and surgeon's certificate, within the medical school itself and certain affiliated institutions.

This bill would revise the training requirements for a physician and surgeon's license, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2070. The bill would revise the requirements for a petition for reinstatement or modification, as specified. The bill would require the holder of a special faculty permit to meet the same continuing medical education requirements as the holder of a physician's and surgeon's certificate and would also require a special faculty permit holder to show that he or she meets these requirements at the time of permit renewal.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(4) Existing law, the Occupational Therapy Practice Act, provides for the licensure of occupational therapists and the certification of occupational therapy assistants by the California Board of Occupational

Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice. Existing law requires an applicant applying for a license or certification to file with the board a written application provided by and satisfactory to the board, showing that he or she meets certain requirements, including, but not limited to, successful completion of an educational program's academic requirements approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) and successful completion of a period of supervised fieldwork experience. Existing law also specifies the curriculum requirements for an education program for occupational therapists and occupational therapy assistants.

This bill would require an occupational therapy assistant to document in the patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign the patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. The bill would require that the applicant successfully complete the educational program's academic requirements approved by the board and accredited by ACOTE, or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program. The bill would also revise those curriculum requirements for an educational program. The bill would authorize an applicant who is a graduate of an educational program and is unable to provide evidence of having met the curriculum requirements to demonstrate passage of a specified examination as evidence of having successfully satisfied the curriculum requirements. The bill would require an applicant who completed AOTA's Career Mobility Program to demonstrate participation in the program and passage of a specified examination as evidence of having successfully satisfied the educational program and curriculum requirements. The bill would revise the supervised fieldwork experience requirement. The bill would require a licensee to report to the board violations of the Occupational Therapy

Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(5) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(6) Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician's assistants by the Physician Assistant Committee of the Medical Board of California. Existing law authorizes the committee to grant interim approval to an applicant for licensure as a physician assistant.

This bill would delete that authority to grant interim approval and would make conforming changes.

(7) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(8) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.

This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee or applicant for a license uses, while licensed or applying for a license, any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize the board to direct a practitioner or applicant who is found to have violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(9) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law prohibits a person from acting as a wholesaler of any dangerous drug or device without a license from the board. Existing law requires a nonresident wholesaler, as defined, to be licensed prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

This bill would modify that definition and would also require a nonresident wholesaler to be licensed prior to selling, brokering, or distributing dangerous drugs or devices within this state. By subjecting these nonresident wholesalers to these licensure requirements which include, among other things, payment of specified fees, the bill would increase that part of the revenue in the Pharmacy Board Contingent Fund that is continuously appropriated and would thereby make an appropriation.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

Because this bill would impose new requirements and prohibitions under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(10) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of veterinarians by the Veterinary Medical Board. Existing law prohibits the disclosure of information about an animal receiving veterinary services, the client responsible for that animal, or the veterinary care provided to an animal, except under specified circumstances, including, but not limited to, as may be required to ensure compliance with any federal, state, county, or city law or regulation.

This bill would specify that such disclosure is prohibited except as may be required to ensure compliance with the California Public Records Act.

(11) Existing law provides for the licensure and regulation of educational psychologists, clinical social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

(12) Existing law, the Professional Fiduciaries Act, provides for the licensure and regulation of professional fiduciaries by the Professional Fiduciaries Bureau until July 1, 2011. Existing law also requires



applicants to provide certain boards and bureaus with a full set of fingerprints for the purpose of conducting criminal history record checks. Existing law requires licensees to file and the bureau to maintain certain information in each licensee's file, including whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or demonstrated a pattern of negligent conduct, as specified.

This bill would require the bureau to disclose on the Internet information on its licensees and would require applicants to the bureau to comply with that fingerprint requirement. The bill would require licensees to file and the bureau to maintain information regarding whether the licensee has ever been removed for cause or resigned as a conservator, guardian, trustee, or personal representative, as well as various other details relating to that removal or resignation. The bill would also make a conforming change.

(13) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.

This bill would modify the term length for certain members of the board.

(14) Existing law provides a comprehensive scheme for the certification and regulation of interior designers. Under existing law, a stamp from an interior design organization certifies that an interior designer has passed a specified examination and that he or she has met certain other education or experience requirements, such as a combination of interior design education and diversified interior design experience that together total at least 8 years.

This bill would revise that provision by specifying that an interior designer may meet these requirements by having at least 8 years of interior design education, or at least 8 years of diversified interior design experience, or a combination of interior design education and diversified interior design experience that together total at least 8 years.

(15) Existing law provides for the registration of professional engineers and the licensure of land surveyors by the Board for Professional Engineers and Land Surveyors. Under existing law, in

determining the qualifications of an applicant for registration or licensure, a majority vote of the board is required.

This bill would delete that majority vote requirement.

(16) Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of funeral establishments and directors by the Cemetery and Funeral Bureau. Under existing law, every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal, be issued a funeral establishment license.

This bill would delete that provision.

(17) The Electronic and Appliance Repair Dealer Registration Law provides for registration and regulation of service contractors by the Bureau of Electronic and Appliance Repair. Existing law makes it unlawful to act as a service contractor unless that person maintains a valid registration.

This bill would make it an infraction to violate that provision. The bill would also make conforming changes. By creating a new crime, the bill would impose a state-mandated local program.

(18) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law provides that federally qualified health center services and rural health clinic services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. For those purposes, a "visit" is defined as a face-to-face encounter between a patient of a federally qualified health center or a rural health clinic and a "physician," which is defined to include a medical doctor, osteopath, podiatrist, dentist, optometrist, and chiropractor.

This bill would instead provide that the term "physician" includes a physician and surgeon, podiatrist, dentist, optometrist, and chiropractor.

(19) 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.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b), ~~on or after July 1, 2001,~~ shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Board shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

(3) The Dental Board of California shall disclose information on its licensees.

1 (4) The State Board of Optometry shall disclose information  
2 regarding certificates of registration to practice optometry,  
3 statements of licensure, optometric corporation registrations, branch  
4 office licenses, and fictitious name permits of ~~their~~ *its* licensees.

5 (5) The Board for Professional Engineers and Land Surveyors  
6 shall disclose information on its registrants and licensees.

7 (6) The Structural Pest Control Board shall disclose information  
8 on its licensees, including applicators, field representatives, and  
9 operators in the areas of fumigation, general pest and wood  
10 destroying pests and organisms, and wood roof cleaning and  
11 treatment.

12 (7) The Bureau of Automotive Repair shall disclose information  
13 on its licensees, including auto repair dealers, smog stations, lamp  
14 and brake stations, smog check technicians, and smog inspection  
15 certification stations.

16 (8) The Bureau of Electronic and Appliance Repair shall disclose  
17 information on its licensees, including major appliance repair  
18 dealers, combination dealers (electronic and appliance), electronic  
19 repair dealers, service contract sellers, and service contract  
20 administrators.

21 (9) The Cemetery ~~Program~~ and *Funeral Bureau* shall disclose  
22 information on its licensees, including cemetery brokers, cemetery  
23 salespersons, *cemetery managers, crematory managers, cemetery*  
24 *authorities*, crematories, ~~and~~ cremated remains disposers,  
25 *embalmers, funeral establishments, and funeral directors*.

26 (10) The ~~Funeral Directors and Embalmers Program~~  
27 *Professional Fiduciaries Bureau* shall disclose information on its  
28 licensees, ~~including embalmers, funeral establishments, and funeral~~  
29 ~~directors~~.

30 (11) The Contractors' State License Board shall disclose  
31 information on its licensees in accordance with Chapter 9  
32 (commencing with Section 7000) of Division 3. In addition to  
33 information related to licenses as specified in subdivision (a), the  
34 board shall also disclose information provided to the board by the  
35 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

36 (12) The Board of Psychology shall disclose information on its  
37 licensees, including psychologists, psychological assistants, and  
38 registered psychologists.

39 (c) "Internet" for the purposes of this section has the meaning  
40 set forth in paragraph (6) of subdivision (e) of Section 17538.

1 SEC. 2. Section 101 of the Business and Professions Code, as  
2 amended by Section 1 of Chapter 31 of the Statutes of 2008, is  
3 amended to read:

4 101. The department is comprised of:

- 5 (a) The Dental Board of California.
- 6 (b) The Medical Board of California.
- 7 (c) The State Board of Optometry.
- 8 (d) The California State Board of Pharmacy.
- 9 (e) The Veterinary Medical Board.
- 10 (f) The California Board of Accountancy.
- 11 (g) The California Architects Board.
- 12 (h) The Bureau of Barbering and Cosmetology.
- 13 (i) The Board for Professional Engineers and Land Surveyors.
- 14 (j) The Contractors' State License Board.
- 15 (k) The Bureau for Private Postsecondary and Vocational  
16 Education.
- 17 (l) The Structural Pest Control Board.
- 18 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 19 (n) The Board of Registered Nursing.
- 20 (o) The Board of Behavioral Sciences.
- 21 (p) The State Athletic Commission.
- 22 (q) The Cemetery and Funeral Bureau.
- 23 (r) The State Board of Guide Dogs for the Blind.
- 24 (s) The Bureau of Security and Investigative Services.
- 25 (t) The Court Reporters Board of California.
- 26 (u) The Board of Vocational Nursing and Psychiatric  
27 Technicians.
- 28 (v) The Landscape Architects Technical Committee.
- 29 (w) The Bureau of Electronic and Appliance Repair.
- 30 (x) The Division of Investigation.
- 31 (y) The Bureau of Automotive Repair.
- 32 (z) The State Board of Registration for Geologists and  
33 Geophysicists.
- 34 (aa) The Respiratory Care Board of California.
- 35 (ab) The Acupuncture Board.
- 36 (ac) The Board of Psychology.
- 37 (ad) The California Board of Podiatric Medicine.
- 38 (ae) The Physical Therapy Board of California.
- 39 (af) The Arbitration Review Program.
- 40 (ag) The Hearing Aid Dispensers Bureau.

- 1 (ah) The Physician Assistant Committee.
- 2 (ai) The Speech-Language Pathology and Audiology Board.
- 3 (aj) The California Board of Occupational Therapy.
- 4 (ak) The Osteopathic Medical Board of California.
- 5 (al) The Bureau of Naturopathic Medicine.
- 6 (am) The Dental Hygiene Committee of California.
- 7 (an) *The Professional Fiduciaries Bureau.*
- 8 ~~(an)~~
- 9 (ao) Any other boards, offices, or officers subject to its
- 10 jurisdiction by law.

11 SEC. 3. Section 128.5 of the Business and Professions Code  
12 is amended to read:

13 128.5. (a) Notwithstanding any other provision of law, if at  
14 the end of any fiscal year, an agency within the Department of  
15 Consumer Affairs, except the agencies referred to in subdivision  
16 (b), has unencumbered funds in an amount that equals or is more  
17 than the agency's operating budget for the next two fiscal years,  
18 the agency shall reduce license or other fees, whether the license  
19 or other fees be fixed by statute or may be determined by the  
20 agency within limits fixed by statute, during the following fiscal  
21 year in an amount that will reduce any surplus funds of the agency  
22 to an amount less than the agency's operating budget for the next  
23 two fiscal years.

24 (b) Notwithstanding any other provision of law, if at the end of  
25 any fiscal year, the California Architects Board, the Board of  
26 Behavioral-~~Science-Examiners~~ *Sciences*, the Veterinary Medical  
27 Board, the Court Reporters Board of California, the Medical Board  
28 of California, the Board of Vocational Nursing and Psychiatric  
29 Technicians, or the Bureau of Security and Investigative Services  
30 has unencumbered funds in an amount that equals or is more than  
31 the agency's operating budget for the next two fiscal years, the  
32 agency shall reduce license or other fees, whether the license or  
33 other fees be fixed by statute or may be determined by the agency  
34 within limits fixed by statute, during the following fiscal year in  
35 an amount that will reduce any surplus funds of the agency to an  
36 amount less than the agency's operating budget for the next two  
37 fiscal years.

38 SEC. 4. Section 144 of the Business and Professions Code is  
39 amended to read:

1 144. (a) Notwithstanding any other provision of law, an agency  
2 designated in subdivision (b) shall require an applicant to furnish  
3 to the agency a full set of fingerprints for purposes of conducting  
4 criminal history record checks. Any agency designated in  
5 subdivision (b) may obtain and receive, at its discretion, criminal  
6 history information from the Department of Justice and the United  
7 States Federal Bureau of Investigation.

8 (b) Subdivision (a) applies to the following:

- 9 (1) California Board of Accountancy.  
10 (2) State Athletic Commission.  
11 (3) Board of Behavioral Sciences.  
12 (4) Court Reporters Board of California.  
13 (5) State Board of Guide Dogs for the Blind.  
14 (6) California State Board of Pharmacy.  
15 (7) Board of Registered Nursing.  
16 (8) Veterinary Medical Board.  
17 (9) Registered Veterinary Technician Committee.  
18 (10) Board of Vocational Nursing and Psychiatric Technicians.  
19 (11) Respiratory Care Board of California.  
20 (12) Hearing Aid Dispensers Advisory Commission.  
21 (13) Physical Therapy Board of California.  
22 (14) Physician Assistant Committee of the Medical Board of  
23 California.  
24 (15) Speech-Language Pathology and Audiology Board.  
25 (16) Medical Board of California.  
26 (17) State Board of Optometry.  
27 (18) Acupuncture Board.  
28 (19) Cemetery and Funeral Bureau.  
29 (20) Bureau of Security and Investigative Services.  
30 (21) Division of Investigation.  
31 (22) Board of Psychology.  
32 (23) The California Board of Occupational Therapy.  
33 (24) Structural Pest Control Board.  
34 (25) Contractors' State License Board.  
35 (26) Bureau of Naturopathic Medicine.  
36 (27) *The Professional Fiduciaries Bureau.*

37 (c) The provisions of paragraph (24) of subdivision (b) shall  
38 become operative on July 1, 2004. The provisions of paragraph  
39 (25) of subdivision (b) shall become operative on the date on which  
40 sufficient funds are available for the Contractors' State License

1 Board and the Department of Justice to conduct a criminal history  
2 record check pursuant to this section or on July 1, 2005, whichever  
3 occurs first.

4 SEC. 5. Section 146 of the Business and Professions Code is  
5 amended to read:

6 146. (a) Notwithstanding any other provision of law, a  
7 violation of any code section listed in subdivision (c) or (d) is an  
8 infraction subject to the procedures described in Sections 19.6 and  
9 19.7 of the Penal Code when *either of the following applies*:

10 (1) A complaint or a written notice to appear in court pursuant  
11 to Chapter ~~5e~~ 5C (commencing with Section 853.5) of Title 3 of  
12 Part 2 of the Penal Code is filed in court charging the offense as  
13 an infraction unless the defendant, at the time he or she is arraigned,  
14 after being advised of his or her rights, elects to have the case  
15 proceed as a misdemeanor, ~~or~~.

16 (2) The court, with the consent of the defendant and the  
17 prosecution, determines that the offense is an infraction in which  
18 event the case shall proceed as if the defendant has been arraigned  
19 on an infraction complaint.

20 (b) Subdivision (a) does not apply to a violation of the code  
21 sections listed in subdivisions (c) and (d) if the defendant has had  
22 his or her license, registration, or certificate previously revoked  
23 or suspended.

24 (c) The following sections require registration, licensure,  
25 certification, or other authorization in order to engage in certain  
26 businesses or professions regulated by this code:

27 (1) Sections 2052 and 2054.

28 (2) Section 2630.

29 (3) Section 2903.

30 (4) Section 3660.

31 (5) Sections 3760 and 3761.

32 (6) Section 4080.

33 (7) Section 4825.

34 (8) Section 4935.

35 (9) Section 4980.

36 (10) Section 4996.

37 (11) Section 5536.

38 (12) Section 6704.

39 (13) Section 6980.10.

40 (14) Section 7317.



1 (15) Section 7502 or 7592.

2 (16) Section 7520.

3 (17) Section 7617 or 7641.

4 (18) Subdivision (a) of Section 7872.

5 (19) Section 8016.

6 (20) Section 8505.

7 (21) Section 8725.

8 (22) Section 9681.

9 (23) Section 9840.

10 (24) Subdivision (c) of Section 9891.24.

11 (25) Section 19049.

12 (d) Institutions that are required to register with the Bureau for  
13 Private Postsecondary and Vocational Education pursuant to  
14 Section 94931 of the Education Code.

15 (e) Notwithstanding any other provision of law, a violation of  
16 any of the sections listed in subdivision (c) or (d), which is an  
17 infraction, is punishable by a fine of not less than two hundred  
18 fifty dollars (\$250) and not more than one thousand dollars  
19 (\$1,000). No portion of the minimum fine may be suspended by  
20 the court unless as a condition of that suspension the defendant is  
21 required to submit proof of a current valid license, registration, or  
22 certificate for the profession or vocation *the absence of* which was  
23 the basis for his or her conviction.

24 SEC. 6. Section 149 of the Business and Professions Code is  
25 amended to read:

26 149. (a) If, upon investigation, an agency designated in  
27 subdivision (e) has probable cause to believe that a person is  
28 advertising in a telephone directory with respect to the offering or  
29 performance of services, without being properly licensed by or  
30 registered with the agency to offer or perform those services, the  
31 agency may issue a citation under Section 148 containing an order  
32 of correction that requires the violator to do both of the following:

33 (1) Cease the unlawful advertising.

34 (2) Notify the telephone company furnishing services to the  
35 violator to disconnect the telephone service furnished to any  
36 telephone number contained in the unlawful advertising.

37 (b) This action is stayed if the person to whom a citation is  
38 issued under subdivision (a) notifies the agency in writing that he  
39 or she intends to contest the citation. The agency shall afford an  
40 opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Funeral Directors and Embalmers Program.
- (3) The Veterinary Medical Board.
- (4) The Hearing Aid Dispensers Advisory Commission.
- (5) The Landscape Architects Technical Committee.
- (6) The California Board of Podiatric Medicine.
- (7) The Respiratory Care Board of California.
- (8) The Bureau of Home Furnishings and Thermal Insulation.
- (9) The Bureau of Security and Investigative Services.
- (10) The Bureau of Electronic and Appliance Repair.
- (11) The Bureau of Automotive Repair.
- (12) The Tax Preparers Program.
- (13) The California Architects Board.
- (14) The Speech-Language Pathology and Audiology Board.
- (15) The Board for Professional Engineers and Land Surveyors.
- (16) The Board of Behavioral Sciences.
- (17) The State Board for Geologists and Geophysicists.
- (18) The Structural Pest Control Board.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The California Board of Accountancy.
- (22) The Bureau of Naturopathic Medicine.
- (23) *The Physical Therapy Board of California.*

SEC. 7. Section 683 of the Business and Professions Code is amended to read:

683. (a) A board shall report, within 10 working days, to the State Department of Health *Care* Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, ~~and~~ the State Board of Chiropractic Examiners, ~~and the California Board of Occupational Therapy.~~

SEC. 8. Section 733 of the Business and Professions Code is amended to read:

733. (a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other provision of law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

(1) Based solely on the licentiate's professional training and judgment, dispensing pursuant to the order or the prescription is contrary to law, or the licentiate determines that the prescribed drug or device would cause a harmful drug interaction or would otherwise adversely affect the patient's medical condition.

(2) The prescription drug or device is not in stock. If an order, other than an order described in Section 4019, or prescription cannot be dispensed because the drug or device is not in stock, the licentiate shall take one of the following actions:

(A) Immediately notify the patient and arrange for the drug or device to be delivered to the site or directly to the patient in a timely manner.

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough

1 to the site from which the prescription or order is transferred, to  
2 ensure the patient has timely access to the drug or device.

3 (C) Return the prescription to the patient and refer the patient.  
4 The licentiate shall make a reasonable effort to refer the patient to  
5 a pharmacy that stocks the prescription drug or device that is near  
6 enough to the referring site to ensure that the patient has timely  
7 access to the drug or device.

8 (3) The licentiate refuses on ethical, moral, or religious grounds  
9 to dispense a drug or device pursuant to an order or prescription.  
10 A licentiate may decline to dispense a prescription drug or device  
11 on this basis only if the licentiate has previously notified his or  
12 her employer, in writing, of the drug or class of drugs to which he  
13 or she objects, and the licentiate's employer can, without creating  
14 undue hardship, provide a reasonable accommodation of the  
15 licentiate's objection. The licentiate's employer shall establish  
16 protocols that ensure that the patient has timely access to the  
17 prescribed drug or device despite the licentiate's refusal to dispense  
18 the prescription or order. For purposes of this section, "reasonable  
19 accommodation" and "undue hardship" shall have the same  
20 meaning as applied to those terms pursuant to subdivision (l) of  
21 Section 12940 of the Government Code.

22 (c) For the purposes of this section, "prescription drug or device"  
23 has the same meaning as the definition in Section 4022.

24 (d) The provisions of this section shall apply to the drug therapy  
25 described in ~~paragraph (8) of subdivision (a) of Section 4052~~  
26 *Section 4052.3*.

27 (e) This section imposes no duty on a licentiate to dispense a  
28 drug or device pursuant to a prescription or order without payment  
29 for the drug or device, including payment directly by the patient  
30 or through a third-party payer accepted by the licentiate or payment  
31 of any required copayment by the patient.

32 (f) The notice to consumers required by Section 4122 shall  
33 include a statement that describes patients' rights relative to the  
34 requirements of this section.

35 SEC. 9. Section 800 of the Business and Professions Code is  
36 amended to read:

37 800. (a) The Medical Board of California, the Board of  
38 Psychology, the Dental Board of California, the Osteopathic  
39 Medical Board of California, the State Board of Chiropractic  
40 Examiners, the Board of Registered Nursing, the Board of

1 Vocational Nursing and Psychiatric Technicians, the State Board  
2 of Optometry, the Veterinary Medical Board, the Board of  
3 Behavioral Sciences, the Physical Therapy Board of California,  
4 the California State Board of Pharmacy, ~~and~~ the Speech-Language  
5 Pathology and Audiology Board, *the California Board of*  
6 *Occupational Therapy, and the Acupuncture Board* shall each  
7 separately create and maintain a central file of the names of all  
8 persons who hold a license, certificate, or similar authority from  
9 that board. Each central file shall be created and maintained to  
10 provide an individual historical record for each licensee with  
11 respect to the following information:

12 (1) Any conviction of a crime in this or any other state that  
13 constitutes unprofessional conduct pursuant to the reporting  
14 requirements of Section 803.

15 (2) Any judgment or settlement requiring the licensee or his or  
16 her insurer to pay any amount of damages in excess of three  
17 thousand dollars (\$3,000) for any claim that injury or death was  
18 proximately caused by the licensee's negligence, error or omission  
19 in practice, or by rendering unauthorized professional services,  
20 pursuant to the reporting requirements of Section 801 or 802.

21 (3) Any public complaints for which provision is made pursuant  
22 to subdivision (b).

23 (4) Disciplinary information reported pursuant to Section 805.

24 (b) Each board shall prescribe and promulgate forms on which  
25 members of the public and other licensees or certificate holders  
26 may file written complaints to the board alleging any act of  
27 misconduct in, or connected with, the performance of professional  
28 services by the licensee.

29 If a board, or division thereof, a committee, or a panel has failed  
30 to act upon a complaint or report within five years, or has found  
31 that the complaint or report is without merit, the central file shall  
32 be purged of information relating to the complaint or report.

33 Notwithstanding this subdivision, the Board of Psychology, the  
34 Board of Behavioral Sciences, and the Respiratory Care Board of  
35 California shall maintain complaints or reports as long as each  
36 board deems necessary.

37 (c) The contents of any central file that are not public records  
38 under any other provision of law shall be confidential except that  
39 the licensee involved, or his or her counsel or representative, shall  
40 have the right to inspect and have copies made of his or her

1 complete file except for the provision that may disclose the identity  
2 of an information source. For the purposes of this section, a board  
3 may protect an information source by providing a copy of the  
4 material with only those deletions necessary to protect the identity  
5 of the source or by providing a comprehensive summary of the  
6 substance of the material. Whichever method is used, the board  
7 shall ensure that full disclosure is made to the subject of any  
8 personal information that could reasonably in any way reflect or  
9 convey anything detrimental, disparaging, or threatening to a  
10 licensee's reputation, rights, benefits, privileges, or qualifications,  
11 or be used by a board to make a determination that would affect  
12 a licensee's rights, benefits, privileges, or qualifications. The  
13 information required to be disclosed pursuant to Section 803.1  
14 shall not be considered among the contents of a central file for the  
15 purposes of this subdivision.

16 The licensee may, but is not required to, submit any additional  
17 exculpatory or explanatory statement or other information that the  
18 board shall include in the central file.

19 Each board may permit any law enforcement or regulatory  
20 agency when required for an investigation of unlawful activity or  
21 for licensing, certification, or regulatory purposes to inspect and  
22 have copies made of that licensee's file, unless the disclosure is  
23 otherwise prohibited by law.

24 These disclosures shall effect no change in the confidential status  
25 of these records.

26 SEC. 10. Section 801 of the Business and Professions Code is  
27 amended to read:

28 801. (a) Except as provided in Section 801.01 and subdivisions  
29 (b), (c), and (d) of this section, every insurer providing professional  
30 liability insurance to a person who holds a license, certificate, or  
31 similar authority from or under any agency mentioned in  
32 subdivision (a) of Section 800 shall send a complete report to that  
33 agency as to any settlement or arbitration award over three  
34 thousand dollars (\$3,000) of a claim or action for damages for  
35 death or personal injury caused by that person's negligence, error,  
36 or omission in practice, or by his or her rendering of unauthorized  
37 professional services. The report shall be sent within 30 days after  
38 the written settlement agreement has been reduced to writing and  
39 signed by all parties thereto or within 30 days after service of the  
40 arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral-~~Science~~ ~~Examiners~~ *Sciences* as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on

1 the parties, or the date of entry of the civil judgment, the attorney  
2 shall make the report to the agency.

3 (f) Notwithstanding any other provision of law, no insurer shall  
4 enter into a settlement without the written consent of the insured,  
5 except that this prohibition shall not void any settlement entered  
6 into without that written consent. The requirement of written  
7 consent shall only be waived by both the insured and the insurer.  
8 This section shall only apply to a settlement on a policy of  
9 insurance executed or renewed on or after January 1, 1971.

10 SEC. 11. Section 801.01 of the Business and Professions Code  
11 is amended to read:

12 801.01. (a) A complete report shall be sent to the Medical  
13 Board of California, the Osteopathic Medical Board, or the  
14 California Board of Podiatric Medicine, with respect to a licensee  
15 of the board as to the following:

16 (1) A settlement over thirty thousand dollars (\$30,000) or  
17 arbitration award of any amount or a civil judgment of any amount,  
18 whether or not vacated by a settlement after entry of the judgment,  
19 that was not reversed on appeal, of a claim or action for damages  
20 for death or personal injury caused by the licensee's alleged  
21 negligence, error, or omission in practice *in California*, or by his  
22 or her rendering of unauthorized professional services *in*  
23 *California*.

24 (2) A settlement over thirty thousand dollars (\$30,000) if it is  
25 based on the licensee's alleged negligence, error, or omission in  
26 practice *in California*, or by the licensee's rendering of  
27 unauthorized professional services *in California*, and a party to  
28 the settlement is a corporation, medical group, partnership, or other  
29 corporate entity in which the licensee has an ownership interest  
30 or that employs or contracts with the licensee.

31 (b) The report shall be sent by the following:

32 (1) The insurer providing professional liability insurance to the  
33 licensee.

34 (2) The licensee, or his or her counsel, if the licensee does not  
35 possess professional liability insurance.

36 (3) A state or local governmental agency that self-insures the  
37 licensee.

38 (c) The entity, person, or licensee obligated to report pursuant  
39 to subdivision (b) shall send the complete report if the judgment,  
40 settlement agreement, or arbitration award is entered against or



1 paid by the employer of the licensee and not entered against or  
2 paid by the licensee. “Employer,” as used in this paragraph, means  
3 a professional corporation, a group practice, a health care facility  
4 or clinic licensed or exempt from licensure under the Health and  
5 Safety Code, a licensed health care service plan, a medical care  
6 foundation, an educational institution, a professional institution,  
7 a professional school or college, a general law corporation, a public  
8 entity, or a nonprofit organization that employs, retains, or contracts  
9 with a licensee referred to in this section. Nothing in this paragraph  
10 shall be construed to authorize the employment of, or contracting  
11 with, any licensee in violation of Section 2400.

12 (d) The report shall be sent to the Medical Board of California,  
13 the Osteopathic Medical Board of California, or the California  
14 Board of Podiatric Medicine, as appropriate, within 30 days after  
15 the written settlement agreement has been reduced to writing and  
16 signed by all parties thereto, within 30 days after service of the  
17 arbitration award on the parties, or within 30 days after the date  
18 of entry of the civil judgment.

19 (e) If an insurer is required under subdivision (b) to send the  
20 report, the insurer shall notify the claimant, or if the claimant is  
21 represented by counsel, the claimant’s counsel, that the insurer  
22 has sent the report to the Medical Board of California, the  
23 Osteopathic Medical Board of California, or the California Board  
24 of Podiatric Medicine. If the claimant, or his or her counsel, has  
25 not received this notice within 45 days after the settlement was  
26 reduced to writing and signed by all of the parties or the arbitration  
27 award was served on the parties or the date of entry of the civil  
28 judgment, the claimant or the claimant’s counsel shall make the  
29 report to the appropriate board.

30 (f) If the licensee or his or her counsel is required under  
31 subdivision (b) to send the report, the licensee or his or her counsel  
32 shall send a copy of the report to the claimant or to his or her  
33 counsel if he or she is represented by counsel. If the claimant or  
34 his or her counsel has not received a copy of the report within 45  
35 days after the settlement was reduced to writing and signed by all  
36 of the parties or the arbitration award was served on the parties or  
37 the date of entry of the civil judgment, the claimant or the  
38 claimant’s counsel shall make the report to the appropriate board.

39 (g) Failure of the licensee or claimant, or counsel representing  
40 the licensee or claimant, to comply with subdivision (f) is a public

1 offense punishable by a fine of not less than fifty dollars (\$50) and  
2 not more than five hundred dollars (\$500). A knowing and  
3 intentional failure to comply with subdivision (f) or a conspiracy  
4 or collusion not to comply with subdivision (f), or to hinder or  
5 impede any other person in the compliance, is a public offense  
6 punishable by a fine of not less than five thousand dollars (\$5,000)  
7 and not more than fifty thousand dollars (\$50,000).

8 (h) (1) The Medical Board of California, the Osteopathic  
9 Medical Board of California, and the California Board of Podiatric  
10 Medicine may develop a prescribed form for the report.

11 (2) The report shall be deemed complete only if it includes the  
12 following information:

13 (A) The name and last known business and residential addresses  
14 of every plaintiff or claimant involved in the matter, whether or  
15 not the person received an award under the settlement, arbitration,  
16 or judgment.

17 (B) The name and last known business and residential address  
18 of every physician and surgeon or doctor of podiatric medicine  
19 who was alleged to have acted improperly, whether or not that  
20 person was a named defendant in the action and whether or not  
21 that person was required to pay any damages pursuant to the  
22 settlement, arbitration award, or judgment.

23 (C) The name, address, and principal place of business of every  
24 insurer providing professional liability insurance to any person  
25 described in subparagraph (B), and the insured's policy number.

26 (D) The name of the court in which the action or any part of the  
27 action was filed, and the date of filing and case number of each  
28 action.

29 (E) A brief description or summary of the facts of each claim,  
30 charge, or allegation, including the date of occurrence.

31 (F) The name and last known business address of each attorney  
32 who represented a party in the settlement, arbitration, or civil  
33 action, including the name of the client he or she represented.

34 (G) The amount of the judgment and the date of its entry; the  
35 amount of the arbitration award, the date of its service on the  
36 parties, and a copy of the award document; or the amount of the  
37 settlement and the date it was reduced to writing and signed by all  
38 parties. If an otherwise reportable settlement is entered into after  
39 a reportable judgment or arbitration award is issued, the report  
40 shall include both the settlement and the judgment or award.

1 (H) The specialty or subspecialty of the physician and surgeon  
2 or the doctor of podiatric medicine who was the subject of the  
3 claim or action.

4 (I) Any other information the Medical Board of California, the  
5 Osteopathic Medical Board of California, or the California Board  
6 of Podiatric Medicine may, by regulation, require.

7 (3) Every professional liability insurer, self-insured  
8 governmental agency, or licensee or his or her counsel that makes  
9 a report under this section and has received a copy of any written  
10 or electronic patient medical or hospital records prepared by the  
11 treating physician and surgeon or podiatrist, or the staff of the  
12 treating physician and surgeon, podiatrist, or hospital, describing  
13 the medical condition, history, care, or treatment of the person  
14 whose death or injury is the subject of the report, or a copy of any  
15 deposition in the matter that discusses the care, treatment, or  
16 medical condition of the person, shall include with the report,  
17 copies of the records and depositions, subject to reasonable costs  
18 to be paid by the Medical Board of California, the Osteopathic  
19 Medical Board of California, or the California Board of Podiatric  
20 Medicine. If confidentiality is required by court order and, as a  
21 result, the reporter is unable to provide the records and depositions,  
22 documentation to that effect shall accompany the original report.  
23 The applicable board may, upon prior notification of the parties  
24 to the action, petition the appropriate court for modification of any  
25 protective order to permit disclosure to the board. A professional  
26 liability insurer, self-insured governmental agency, or licensee or  
27 his or her counsel shall maintain the records and depositions  
28 referred to in this paragraph for at least one year from the date of  
29 filing of the report required by this section.

30 (i) If the board, within 60 days of its receipt of a report filed  
31 under this section, notifies a person named in the report, that person  
32 shall maintain for the period of three years from the date of filing  
33 of the report any records he or she has as to the matter in question  
34 and shall make those records available upon request to the board  
35 to which the report was sent.

36 (j) Notwithstanding any other provision of law, no insurer shall  
37 enter into a settlement without the written consent of the insured,  
38 except that this prohibition shall not void any settlement entered  
39 into without that written consent. The requirement of written  
40 consent shall only be waived by both the insured and the insurer.

SEC. 12. Section 803 of the Business and Professions Code is amended to read:

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral—~~Science~~—~~Examiners~~ *Sciences* or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, or doctor of podiatric medicine, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

SEC. 13. Section 2089.5 of the Business and Professions Code is amended to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall meet the requirements of this section and shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, family medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 40 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, a minimum of four weeks in family medicine, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be

1 performed in a hospital that sponsors the instruction and shall meet  
2 one of the following:

3 (1) Is a formal part of the medical school or school of  
4 osteopathic medicine.

5 (2) Has ~~an~~ *a residency program*, approved ~~residency program~~  
6 *by the Accreditation Council for Graduate Medical Education*  
7 *(ACGME) or the Royal College of Physicians and Surgeons of*  
8 *Canada (RCPSC)*, in family practice or in the clinical area of the  
9 instruction for which credit is being sought.

10 (3) Is formally affiliated with an approved medical school or  
11 school of osteopathic medicine located in the United States or  
12 Canada. If the affiliation is limited in nature, credit shall be given  
13 only in the subject areas covered by the affiliation agreement.

14 (4) Is formally affiliated with a medical school or a school of  
15 osteopathic medicine located outside the United States or Canada.

16 (e) If the institution, specified in subdivision (d), is formally  
17 affiliated with a medical school or a school of osteopathic medicine  
18 located outside the United States or Canada, it shall meet the  
19 following:

20 (1) The formal affiliation shall be documented by a written  
21 contract detailing the relationship between the medical school, or  
22 a school of osteopathic medicine, and hospital and the  
23 responsibilities of each.

24 (2) The school and hospital shall provide to the ~~division~~ *board*  
25 a description of the clinical program. The description shall be in  
26 sufficient detail to enable the ~~division~~ *board* to determine whether  
27 or not the program provides students an adequate medical  
28 education. The ~~division~~ *board* shall approve the program if it  
29 determines that the program provides an adequate medical  
30 education. If the ~~division~~ *board* does not approve the program, it  
31 shall provide its reasons for disapproval to the school and hospital  
32 in writing specifying its findings about each aspect of the program  
33 that it considers to be deficient and the changes required to obtain  
34 approval.

35 (3) The hospital, if located in the United States, shall be  
36 accredited by the Joint Commission on Accreditation of Hospitals,  
37 and if located in another country, shall be accredited in accordance  
38 with the law of that country.

39 (4) The clinical instruction shall be supervised by a full-time  
40 director of medical education, and the head of the department for

1 each core clinical course shall hold a full-time faculty appointment  
2 of the medical school or school of osteopathic medicine and shall  
3 be board certified or eligible, or have an equivalent credential in  
4 that specialty area appropriate to the country in which the hospital  
5 is located.

6 (5) The clinical instruction shall be conducted pursuant to a  
7 written program of instruction provided by the school.

8 (6) The school shall supervise the implementation of the  
9 program on a regular basis, documenting the level and extent of  
10 its supervision.

11 (7) The hospital-based faculty shall evaluate each student on a  
12 regular basis and shall document the completion of each aspect of  
13 the program for each student.

14 (8) The hospital shall ensure a minimum daily census adequate  
15 to meet the instructional needs of the number of students enrolled  
16 in each course area of clinical instruction, but not less than 15  
17 patients in each course area of clinical instruction.

18 (9) The ~~division~~ board, in reviewing the application of a foreign  
19 medical graduate, may require the applicant to submit a description  
20 of the clinical program, if the ~~division~~ board has not previously  
21 approved the program, and may require the applicant to submit  
22 documentation to demonstrate that the applicant's clinical training  
23 met the requirements of this subdivision.

24 (10) The medical school or school of osteopathic medicine shall  
25 bear the reasonable cost of any site inspection by the ~~division~~ board  
26 or its agents necessary to determine whether the clinical program  
27 offered is in compliance with this subdivision.

28 SEC. 14. Section 2096 of the Business and Professions Code  
29 is amended to read:

30 2096. In addition to other requirements of this chapter, before  
31 a physician's and surgeon's license may be issued, each applicant,  
32 including an applicant applying pursuant to Article 5 (commencing  
33 with Section 2100), shall show by evidence satisfactory to the  
34 ~~Division of Licensing~~ board that he or she has satisfactorily  
35 completed at least one year of postgraduate training, which includes  
36 at least four months of general medicine, in ~~an approved a~~  
37 postgraduate training program *approved by the Accreditation*  
38 *Council for Graduate Medical Education (ACGME) or the Royal*  
39 *College of Physicians and Surgeons of Canada (RCPSC).*

1 The amendments made to this section at the 1987 portion of the  
2 1987–88 session of the Legislature shall not apply to applicants  
3 who completed their one year of postgraduate training on or before  
4 July 1, 1990.

5 SEC. 15. Section 2102 of the Business and Professions Code  
6 is amended to read:

7 2102. Any applicant whose professional instruction was  
8 acquired in a country other than the United States or Canada shall  
9 provide evidence satisfactory to the ~~division~~ *board* of compliance  
10 with the following requirements to be issued a physician's and  
11 surgeon's certificate:

12 (a) Completion in a medical school or schools of a resident  
13 course of professional instruction equivalent to that required by  
14 Section 2089 and issuance to the applicant of a document  
15 acceptable to the ~~division~~ *board* that shows final and successful  
16 completion of the course. However, nothing in this section shall  
17 be construed to require the ~~division~~ *board* to evaluate for  
18 equivalency any coursework obtained at a medical school  
19 disapproved by the ~~division~~ *board* pursuant to this section.

20 (b) Certification by the Educational Commission for Foreign  
21 Medical Graduates, or its equivalent, as determined by the ~~division~~  
22 *board*. This subdivision shall apply to all applicants who are subject  
23 to this section and who have not taken and passed the written  
24 examination specified in subdivision (d) prior to June 1, 1986.

25 (c) Satisfactory completion of the postgraduate training required  
26 under Section 2096. An applicant shall be required to have  
27 substantially completed the professional instruction required in  
28 subdivision (a) and shall be required to make application to the  
29 ~~division~~ *board* and have passed steps 1 and 2 of the written  
30 examination relating to biomedical and clinical sciences prior to  
31 commencing any postgraduate training in this state. In its  
32 discretion, the ~~division~~ *board* may authorize an applicant who is  
33 deficient in any education or clinical instruction required by  
34 Sections 2089 and 2089.5 to make up any deficiencies as a part of  
35 his or her postgraduate training program, but that remedial training  
36 shall be in addition to the postgraduate training required for  
37 licensure.

38 (d) Pass the written examination as provided under Article 9  
39 (commencing with Section 2170). ~~If an applicant has not~~  
40 ~~satisfactorily completed at least two years of approved postgraduate~~

1 ~~training, the applicant shall also pass the clinical competency~~  
2 ~~written examination.~~ An applicant shall be required to meet the  
3 requirements specified in subdivision (b) prior to being admitted  
4 to the written examination required by this subdivision.

5 Nothing in this section prohibits the ~~division~~ *board* from  
6 disapproving any foreign medical school or from denying an  
7 application if, in the opinion of the ~~division~~ *board*, the professional  
8 instruction provided by the medical school or the instruction  
9 received by the applicant is not equivalent to that required in  
10 Article 4 (commencing with Section 2080).

11 SEC. 16. Section 2107 of the Business and Professions Code  
12 is amended to read:

13 2107. (a) The Legislature intends that the ~~Division of Licensing~~  
14 *board* shall have the authority to substitute postgraduate education  
15 and training to remedy deficiencies in an applicant's medical school  
16 education and training. The Legislature further intends that  
17 applicants who substantially completed their clinical training shall  
18 be granted that substitute credit if their postgraduate education  
19 took place in an accredited program.

20 (b) To meet the requirements for licensure set forth in Sections  
21 2089 and 2089.5, the ~~Division of Licensing~~ *board* may require an  
22 applicant under this article to successfully complete additional  
23 education and training. In determining the content and duration of  
24 the required additional education and training, the ~~division~~ *board*  
25 shall consider the applicant's medical education and performance  
26 on standardized national examinations, and may substitute  
27 approved postgraduate training in lieu of specified undergraduate  
28 requirements. Postgraduate training substituted for undergraduate  
29 training shall be in addition to the ~~year of~~ postgraduate training  
30 required by Sections 2102 and 2103.

31 SEC. 17. Section 2135 of the Business and Professions Code  
32 is amended to read:

33 2135. The ~~Division of Licensing~~ *board* shall issue a physician  
34 and surgeon's certificate to an applicant who meets all of the  
35 following requirements:

36 (a) The applicant holds an unlimited license as a physician and  
37 surgeon in another state or states, or in a Canadian province or  
38 Canadian provinces, which was issued upon:

39 (1) Successful completion of a resident course of professional  
40 instruction *leading to a degree of medical doctor* equivalent to



1 that specified in Section 2089. However, nothing in this section  
2 shall be construed to require the ~~division~~ *board* to evaluate for  
3 equivalency any coursework obtained at a medical school  
4 disapproved by the ~~division~~ *board* pursuant to Article 4  
5 (commencing with Section 2080).

6 (2) Taking and passing a written examination that is recognized  
7 by the ~~division~~ *board* to be equivalent in content to that  
8 administered in California.

9 (b) The applicant has held an unrestricted license to practice  
10 medicine, in a state or states, in a Canadian province or Canadian  
11 provinces, or as a member of the active military, United States  
12 Public Health Services, or other federal program, for a period of  
13 at least four years. Any time spent by the applicant in an approved  
14 postgraduate training program or clinical fellowship acceptable to  
15 the ~~division~~ *board* shall not be included in the calculation of this  
16 four-year period.

17 (c) The ~~division~~ *board* determines that no disciplinary action  
18 has been taken against the applicant by any medical licensing  
19 authority and that the applicant has not been the subject of adverse  
20 judgments or settlements resulting from the practice of medicine  
21 that the ~~division~~ *board* determines constitutes evidence of a pattern  
22 of negligence or incompetence.

23 (d) The applicant (1) *has satisfactorily completed at least one*  
24 *year of approved postgraduate training and* is certified by a  
25 specialty board approved by the American Board of Medical  
26 Specialties or approved by the ~~division~~ *board* pursuant to  
27 subdivision (h) of Section 651; (2) has satisfactorily completed at  
28 least two years of approved postgraduate training; or (3) *has*  
29 *satisfactorily completed at least one year of approved postgraduate*  
30 *training and* takes and passes the clinical competency written  
31 examination.

32 (e) The applicant has not committed any acts or crimes  
33 constituting grounds for denial of a certificate under Division 1.5  
34 (commencing with Section 475) or Article 12 (commencing with  
35 Section 2220).

36 (f) Any application received from an applicant who has held an  
37 unrestricted license to practice medicine, in a state or states, or  
38 Canadian province or Canadian provinces, or as a member of the  
39 active military, United States Public Health Services, or other  
40 federal program for four or more years shall be reviewed and

1 processed pursuant to this section. Any time spent by the applicant  
2 in an approved postgraduate training program or clinical fellowship  
3 acceptable to the ~~division~~ *board* shall not be included in the  
4 calculation of this four-year period. This subdivision does not  
5 apply to applications that may be reviewed and processed pursuant  
6 to Section 2151.

7 SEC. 18. Section 2168.4 of the Business and Professions Code  
8 is amended to read:

9 2168.4. (a) A special faculty permit expires and becomes  
10 invalid at midnight on the last day of the permitholder's birth  
11 month during the second year of a two-year term, if not renewed.

12 (b) A person who holds a special faculty permit shall show at  
13 the time of license renewal that he or she continues to meet the  
14 eligibility criteria set forth in Section 2168.1. After the first renewal  
15 of a special faculty permit, the permitholder shall not be required  
16 to hold a full-time faculty position, and may instead be employed  
17 part-time in a position that otherwise meets the requirements set  
18 forth in paragraph (1) of subdivision (a) of Section 2168.1.

19 (c) *A person who holds a special faculty permit shall show at*  
20 *the time of license renewal that he or she meets the continuing*  
21 *medical education requirements of Article 10 (commencing with*  
22 *Section 2190).*

23 ~~(e)~~

24 (d) In addition to the requirements set forth above, a special  
25 faculty permit shall be renewed in accordance with Article 19  
26 (commencing with Section 2420) in the same manner as a  
27 physician's and surgeon's certificate.

28 ~~(d)~~

29 (e) Those fees applicable to a physician's and surgeon's  
30 certificate shall also apply to a special faculty permit and shall be  
31 paid into the State Treasury and credited to the Contingent Fund  
32 of the Medical Board of California.

33 SEC. 19. Section 2169 is added to the Business and Professions  
34 Code, to read:

35 2169. A person who holds a special faculty permit shall meet  
36 the continuing medical education requirements set forth in Article  
37 10 (commencing with Section 2190).

38 SEC. 20. Section 2172 of the Business and Professions Code  
39 is repealed.

1     ~~2172. The Division of Licensing may appoint qualified persons~~  
2 ~~to give the whole or any portion of any examination as provided~~  
3 ~~in this chapter, who shall be designated as examination~~  
4 ~~commissioners. The board may fix the compensation of such~~  
5 ~~persons subject to the provisions of applicable state laws and~~  
6 ~~regulations.~~

7     SEC. 21. Section 2173 of the Business and Professions Code  
8 is repealed.

9     ~~2173. The examination shall be conducted in the English~~  
10 ~~language. Upon the submission of satisfactory proof from the~~  
11 ~~applicant that he or she is unable to meet the requirements of the~~  
12 ~~examination in English, the Division of Licensing may allow the~~  
13 ~~use of an interpreter, either to be present in the examination room~~  
14 ~~or thereafter to interpret and transcribe the answers of the applicant.~~  
15 ~~The division in its discretion may select an examinee's interpreter~~  
16 ~~or approve the selection of an interpreter by the examinee. The~~  
17 ~~expenses of the interpreter shall be paid by the examinee and shall~~  
18 ~~be paid before the examination is administered.~~

19     SEC. 22. Section 2174 of the Business and Professions Code  
20 is repealed.

21     ~~2174. The examinations may be conducted in any part of the~~  
22 ~~state or another state designated by the Division of Licensing. A~~  
23 ~~notice of each examination administered by the division shall~~  
24 ~~specify the time and place of the examination.~~

25     SEC. 23. Section 2175 of the Business and Professions Code  
26 is amended to read:

27     ~~2175. Examination~~ *State examination* records shall be kept on  
28 file by the Division of Licensing for a period of two years or more  
29 *board until June 1, 2070.* Examinees shall be known and designated  
30 by number only, and the name attached to the number shall be kept  
31 secret until the examinee is sent notification of the results of the  
32 examinations.

33     SEC. 24. Section 2221 of the Business and Professions Code  
34 is amended to read:

35     2221. (a) The board may deny a physician's and surgeon's  
36 certificate to an applicant guilty of unprofessional conduct or of  
37 any cause that would subject a licensee to revocation or suspension  
38 of his or her license; or, the board in its sole discretion, may issue  
39 a probationary physician's and surgeon's certificate to an applicant

1 subject to terms and conditions, including, but not limited to, any  
2 of the following conditions of probation:

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

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

8 (3) Continuing medical or psychiatric treatment.

9 (4) Ongoing participation in a specified rehabilitation program.

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

12 (6) Abstention from the use of alcohol or drugs.

13 (7) Restrictions against engaging in certain types of medical  
14 practice.

15 (8) Compliance with all provisions of this chapter.

16 (9) Payment of the cost of probation monitoring.

17 (b) The board may modify or terminate the terms and conditions  
18 imposed on the probationary certificate upon receipt of a petition  
19 from the licensee. *The board may assign the petition to an*  
20 *administrative law judge designated in Section 11371 of the*  
21 *Government Code. After a hearing on the petition, the*  
22 *administrative law judge shall provide a proposed decision to the*  
23 *board.*

24 ~~(e) Enforcement and monitoring of the probationary conditions~~  
25 ~~shall be under the jurisdiction of the board in conjunction with the~~  
26 ~~administrative hearing procedures established pursuant to Sections~~  
27 ~~11371, 11372, 11373, and 11529 of the Government Code, and~~  
28 ~~the review procedures set forth in Section 2335.~~

29 ~~(d)~~

30 (c) The board shall deny a physician's and surgeon's certificate  
31 to an applicant who is required to register pursuant to Section 290  
32 of the Penal Code. This subdivision does not apply to an applicant  
33 who is required to register as a sex offender pursuant to Section  
34 290 of the Penal Code solely because of a misdemeanor conviction  
35 under Section 314 of the Penal Code.

36 ~~(e)~~

37 (d) An applicant shall not be eligible to reapply for a physician's  
38 and surgeon's certificate for a minimum of three years from the  
39 effective date of the ~~final decision or action regarding the denial~~  
40 of his or her application, except that the board may, in its discretion

1 and for good cause demonstrated, permit reapplication after not  
2 less than one year has elapsed from the effective date of the ~~final~~  
3 ~~decision or action regarding the denial.~~

4 SEC. 25. Section 2307 of the Business and Professions Code  
5 is amended to read:

6 2307. (a) A person whose certificate has been surrendered  
7 while under investigation or while charges are pending or whose  
8 certificate has been revoked or suspended or placed on probation,  
9 may petition the ~~Division of Medical Quality board~~ for  
10 reinstatement or modification of penalty, including modification  
11 or termination of probation.

12 (b) The person may file the petition after a period of not less  
13 than the following minimum periods have elapsed from the  
14 effective date of the surrender of the certificate or the decision  
15 ordering that disciplinary action:

16 (1) At least three years for reinstatement of a license surrendered  
17 or revoked for unprofessional conduct, except that the ~~division~~  
18 ~~board~~ may, for good cause shown, specify in a revocation order  
19 that a petition for reinstatement may be filed after two years.

20 (2) At least two years for early termination of probation of three  
21 years or more.

22 (3) At least one year for modification of a condition, or  
23 reinstatement of a license surrendered or revoked for mental or  
24 physical illness, or termination of probation of less than three years.

25 (c) The petition shall state any facts as may be required by the  
26 ~~division board~~. The petition shall be accompanied by at least two  
27 verified recommendations from physicians and surgeons licensed  
28 ~~by the board in any state~~ who have personal knowledge of the  
29 activities of the petitioner since the disciplinary penalty was  
30 imposed.

31 (d) The petition may be heard by a panel of the ~~division board~~.  
32 The ~~division board~~ may assign the petition to an administrative  
33 law judge designated in Section 11371 of the Government Code.  
34 After a hearing on the petition, the administrative law judge shall  
35 provide a proposed decision to the ~~division board~~ or the California  
36 Board of Podiatric Medicine, as applicable, which shall be acted  
37 upon in accordance with Section 2335.

38 (e) The panel of the ~~division board~~ or the administrative law  
39 judge hearing the petition may consider all activities of the  
40 petitioner since the disciplinary action was taken, the offense for

1 which the petitioner was disciplined, the petitioner's activities  
2 during the time the certificate was in good standing, and the  
3 petitioner's rehabilitative efforts, general reputation for truth, and  
4 professional ability. The hearing may be continued from time to  
5 time as the administrative law judge designated in Section 11371  
6 of the Government Code finds necessary.

7 (f) The administrative law judge designated in Section 11371  
8 of the Government Code reinstating a certificate or modifying a  
9 penalty may recommend the imposition of any terms and conditions  
10 deemed necessary.

11 (g) No petition shall be considered while the petitioner is under  
12 sentence for any criminal offense, including any period during  
13 which the petitioner is on court-imposed probation or parole. No  
14 petition shall be considered while there is an accusation or petition  
15 to revoke probation pending against the person. ~~The division board~~  
16 may deny without a hearing or argument any petition filed pursuant  
17 to this section within a period of two years from the effective date  
18 of the prior decision following a hearing under this section.

19 (h) This section is applicable to and may be carried out with  
20 regard to licensees of the California Board of Podiatric Medicine.  
21 In lieu of two verified recommendations from physicians and  
22 surgeons, the petition shall be accompanied by at least two verified  
23 recommendations from ~~podiatrists~~ *doctors of podiatric medicine*  
24 ~~licensed by the board in any state~~ who have personal knowledge  
25 of the activities of the petitioner since the date the disciplinary  
26 penalty was imposed.

27 (i) Nothing in this section shall be deemed to alter Sections 822  
28 and 823 ~~of the Business and Professions Code~~.

29 SEC. 26. Section 2335 of the Business and Professions Code  
30 is amended to read:

31 2335. (a) All proposed decisions and interim orders of the  
32 Medical Quality Hearing Panel designated in Section 11371 of the  
33 Government Code shall be transmitted to the executive director  
34 of the board, or the executive director of the California Board of  
35 Podiatric Medicine as to the licensees of that board, within 48  
36 hours of filing.

37 (b) All interim orders shall be final when filed.

38 (c) A proposed decision shall be acted upon by the board or by  
39 any panel appointed pursuant to Section 2008 or by the California  
40 Board of Podiatric Medicine, as the case may be, in accordance

1 with Section 11517 of the Government Code, except that all of the  
2 following shall apply to proceedings against licensees under this  
3 chapter:

4 (1) When considering a proposed decision, the board or panel  
5 and the California Board of Podiatric Medicine shall give great  
6 weight to the findings of fact of the administrative law judge,  
7 except to the extent those findings of fact are controverted by new  
8 evidence.

9 (2) The board's staff or the staff of the California Board of  
10 Podiatric Medicine shall poll the members of the board or panel  
11 or of the California Board of Podiatric Medicine by written mail  
12 ballot concerning the proposed decision. The mail ballot shall be  
13 sent within 10 calendar days of receipt of the proposed decision,  
14 and shall poll each member on whether the member votes to  
15 approve the decision, to approve the decision with an altered  
16 penalty, to refer the case back to the administrative law judge for  
17 the taking of additional evidence, to defer final decision pending  
18 discussion of the case by the panel or board as a whole, or to  
19 nonadopt the decision. No party to the proceeding, including  
20 employees of the agency that filed the accusation, and no person  
21 who has a direct or indirect interest in the outcome of the  
22 proceeding or who presided at a previous stage of the decision,  
23 may communicate directly or indirectly, upon the merits of a  
24 contested matter while the proceeding is pending, with any member  
25 of the panel or board, without notice and opportunity for all parties  
26 to participate in the communication. The votes of a majority of the  
27 board or of the panel, and a majority of the California Board of  
28 Podiatric Medicine, are required to approve the decision with an  
29 altered penalty, to refer the case back to the administrative law  
30 judge for the taking of further evidence, or to nonadopt the  
31 decision. The votes of two members of the panel or board are  
32 required to defer final decision pending discussion of the case by  
33 the panel or board as a whole. If there is a vote by the specified  
34 number to defer final decision pending discussion of the case by  
35 the panel or board as a whole, provision shall be made for that  
36 discussion before the ~~90-day~~ 100-day period specified in paragraph  
37 (3) expires, but in no event shall that ~~90-day~~ 100-day period be  
38 extended.

39 (3) If a majority of the board or of the panel, or a majority of  
40 the California Board of Podiatric Medicine vote to do so, the board

1 or the panel or the California Board of Podiatric Medicine shall  
2 issue an order of nonadoption of a proposed decision within~~90~~  
3 *100* calendar days of the date it is received by the board. If the  
4 board or the panel or the California Board of Podiatric Medicine  
5 does not refer the case back to the administrative law judge for the  
6 taking of additional evidence or issue an order of nonadoption  
7 within~~90~~ *100 calendar* days, the decision shall be final and subject  
8 to review under Section 2337. Members of the board or of any  
9 panel or of the California Board of Podiatric Medicine who review  
10 a proposed decision or other matter and vote by mail as provided  
11 in paragraph (2) shall return their votes by mail to the board within  
12 30 days from receipt of the proposed decision or other matter.

13 (4) The board or the panel or the California Board of Podiatric  
14 Medicine shall afford the parties the opportunity to present oral  
15 argument before deciding a case after nonadoption of the  
16 administrative law judge's decision.

17 (5) A vote of a majority of the board or of a panel, or a majority  
18 of the California Board of Podiatric Medicine, are required to  
19 increase the penalty from that contained in the proposed  
20 administrative law judge's decision. No member of the board or  
21 panel or of the California Board of Podiatric Medicine may vote  
22 to increase the penalty except after reading the entire record and  
23 personally hearing any additional oral argument and evidence  
24 presented to the panel or board.

25 SEC. 27. Section 2486 of the Business and Professions Code  
26 is amended to read:

27 2486. The~~division~~ *Medical Board of California* shall issue,  
28 upon the recommendation of the board, a certificate to practice  
29 podiatric medicine if the applicant *has submitted directly to the*  
30 *board from the credentialing organizations verification that he or*  
31 *she* meets all of the following requirements:

32 (a) The applicant has graduated from an approved school or  
33 college of podiatric medicine and meets the requirements of Section  
34 2483.

35 (b) The applicant, within the past 10 years, has passed parts I,  
36 II, and III of the examination administered by the National Board  
37 of Podiatric Medical Examiners of the United States or has passed  
38 a written examination that is recognized by the board to be the  
39 equivalent in content to the examination administered by the



1 National Board of Podiatric Medical Examiners of the United  
2 States.

3 (c) The applicant has satisfactorily completed the postgraduate  
4 training required by Section 2484.

5 (d) The applicant has passed within the past 10 years any oral  
6 and practical examination that may be required of all applicants  
7 by the board to ascertain clinical competence.

8 (e) The applicant has committed no acts or crimes constituting  
9 grounds for denial of a certificate under Division 1.5 (commencing  
10 with Section 475).

11 (f) The board determines that no disciplinary action has been  
12 taken against the applicant by any podiatric licensing authority  
13 and that the applicant has not been the subject of adverse judgments  
14 or settlements resulting from the practice of podiatric medicine  
15 that the board determines constitutes evidence of a pattern of  
16 negligence or incompetence.

17 (g) A disciplinary databank report regarding the applicant ~~has~~  
18 ~~been directly presented to~~ *is received by* the board from the  
19 Federation of Podiatric Medical Boards.

20 SEC. 28. Section 2488 of the Business and Professions Code  
21 is amended to read:

22 2488. Notwithstanding any other provision of law, the ~~division~~  
23 *Medical Board of California* shall issue, upon the recommendation  
24 of the board, a certificate to practice podiatric medicine by  
25 credentialing if the applicant *has submitted directly to the board*  
26 *from the credentialing organizations verification that he or she* is  
27 licensed as a doctor of podiatric medicine in any other state and  
28 meets all of the following requirements:

29 (a) The applicant has graduated from an approved school or  
30 college of podiatric medicine.

31 (b) The applicant, within the past 10 years, has passed either  
32 part III of the examination administered by the National Board of  
33 Podiatric Medical Examiners of the United States or a written  
34 examination that is recognized by the board to be the equivalent  
35 in content to the examination administered by the National Board  
36 of Podiatric Medical Examiners of the United States.

37 (c) The applicant has satisfactorily completed a postgraduate  
38 training program approved by the Council on Podiatric Medical  
39 Education.

1 (d) The applicant, within the past 10 years, has passed any oral  
2 and practical examination that may be required of all applicants  
3 by the board to ascertain clinical competence.

4 (e) The applicant has committed no acts or crimes constituting  
5 grounds for denial of a certificate under Division 1.5 (commencing  
6 with Section 475).

7 (f) The board determines that no disciplinary action has been  
8 taken against the applicant by any podiatric licensing authority  
9 and that the applicant has not been the subject of adverse judgments  
10 or settlements resulting from the practice of podiatric medicine  
11 that the board determines constitutes evidence of a pattern of  
12 negligence or incompetence.

13 (g) A disciplinary ~~data bank~~ *databank* report regarding the  
14 applicant ~~has been submitted to the board directly~~ *is received by*  
15 *the board* from the Federation of Podiatric Medical Boards.

16 SEC. 29. Section 2570.5 of the Business and Professions Code  
17 is amended to read:

18 2570.5. (a) A limited permit may be granted to any person  
19 who has completed the education and experience requirements of  
20 this chapter.

21 (b) A person who meets the qualifications to be admitted to the  
22 examination for licensure or certification under this chapter and  
23 is waiting to take the ~~first available~~ examination or awaiting the  
24 announcement of the results of the examination, according to the  
25 application requirements for a limited permit, may practice as an  
26 occupational therapist or as an occupational therapy assistant under  
27 the direction and appropriate supervision of an occupational  
28 therapist duly licensed under this chapter. If that person fails to  
29 ~~qualify for or pass the first announced~~ examination *during the*  
30 *initial eligibility period*, all privileges under this section shall  
31 automatically cease upon due notice to the applicant of that failure  
32 and may not be renewed.

33 (c) A limited permit shall be subject to other requirements set  
34 forth in rules adopted by the board.

35 SEC. 30. Section 2570.6 of the Business and Professions Code  
36 is amended to read:

37 2570.6. An applicant applying for a license as an occupational  
38 therapist or certification as an occupational therapy assistant shall  
39 file with the board a written application provided by the board,

1 showing to the satisfaction of the board that he or she meets all of  
2 the following requirements:

3 (a) That the applicant is in good standing and has not committed  
4 acts or crimes constituting grounds for denial of a license under  
5 Section 480.

6 (b) (1) That the applicant has successfully completed the  
7 academic requirements of an educational program for occupational  
8 therapists or occupational therapy assistants that is approved by  
9 the board and accredited by the American Occupational Therapy  
10 Association's Accreditation Council for Occupational Therapy  
11 Education (ACOTE), *or accredited or approved by the American*  
12 *Occupational Therapy Association's (AOTA) predecessor*  
13 *organization, or approved by AOTA's Career Mobility Program.*

14 (2) The curriculum of an ~~education~~ educational program for  
15 occupational therapists shall contain the content ~~specifically~~  
16 ~~required in~~ by the ACOTE accreditation standards, *or as approved*  
17 *by AOTA's predecessor organization, or as approved by AOTA's*  
18 *Career Mobility Program*, including all of the following subjects:

19 (A) Biological, behavioral, and health sciences.

20 (B) Structure and function of the human body, including  
21 anatomy, kinesiology, physiology, and the neurosciences.

22 (C) Human development throughout the ~~life span~~ *lifespan*.

23 (D) Human behavior in the context of sociocultural systems.

24 (E) Etiology, clinical course, management, and prognosis of  
25 disease processes and traumatic injuries, and the effects of those  
26 conditions on human functioning.

27 (F) Occupational therapy theory, practice, and ~~process that shall~~  
28 ~~include the following:~~ *processes.*

29 (i) ~~Human performance, that shall include occupational~~  
30 ~~performance throughout the life cycle, human interaction, roles,~~  
31 ~~values, and the influences of the nonhuman environment.~~

32 (ii) ~~Activity processes that shall include the following:~~

33 (I) ~~Theories underlying the use of purposeful activity and the~~  
34 ~~meaning and dynamics of activity.~~

35 (II) ~~Performance of selected life tasks and activities.~~

36 (III) ~~Analysis, adaptation, and application of purposeful activity~~  
37 ~~as therapeutic intervention.~~

38 (IV) ~~Use of self, dyadic, and group interaction.~~

39 (iii) ~~Theoretical approaches, including those related to~~  
40 ~~purposeful activity, human performance, and adaptation.~~

- 1     ~~(iv) Application of occupational therapy theory to practice, that~~  
2     ~~shall include the following:~~
- 3     ~~(I) Assessment and interpretation, observation, interviews,~~  
4     ~~history, and standardized and nonstandardized tests.~~
- 5     ~~(II) Directing, planning, and implementation, that shall include:~~  
6     ~~therapeutic intervention related to daily living skills and~~  
7     ~~occupational components; therapeutic adaptation, including~~  
8     ~~methods of accomplishing daily life tasks, environmental~~  
9     ~~adjustments, orthotics, and assistive devices and equipment; health~~  
10    ~~maintenance, including energy conservation, joint protection, body~~  
11    ~~mechanics, and positioning; and prevention programs to foster~~  
12    ~~age-appropriate recommendations to maximize treatment gains.~~
- 13    ~~(III) Program termination including reevaluation, determination~~  
14    ~~of discharge, summary of occupational therapy outcome, and~~  
15    ~~appropriate recommendations to maximize treatment gains.~~
- 16    ~~(IV) Documentation.~~
- 17    ~~(v) Development and implementation of quality assurance.~~
- 18    ~~(vi) Management of occupational therapy service, that shall~~  
19    ~~include:~~
- 20    ~~(I) Planning services for client groups.~~
- 21    ~~(II) Personnel management, including occupational therapy~~  
22    ~~assistants, aides, volunteers, and level I students.~~
- 23    ~~(III) Departmental operations, including budgeting, scheduling,~~  
24    ~~recordkeeping, safety, and maintenance of supplies and equipment.~~
- 25    (3) The curriculum of an ~~education~~ *educational* program for  
26    occupational therapy assistants shall contain the content ~~specifically~~  
27    ~~required in by the ACOTE accreditation standards, or as approved~~  
28    ~~or accredited by AOTA's predecessor organization, including all~~  
29    ~~of the following subjects:~~
- 30    (A) Biological, behavioral, and health sciences.
- 31    (B) Structure and function of the normal human body.
- 32    (C) Human development.
- 33    (D) Conditions commonly referred to occupational therapists.
- 34    (E) Occupational therapy principles and skills, ~~that shall include~~  
35    ~~the following:.~~
- 36    ~~(i) Human performance, including life tasks and roles as related~~  
37    ~~to the developmental process from birth to death.~~
- 38    ~~(ii) Activity processes and skills, that shall include the following:~~
- 39    ~~(I) Performance of selected life tasks and activities.~~
- 40    ~~(II) Analysis and adaptation of activities.~~

1     ~~(III) Instruction of individuals and groups in selected life tasks~~  
2     ~~and activities.~~

3     ~~(iii) Concepts related to occupational therapy practice, that shall~~  
4     ~~include the following:~~

5         ~~(I) The importance of human occupation as a health determinant.~~

6         ~~(II) The use of self, interpersonal, and communication skills.~~

7         ~~(iv) Use of occupational therapy concepts and skills, that shall~~  
8         ~~include the following:~~

9             ~~(I) Data collection, that shall include structured observation and~~  
10            ~~interviews, history, and structured tests.~~

11            ~~(II) Participation in planning and implementation, that shall~~  
12            ~~include: therapeutic intervention related to daily living skills and~~  
13            ~~occupational components; therapeutic adaptation, including~~  
14            ~~methods of accomplishing daily life tasks, environmental~~  
15            ~~adjustments, orthotics, and assistive devices and equipment; health~~  
16            ~~maintenance, including mental health techniques, energy~~  
17            ~~conservation, joint protection, body mechanics, and positioning;~~  
18            ~~and prevention programs to foster age-appropriate balance of~~  
19            ~~self-care and work.~~

20     ~~(III) Program termination, including assisting in reevaluation,~~  
21     ~~summary of occupational therapy outcome, and appropriate~~  
22     ~~recommendations to maximize treatment gains.~~

23     ~~(IV) Documentation:~~

24         ~~(c) (1) For an applicant who is a graduate of an occupational~~  
25         ~~therapy or occupational therapy assistant educational program~~  
26         ~~who is unable to provide evidence of having met the requirements~~  
27         ~~of paragraph (2) or (3) of subdivision (b), he or she may~~  
28         ~~demonstrate passage of the examination administered by the~~  
29         ~~National Board for Certification in Occupational Therapy, the~~  
30         ~~American Occupational Therapy Certification Board, or the~~  
31         ~~American Occupational Therapy Association, as evidence of having~~  
32         ~~successfully satisfied the requirements of paragraph (2) or (3) of~~  
33         ~~subdivision (b).~~

34         ~~(2) For an applicant who completed AOTA's Career Mobility~~  
35         ~~Program, he or she shall demonstrate participation in the program~~  
36         ~~and passage of the examination administered by the National~~  
37         ~~Board for Certification in Occupational Therapy, the American~~  
38         ~~Occupational Therapy Certification Board, or the American~~  
39         ~~Occupational Therapy Association, as evidence of having~~

1 *successfully satisfied the requirements of paragraphs (1) and (2)*  
2 *of subdivision (b).*

3 ~~(e)~~

4 *(d) That the applicant has successfully completed a period of*  
5 *supervised fieldwork experience approved by the board and*  
6 *arranged by a recognized educational institution where he or she*  
7 *met the academic requirements of subdivision (b) or (c) or arranged*  
8 *by a nationally recognized professional association. The fieldwork*  
9 *requirements shall be as follows: for applicants applying for*  
10 *licensure as an occupational therapist or certification as an*  
11 *occupational therapy assistant shall be consistent with the*  
12 *requirements of the ACOTE accreditation standards, or AOTA's*  
13 *predecessor organization, or AOTA's Career Mobility Program,*  
14 *that were in effect when the applicant completed his or her*  
15 *educational program.*

16 ~~(1) For an occupational therapist, a minimum of 960 hours of~~  
17 ~~supervised fieldwork experience shall be completed within 24~~  
18 ~~months of the completion of didactic coursework.~~

19 ~~(2) For an occupational therapy assistant, a minimum of 640~~  
20 ~~hours of supervised fieldwork experience shall be completed within~~  
21 ~~20 months of the completion of didactic coursework.~~

22 ~~(d)~~

23 *(e) That the applicant has passed an examination as provided*  
24 *in Section 2570.7.*

25 ~~(e)~~

26 *(f) That the applicant, at the time of application, is a person over*  
27 *18 years of age, is not addicted to alcohol or any controlled*  
28 *substance, and has not committed acts or crimes constituting*  
29 *grounds for denial of licensure or certification under Section 480.*

30 SEC. 31. Section 2570.7 of the Business and Professions Code  
31 is amended to read:

32 2570.7. (a) An applicant who has satisfied the requirements  
33 of Section 2570.6 may apply for examination for licensure or  
34 certification in a manner prescribed by the board. Subject to the  
35 provisions of this chapter, an applicant who fails an examination  
36 may apply for reexamination.

37 (b) Each applicant for licensure or certification shall successfully  
38 complete the entry level certification examination for occupational  
39 therapists or occupational therapy assistants approved by the board,  
40 such as the examination administered by the National Board for

1 Certification in Occupational Therapy ~~or by another nationally~~  
2 ~~recognized credentialing body, the American Occupational Therapy~~  
3 ~~Certification Board, or the American Occupational Therapy~~  
4 ~~Association.~~ The examination shall be appropriately validated.  
5 Each applicant shall be examined by written examination to test  
6 his or her knowledge of the basic and clinical sciences relating to  
7 occupational therapy, occupational therapy techniques and  
8 methods, and any other subjects that the board may require to  
9 determine the applicant's fitness to practice under this chapter.

10 (c) Applicants for licensure or certification shall be examined  
11 at a time and place and under that supervision as the board may  
12 require.

13 SEC. 32. Section 2570.185 of the Business and Professions  
14 Code is amended to read:

15 2570.185. (a) An occupational therapist shall document his  
16 or her evaluation, goals, treatment plan, and summary of treatment  
17 in the patient record. ~~Patient~~

18 (b) An occupational therapy assistant shall document the  
19 services provided in the patient record.

20 (c) Occupational therapists and occupational therapy assistants  
21 shall document and sign the patient record legibly.

22 (d) Patient records shall be maintained for a period of no less  
23 than seven years following the discharge of the patient, except that  
24 the records of unemancipated minors shall be maintained at least  
25 one year after the minor has reached the age of 18 years, and not  
26 in any case less than seven years.

27 SEC. 33. Section 2570.36 is added to the Business and  
28 Professions Code, to read:

29 2570.36. If a licensee has knowledge that an applicant or  
30 licensee may be in violation of, or has violated, any of the statutes  
31 or regulations administered by the board, the licensee shall report  
32 this information to the board in writing and shall cooperate with  
33 the board in providing information or assistance as may be  
34 required.

35 SEC. 34. Section 2760.1 of the Business and Professions Code  
36 is amended to read:

37 2760.1. (a) A registered nurse whose license has been revoked;  
38 or suspended or who has been placed on probation may petition  
39 the board for reinstatement or modification of penalty, including  
40 reduction or termination of probation, after a period not less than

1 the following minimum periods has elapsed from the effective  
2 date of the decision ordering that disciplinary action, or if the order  
3 of the board or any portion of it is stayed by the board itself or by  
4 the superior court, from the date the disciplinary action is actually  
5 implemented in its entirety, *or for a registered nurse whose initial*  
6 *license application is subject to a disciplinary decision, from the*  
7 *date the initial license was issued:*

8 (1) Except as otherwise provided in this section, at least three  
9 years for reinstatement of a license that was revoked, except that  
10 the board may, in its sole discretion, specify in its order a lesser  
11 period of time provided that the period shall be not less than one  
12 year.

13 (2) At least two years for early termination of a probation period  
14 of three years or more.

15 (3) At least one year for modification of a condition, or  
16 reinstatement of a license revoked for mental or physical illness,  
17 or termination of probation of less than three years.

18 (b) The board shall give notice to the Attorney General of the  
19 filing of the petition. The petitioner and the Attorney General shall  
20 be given timely notice by letter of the time and place of the hearing  
21 on the petition, and an opportunity to present both oral and  
22 documentary evidence and argument to the board. The petitioner  
23 shall at all times have the burden of proof to establish by clear and  
24 convincing evidence that he or she is entitled to the relief sought  
25 in the petition.

26 (c) The hearing may be continued from time to time as the board  
27 deems appropriate.

28 (d) The board itself shall hear the petition and the administrative  
29 law judge shall prepare a written decision setting forth the reasons  
30 supporting the decision.

31 (e) The board may grant or deny the petition, or may impose  
32 any terms and conditions that it reasonably deems appropriate as  
33 a condition of reinstatement or reduction of penalty.

34 (f) The petitioner shall provide a current set of fingerprints  
35 accompanied by the necessary fingerprinting fee.

36 (g) No petition shall be considered while the petitioner is under  
37 sentence for any criminal offense, including any period during  
38 which the petitioner is on court-imposed probation or parole, or  
39 subject to an order of registration pursuant to Section 290 of the  
40 Penal Code. No petition shall be considered while there is an



1 accusation or petition to revoke probation pending against the  
2 petitioner.

3 (h) Except in those cases where the petitioner has been  
4 disciplined for violation of *pursuant to* Section 822, the board may  
5 in its discretion deny without hearing or argument any petition  
6 that is filed pursuant to this section within a period of two years  
7 from the effective date of a prior decision following a hearing  
8 under this section.

9 SEC. 35. Section 3503 of the Business and Professions Code  
10 is amended to read:

11 3503. No person other than one who has been licensed to  
12 practice as a physician assistant or ~~authorized to practice on interim~~  
13 ~~approval under Section 3517~~ shall practice as a physician assistant  
14 or in a similar capacity to a physician and surgeon or podiatrist or  
15 hold himself or herself out as a “physician assistant,” or shall use  
16 any other term indicating or implying that he or she is a physician  
17 assistant.

18 SEC. 36. Section 3517 of the Business and Professions Code  
19 is amended to read:

20 3517. The committee shall require a written examination of  
21 physician assistants in the manner and under the rules and  
22 regulations as it shall prescribe, but the examination shall be  
23 conducted in that manner as to ensure that the identity of each  
24 applicant taking the examination will be unknown to all of the  
25 examiners until all examination papers have been graded. Except  
26 as otherwise provided in this chapter, or by regulation, no physician  
27 assistant applicant shall receive approval under this chapter without  
28 first successfully passing an examination given under the direction  
29 of the committee.

30 Examinations for licensure as a physician assistant may be  
31 required by the committee under a uniform examination system,  
32 and for that purpose the committee may make those arrangements  
33 with organizations furnishing examination material as may, in its  
34 discretion, be desirable. The committee shall, however, establish  
35 a passing score for each examination. The licensure examination  
36 for physician assistants shall be held by the committee at least  
37 once a year with such additional examinations as the committee  
38 deems necessary. The time and place of examination shall be fixed  
39 by the committee.

1    ~~The committee may grant interim approval to an applicant for~~  
2    ~~licensure as a physician assistant.~~

3    ~~Every applicant who has complied with Section 3519,~~  
4    ~~subdivision (a), who has filed an application with the committee~~  
5    ~~may, between the date of receipt of notice that the application is~~  
6    ~~on file and the date of receipt of his or her license, practice as a~~  
7    ~~physician assistant on interim approval under the supervision of~~  
8    ~~an approved physician. Applicants shall notify the committee in~~  
9    ~~writing of any and all supervising physicians under whom they~~  
10    ~~will be performing services prior to practicing under interim~~  
11    ~~approval. If the applicant shall fail to take the next succeeding~~  
12    ~~licensure examination or fails to pass the examination or fails to~~  
13    ~~receive a license, all privileges under this section shall~~  
14    ~~automatically cease upon written notification sent to the applicant~~  
15    ~~by the committee.~~

16    ~~In the event the licensure examination required by the committee~~  
17    ~~is under a uniform examination system, the applicant shall provide~~  
18    ~~evidence satisfactory to the committee (a) that an application has~~  
19    ~~been filed and accepted for the examination and (b) that the~~  
20    ~~organization administering the examination has been requested to~~  
21    ~~transmit the applicant's scores to the committee in order for the~~  
22    ~~applicant to maintain interim approval. The applicant shall be~~  
23    ~~deemed to have failed the examination unless the applicant~~  
24    ~~provides evidence to the committee within 30 days after scores~~  
25    ~~have been released that he or she has passed the examination.~~

26    ~~SEC. 37. Section 3518 of the Business and Professions Code~~  
27    ~~is amended to read:~~

28    ~~3518. The committee shall keep current, two separate registers,~~  
29    ~~one for approved supervising physicians and one for licensed~~  
30    ~~physician's assistants, by specialty if applicable. These registers~~  
31    ~~shall show the name of each licensee, his or her last known address~~  
32    ~~of record, and the date of his or her licensure or approval, including~~  
33    ~~those persons practicing under interim approval under Section~~  
34    ~~3517. Any interested person is entitled to obtain a copy of the~~  
35    ~~register in accordance with the Information Practices Act of 1977~~  
36    ~~(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part~~  
37    ~~4 of Division 3 of the Civil Code) upon application to the~~  
38    ~~committee together with a sum as may be fixed by the committee,~~  
39    ~~which amount shall not exceed the cost of this list so furnished.~~

1 SEC. 38. Section 3625 of the Business and Professions Code  
2 is amended to read:

3 3625. (a) The Director of Consumer Affairs shall establish an  
4 advisory council consisting of nine members. Members of the  
5 advisory council shall include three members who are California  
6 licensed naturopathic doctors, or have met the requirements for  
7 licensure pursuant to this chapter, three members who are  
8 California licensed physicians and surgeons, and three public  
9 members.

10 (b) A member of the advisory council shall be appointed for a  
11 four-year term. A person shall not serve as a member of the council  
12 for more than two consecutive terms. A member shall hold office  
13 until the appointment and qualification of his or her successor, or  
14 until one year from the expiration of the term for which the member  
15 was appointed, whichever first occurs. Vacancies shall be filled  
16 by appointment for unexpired terms. The first terms of the members  
17 first appointed shall be as follows:

18 (1) The Governor shall appoint one physician and surgeon  
19 member, one naturopathic doctor member, and one public member,  
20 with term expirations of June 1, 2006; one physician and surgeon  
21 member with a term expiration date of June 1, 2007; *and* one  
22 naturopathic doctor member with a term expiration date of June  
23 1, 2008.

24 (2) The Senate ~~Rules~~ Committee *on Rules* shall appoint one  
25 physician and surgeon member with a term expiration of June 1,  
26 2008, and one public member with a term expiration of June 1,  
27 2007.

28 (3) The Speaker of the Assembly shall appoint one naturopathic  
29 doctor member with a term expiration of June 1, 2007, and one  
30 public member with a term expiration of June 1, 2008.

31 (c) (1) A public member of the advisory council shall be a  
32 citizen of this state for at least five years preceding his or her  
33 appointment.

34 (2) A person shall not be appointed as a public member if the  
35 person or the person's immediate family in any manner owns an  
36 interest in a college, school, or institution engaged in naturopathic  
37 education, or the person or the person's immediate family has an  
38 economic interest in naturopathy or has any other conflict of  
39 interest. "Immediate family" means the public member's spouse,  
40 parents, children, or his or her children's spouses.

(d) In order to operate in as cost-effective a manner as possible, the advisory council and any advisory committee created pursuant to this chapter shall meet as few times as necessary to perform its duties, ~~and its members shall receive no compensation, travel allowances, or reimbursement for their expenses.~~

SEC. 39. Section 3633.1 of the Business and Professions Code is amended to read:

3633.1. The bureau may grant a license to an applicant who meets the requirements of Section 3630, but who graduated prior to 1986, pre-NPLEX, and passed a state or Canadian Province naturopathic licensing examination. Applications under this section shall be received no later than December 31, ~~2007~~ 2010.

SEC. 40. Section 3635 of the Business and Professions Code is amended to read:

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

(1) At least 20 hours shall be in pharmacotherapeutics.

(2) No more than 15 hours may be in naturopathic medical journals or osteopathic or allopathic medical journals, or audio or videotaped presentations, slides, programmed instruction, or computer-assisted instruction or preceptorships.

(3) No more than 20 hours may be in any single topic.

(4) No more than 15 hours of the continuing education requirements for the specialty certificate in naturopathic childbirth attendance shall apply to the 60 hours of continuing education requirement.

(b) The continuing education requirements of this section may be met through continuing education courses approved by the *bureau, the California Naturopathic Doctors Association, the American Association of Naturopathic Physicians, ~~the Medical Board of California,~~ the California State Board of Pharmacy, the State Board of Chiropractic Examiners, or other courses approved by the bureau that meet the standards for continuing education for licensed physicians and surgeons in California.*

SEC. 41. Section 3636 of the Business and Professions Code is amended to read:

1     3636. (a) Upon a written request, the bureau may grant inactive  
2 status to a naturopathic doctor who is in good standing and who  
3 meets the requirements of Section 462.

4     (b) A person whose license is in inactive status may not engage  
5 in any activity for which a license is required under this chapter.

6     (c) A person whose license is in inactive status shall be exempt  
7 from continuing education requirements while his or her license  
8 is in that status.

9     (d) To restore a license to active status, a person whose license  
10 is in inactive status must fulfill continuing education requirements  
11 for the two-year period prior to reactivation, and ~~pay a reactivation~~  
12 ~~fee established~~ *be current with all licensing fees as determined by*  
13 the bureau.

14     SEC. 42. Section 3685 of the Business and Professions Code  
15 is amended to read:

16     ~~3685. (a) The provisions of Article 8 (commencing with~~  
17 ~~Section 3680) shall become operative on January 1, 2004, but the~~  
18 ~~remaining provisions of this chapter shall become operative on~~  
19 ~~July 1, 2004. It is the intent of the Legislature that the initial~~  
20 ~~implementation of this chapter be administered by fees collected~~  
21 ~~in advance from applicants. Therefore, the bureau shall have the~~  
22 ~~power and authority to establish fees and receive applications for~~  
23 ~~licensure or intents to file application statements on and after~~  
24 ~~January 1, 2004. The department shall certify that sufficient funds~~  
25 ~~are available prior to implementing this chapter. Funds from the~~  
26 ~~General Fund may not be used for the purpose of implementing~~  
27 ~~this chapter.~~

28     ~~(b)~~

29     3685. (a) This chapter shall become inoperative on July 1,  
30 2010, and, as of January 1, 2011, is repealed, unless a later enacted  
31 statute that is enacted before January 1, 2011, deletes or extends  
32 the dates on which it becomes inoperative and is repealed. The  
33 repeal of this chapter renders the bureau subject to the review  
34 required by Division 1.2 (commencing with Section 473).

35     ~~(c)~~

36     (b) The bureau shall prepare the report required by Section 473.2  
37 no later than September 1, 2008.

38     SEC. 43. Section 3750.5 of the Business and Professions Code  
39 is amended to read:

1 3750.5. In addition to any other grounds specified in this  
2 chapter, the board may deny, suspend, or revoke the license of any  
3 applicant or licenseholder who has done any of the following:

4 (a) ~~Obtained or possessed in violation of law, or except as~~  
5 ~~directed by a licensed physician and surgeon, dentist, or podiatrist,~~  
6 *possessed, used, or administered to himself or herself, in violation*  
7 *of law, or furnished or administered to another, any controlled*  
8 *substances, as defined in Division 10 (commencing with Section*  
9 *11000) of the Health and Safety Code, or any dangerous drug, as*  
10 *defined in Article 2 (commencing with Section 4015) of Chapter*  
11 *9, except as directed by a licensed physician and surgeon, dentist,*  
12 *podiatrist, or other authorized health care provider.*

13 (b) *Used, while licensed or applying for a license under this*  
14 *chapter, any controlled substance as defined in Division 10*  
15 *(commencing with Section 11000) of the Health and Safety Code,*  
16 *or any dangerous drug as defined in Article 2 (commencing with*  
17 *Section 4015) of Chapter 9, or any alcoholic beverage, to an extent*  
18 *or in a manner dangerous or injurious to himself or herself,*  
19 *another person, or the public, or to the extent that the use impaired*  
20 *his or her ability to conduct with safety to the public the practice*  
21 *authorized by this chapter.*

22 (c) *Applied for employment or worked in any health care*  
23 *profession or environment while under the influence of alcohol.*

24 (d) *Been convicted of a criminal offense involving the*  
25 *consumption or self-administration of any of the substances*  
26 *described in subdivisions (a) and (b), or the possession*  
27 *of, or falsification of a record pertaining to, the substances*  
28 *described in subdivision (a), in which event the record of the*  
29 *conviction is conclusive evidence thereof.*

30 (e) *Been committed or confined by a court of competent*  
31 *jurisdiction for intemperate use of or addiction to the use of any*  
32 *of the substances described in subdivisions (a), (b), and (c), in*  
33 *which event the court order of commitment or confinement is*  
34 *prima facie evidence of that commitment or confinement.*

35 (f) *Falsified, or made grossly incorrect, grossly inconsistent, or*  
36 *unintelligible entries in any hospital, patient, or other record*  
37 *pertaining to the substances described in subdivision (a).*

38 SEC. 44. Section 3753.5 of the Business and Professions Code  
39 is amended to read:

1 3753.5. (a) In any order issued in resolution of a disciplinary  
2 proceeding before the board, the board or the administrative law  
3 judge may direct any practitioner or applicant found to have  
4 committed a violation or violations of law *or any term and*  
5 *condition of board probation* to pay to the board a sum not to  
6 exceed the costs of the investigation and prosecution of the case.  
7 A certified copy of the actual costs, or a good faith estimate of  
8 costs where actual costs are not available, signed by the official  
9 custodian of the record or his or her designated representative shall  
10 be prima facie evidence of the actual costs of the investigation and  
11 prosecution of the case.

12 (b) The costs shall be assessed by the administrative law judge  
13 and shall not be increased by the board; however, the costs may  
14 be imposed or increased by the board if it does not adopt the  
15 proposed decision of the case.

16 Where an order for recovery of costs is made and timely payment  
17 is not made as directed in the board's decision the board may  
18 enforce the order for repayment in any appropriate court. This  
19 right of enforcement shall be in addition to any other rights the  
20 board may have as to any practitioner directed to pay costs.

21 (c) In any action for recovery of costs, proof of the board's  
22 decision shall be conclusive proof of the validity of the order of  
23 payment and the terms for payment.

24 (d) (1) The board shall not renew or reinstate the license of any  
25 licensee who has failed to pay all of the costs ordered under this  
26 section.

27 (2) Notwithstanding paragraph (1), the board may, in its  
28 discretion, conditionally renew, for a maximum of one year, the  
29 license of any licensee who demonstrates financial hardship,  
30 through documentation satisfactory to the board, and who enters  
31 into a formal agreement with the board to reimburse the board  
32 within that one-year period for those unpaid costs.

33 SEC. 45. Section 3773 of the Business and Professions Code  
34 is amended to read:

35 3773. (a) At the time of application for renewal of a respiratory  
36 care practitioner license, the licensee shall notify the board of all  
37 of the following:

38 (a)

39 (1) Whether he or she has been convicted of any crime  
40 subsequent to the licensee's previous renewal.

1     ~~(b)~~

2     (2) The name and address of the licensee's current employer or  
3 employers.

4     ~~(b) The licensee shall cooperate in providing additional~~  
5 ~~information as requested by the board. If a licensee fails to provide~~  
6 ~~the requested information within 30 days, the license shall become~~  
7 ~~inactive until the information is received.~~

8     SEC. 46. Section 4022.5 of the Business and Professions Code  
9 is amended to read:

10     4022.5. (a) "Designated representative" means an individual  
11 to whom a license has been granted pursuant to Section 4053. A  
12 ~~pharmacist fulfilling the duties of Section 4053 shall not be~~  
13 ~~required to obtain a license as a designated representative.~~

14     (b) "Designated representative-in-charge" means a designated  
15 representative or a pharmacist ~~who is the supervisor or manager~~  
16 ~~of a wholesaler or veterinary food-animal drug retailer proposed~~  
17 ~~by a wholesaler or veterinary food-animal drug retailer and~~  
18 ~~approved by the board as the supervisor or manager responsible~~  
19 ~~for ensuring the wholesaler's or veterinary food-animal drug~~  
20 ~~retailer's compliance with all state and federal laws and~~  
21 ~~regulations pertaining to practice in the applicable license~~  
22 ~~category.~~

23     ~~(e) This section shall become operative on January 1, 2006.~~

24     SEC. 47. Section 4027 of the Business and Professions Code  
25 is amended to read:

26     4027. (a) As used in this chapter, the terms "skilled nursing  
27 facility," "intermediate care facility," and other references to health  
28 facilities shall be construed with respect to the definitions contained  
29 in Article 1 (commencing with Section 1250) of Chapter 2 of  
30 Division 2 of the Health and Safety Code.

31     ~~(b) As used in paragraph (4) of subdivision (a) of Section 4052~~  
32 ~~4052.1, "licensed health care facility" means a facility licensed~~  
33 ~~pursuant to Article 1 (commencing with Section 1250) of Chapter~~  
34 ~~2 of Division 2 of the Health and Safety Code or a facility, as~~  
35 ~~defined in Section 1250 of the Health and Safety Code, operated~~  
36 ~~by a health care service plan licensed pursuant to Chapter 2.2~~  
37 ~~(commencing with Section 1340) of Division 2 of the Health and~~  
38 ~~Safety Code.~~

39     ~~(c) As used in paragraph (5) of subdivision (a) of Section 4052~~  
40 ~~4052.2, "health care facility" means a facility, other than a facility~~



licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of the Health and Safety Code, or by an organization under common ownership or control of the health care service plan; “licensed home health agency” means a private or public organization licensed by the State Department of *Public Health Services* pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code, as further defined in Section 1727 of the Health and Safety Code; and “licensed clinic” means a clinic licensed pursuant to Article 1 (commencing with Section 1200) of Chapter 1 of Division 2 of the Health and Safety Code.

(d) “Licensed health care facility” or “facility,” as used in Section 4065, means a health facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or a facility that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or by an organization under common ownership or control with the health care service plan.

SEC. 48. Section 4036.5 is added to the Business and Professions Code, to read:

4036.5. “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

SEC. 49. Section 4040 of the Business and Professions Code is amended to read:

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

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

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

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

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or

1 her license classification, and his or her federal registry number,  
2 if a controlled substance is prescribed.

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

5 (F) If in writing, signed by the prescriber issuing the order, or  
6 the certified nurse-midwife, nurse practitioner, physician assistant,  
7 or naturopathic doctor who issues a drug order pursuant to Section  
8 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist  
9 who issues a drug order pursuant to either ~~subparagraph (D) of~~  
10 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~  
11 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*.

12 (2) Issued by a physician, dentist, optometrist, podiatrist,  
13 veterinarian, or naturopathic doctor pursuant to Section 3640.7 or,  
14 if a drug order is issued pursuant to Section 2746.51, 2836.1,  
15 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner,  
16 physician assistant, or naturopathic doctor licensed in this state,  
17 or pursuant to either ~~subparagraph (D) of paragraph (4) of, or~~  
18 ~~clause (iv) of subparagraph (A) of paragraph (5) of, subdivision~~  
19 ~~(a) of Section 4052~~ *Section 4052.1 or 4052.2* by a pharmacist  
20 licensed in this state.

21 (b) Notwithstanding subdivision (a), a written order of the  
22 prescriber for a dangerous drug, except for any Schedule II  
23 controlled substance, that contains at least the name and signature  
24 of the prescriber, the name and address of the patient in a manner  
25 consistent with ~~paragraph (3) (2) of subdivision (b) (a) of Section~~  
26 ~~11164 of the Health and Safety Code, the name and quantity of~~  
27 ~~the drug prescribed, directions for use, and the date of issue may~~  
28 ~~be treated as a prescription by the dispensing pharmacist as long~~  
29 ~~as any additional information required by subdivision (a) is readily~~  
30 ~~retrievable in the pharmacy. In the event of a conflict between this~~  
31 ~~subdivision and Section 11164 of the Health and Safety Code,~~  
32 ~~Section 11164 of the Health and Safety Code shall prevail.~~

33 (c) “Electronic transmission prescription” includes both image  
34 and data prescriptions. “Electronic image transmission  
35 prescription” means any prescription order for which a facsimile  
36 of the order is received by a pharmacy from a licensed prescriber.  
37 “Electronic data transmission prescription” means any prescription  
38 order, other than an electronic image transmission prescription,  
39 that is electronically transmitted from a licensed prescriber to a  
40 pharmacy.

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

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

8 SEC. 50. Section 4051 of the Business and Professions Code  
9 is amended to read:

10 4051. (a) Except as otherwise provided in this chapter, it is  
11 unlawful for any person to manufacture, compound, furnish, sell,  
12 or dispense any dangerous drug or dangerous device, or to dispense  
13 or compound any prescription pursuant to Section 4040 of a  
14 prescriber unless he or she is a pharmacist under this chapter.

15 (b) Notwithstanding any other law, a pharmacist may authorize  
16 the initiation of a prescription, pursuant to Section ~~4052~~ 4052.1,  
17 4052.2, or 4052.3, and otherwise provide clinical advice or  
18 information or patient consultation if all of the following conditions  
19 are met:

20 (1) The clinical advice or information or patient consultation is  
21 provided to a health care professional or to a patient.

22 (2) The pharmacist has access to prescription, patient profile,  
23 or other relevant medical information for purposes of patient and  
24 clinical consultation and advice.

25 (3) Access to the information described in paragraph (2) is  
26 secure from unauthorized access and use.

27 SEC. 51. Section 4059.5 of the Business and Professions Code  
28 is amended to read:

29 4059.5. (a) Except as otherwise provided in this chapter,  
30 dangerous drugs or dangerous devices may only be ordered by an  
31 entity licensed by the board and shall be delivered to the licensed  
32 premises and signed for and received by a pharmacist. Where a  
33 licensee is permitted to operate through a designated representative,  
34 the designated representative ~~may~~ shall sign for and receive the  
35 delivery.

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

1 (c) Notwithstanding subdivisions (a) and (b), deliveries to a  
2 hospital pharmacy may be made to a central receiving location  
3 within the hospital. However, the dangerous drugs or dangerous  
4 devices shall be delivered to the licensed pharmacy premises within  
5 one working day following receipt by the hospital, and the  
6 pharmacist on duty at that time shall immediately inventory the  
7 dangerous drugs or dangerous devices.

8 (d) Notwithstanding any other provision of law, a dangerous  
9 drug or dangerous device may be ordered by and provided to a  
10 manufacturer, physician, dentist, podiatrist, optometrist,  
11 veterinarian, naturopathic doctor pursuant to Section 3640.7, or  
12 laboratory, or a physical therapist acting within the scope of his  
13 or her license. A person or entity receiving delivery of a dangerous  
14 drug or dangerous device, or a duly authorized representative of  
15 the person or entity, shall sign for the receipt of the dangerous drug  
16 or dangerous device.

17 (e) A dangerous drug or dangerous device shall not be  
18 transferred, sold, or delivered to a person outside this state, whether  
19 foreign or domestic, unless the transferor, seller, or deliverer does  
20 so in compliance with the laws of this state and of the United States  
21 and of the state or country to which the dangerous drugs or  
22 dangerous devices are to be transferred, sold, or delivered.  
23 Compliance with the laws of this state and the United States and  
24 of the state or country to which the dangerous drugs or dangerous  
25 devices are to be delivered shall include, but not be limited to,  
26 determining that the recipient of the dangerous drugs or dangerous  
27 devices is authorized by law to receive the dangerous drugs or  
28 dangerous devices.

29 (f) Notwithstanding subdivision (a), a pharmacy may take  
30 delivery of dangerous drugs and dangerous devices when the  
31 pharmacy is closed and no pharmacist is on duty if all of the  
32 following requirements are met:

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

35 (2) Only the pharmacist-in-charge or a pharmacist designated  
36 by the pharmacist-in-charge has access to the secure storage facility  
37 after dangerous drugs or dangerous devices have been delivered.

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

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

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

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

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

SEC. 52. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

SEC. 53. Section 4062 of the Business and Professions Code is amended to read:

4062. (a) Notwithstanding Section 4059 or any other provision of law, a pharmacist may, in good faith, furnish a dangerous drug or dangerous device in reasonable quantities without a prescription during a federal, state, or local emergency, to further the health

1 and safety of the public. A record containing the date, name, and  
2 address of the person to whom the drug or device is furnished, and  
3 the name, strength, and quantity of the drug or device furnished  
4 shall be maintained. The pharmacist shall communicate this  
5 information to the patient's attending physician as soon as possible.  
6 Notwithstanding Section 4060 or any other provision of law, a  
7 person may possess a dangerous drug or dangerous device  
8 furnished without prescription pursuant to this section.

9 (b) During a declared federal, state, or local emergency, the  
10 board may waive application of any provisions of this chapter or  
11 the regulations adopted pursuant to it if, in the board's opinion,  
12 the waiver will aid in the protection of public health or the  
13 provision of patient care.

14 (c) *During a declared federal, state, or local emergency, the*  
15 *board shall allow for the employment of a mobile pharmacy in*  
16 *impacted areas in order to ensure the continuity of patient care,*  
17 *if all of the following conditions are met:*

18 (1) *The mobile pharmacy shares common ownership with at*  
19 *least one currently licensed pharmacy in good standing.*

20 (2) *The mobile pharmacy retains records of dispensing, as*  
21 *required by subdivision (a).*

22 (3) *A licensed pharmacist is on the premises and the mobile*  
23 *pharmacy is under the control and management of a pharmacist*  
24 *while the drugs are being dispensed.*

25 (4) *Reasonable security measures are taken to safeguard the*  
26 *drug supply maintained in the mobile pharmacy.*

27 (5) *The mobile pharmacy is located within the declared*  
28 *emergency area or affected areas.*

29 (6) *The mobile pharmacy ceases the provision of services within*  
30 *48 hours following the termination of the declared emergency.*

31 SEC. 54. Section 4076 of the Business and Professions Code  
32 is amended to read:

33 4076. (a) A pharmacist shall not dispense any prescription  
34 except in a container that meets the requirements of state and  
35 federal law and is correctly labeled with all of the following:

36 (1) Except where the prescriber or the certified nurse-midwife  
37 who functions pursuant to a standardized procedure or protocol  
38 described in Section 2746.51, the nurse practitioner who functions  
39 pursuant to a standardized procedure described in Section 2836.1,  
40 or protocol, the physician assistant who functions pursuant to

1 Section 3502.1, the naturopathic doctor who functions pursuant  
2 to a standardized procedure or protocol described in Section  
3 3640.5, or the pharmacist who functions pursuant to a policy,  
4 procedure, or protocol pursuant to either ~~subparagraph (D) of~~  
5 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~  
6 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*  
7 orders otherwise, either the manufacturer's trade name of the drug  
8 or the generic name and the name of the manufacturer. Commonly  
9 used abbreviations may be used. Preparations containing two or  
10 more active ingredients may be identified by the manufacturer's  
11 trade name or the commonly used name or the principal active  
12 ingredients.

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

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

15 (4) The name of the prescriber or, if applicable, the name of the  
16 certified nurse-midwife who functions pursuant to a standardized  
17 procedure or protocol described in Section 2746.51, the nurse  
18 practitioner who functions pursuant to a standardized procedure  
19 described in Section 2836.1, or protocol, the physician assistant  
20 who functions pursuant to Section 3502.1, the naturopathic doctor  
21 who functions pursuant to a standardized procedure or protocol  
22 described in Section 3640.5, or the pharmacist who functions  
23 pursuant to a policy, procedure, or protocol pursuant to either  
24 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~  
25 ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~  
26 ~~4052~~ *Section 4052.1 or 4052.2*.

27 (5) The date of issue.

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

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

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

32 (9) The expiration date of the effectiveness of the drug  
33 dispensed.

34 (10) The condition for which the drug was prescribed if  
35 requested by the patient and the condition is indicated on the  
36 prescription.

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

1 (i) Prescriptions dispensed by a veterinarian.

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

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

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

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

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

14 (b) If a pharmacist dispenses a prescribed drug by means of a  
15 unit dose medication system, as defined by administrative  
16 regulation, for a patient in a skilled nursing, intermediate care, or  
17 other health care facility, the requirements of this section will be  
18 satisfied if the unit dose medication system contains the  
19 aforementioned information or the information is otherwise readily  
20 available at the time of drug administration.

21 (c) If a pharmacist dispenses a dangerous drug or device in a  
22 facility licensed pursuant to Section 1250 of the Health and Safety  
23 Code, it is not necessary to include on individual unit dose  
24 containers for a specific patient, the name of the certified  
25 nurse-midwife who functions pursuant to a standardized procedure  
26 or protocol described in Section 2746.51, the nurse practitioner  
27 who functions pursuant to a standardized procedure described in  
28 Section 2836.1, or protocol, the physician assistant who functions  
29 pursuant to Section 3502.1, the naturopathic doctor who functions  
30 pursuant to a standardized procedure or protocol described in  
31 Section 3640.5, or the pharmacist who functions pursuant to a  
32 policy, procedure, or protocol pursuant to either subparagraph (D)  
33 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph  
34 (5) of, subdivision (a) of Section 4052.1 or 4052.2.

35 (d) If a pharmacist dispenses a prescription drug for use in a  
36 facility licensed pursuant to Section 1250 of the Health and Safety  
37 Code, it is not necessary to include the information required in  
38 paragraph (11) of subdivision (a) when the prescription drug is  
39 administered to a patient by a person licensed under the Medical  
40 Practice Act (Chapter 5 (commencing with Section 2000)), the



1 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),  
2 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing  
3 with Section 2840)), who is acting within his or her scope of  
4 practice.

5 SEC. 55. Section 4081 of the Business and Professions Code  
6 is amended to read:

7 4081. (a) All records of manufacture and of sale, acquisition,  
8 or disposition of dangerous drugs or dangerous devices shall be  
9 at all times during business hours open to inspection by authorized  
10 officers of the law, and shall be preserved for at least three years  
11 from the date of making. A current inventory shall be kept by every  
12 manufacturer, wholesaler, pharmacy, veterinary food-animal drug  
13 retailer, physician, dentist, podiatrist, veterinarian, laboratory,  
14 clinic, hospital, institution, or establishment holding a currently  
15 valid and unrevoked certificate, license, permit, registration, or  
16 exemption under Division 2 (commencing with Section 1200) of  
17 the Health and Safety Code or under Part 4 (commencing with  
18 Section 16000) of Division 9 of the Welfare and Institutions Code  
19 who maintains a stock of dangerous drugs or dangerous devices.

20 (b) The owner, officer, and partner of a pharmacy, wholesaler,  
21 or veterinary food-animal drug retailer shall be jointly responsible,  
22 with the pharmacist-in-charge or *designated*  
23 representative-in-charge, for maintaining the records and inventory  
24 described in this section.

25 (c) The pharmacist-in-charge or *designated*  
26 representative-in-charge shall not be criminally responsible for  
27 acts of the owner, officer, partner, or employee that violate this  
28 section and of which the pharmacist-in-charge or *designated*  
29 representative-in-charge had no knowledge, or in which he or she  
30 did not knowingly participate.

31 ~~(d) This section shall become operative on January 1, 2006.~~

32 SEC. 56. Section 4110 of the Business and Professions Code  
33 is amended to read:

34 4110. (a) No person shall conduct a pharmacy in the State of  
35 California unless he or she has obtained a license from the board.  
36 A license shall be required for each pharmacy owned or operated  
37 by a specific person. A separate license shall be required for each  
38 of the premises of any person operating a pharmacy in more than  
39 one location. The license shall be renewed annually. The board

1 may, by regulation, determine the circumstances under which a  
2 license may be transferred.

3 (b) The board may, at its discretion, issue a temporary permit,  
4 when the ownership of a pharmacy is transferred from one person  
5 to another, upon the conditions and for any periods of time as the  
6 board determines to be in the public interest. A temporary permit  
7 fee shall be established by the board at an amount not to exceed  
8 the annual fee for renewal of a permit to conduct a pharmacy.  
9 When needed to protect public safety, a temporary permit may be  
10 issued for a period not to exceed 180 days, and may be issued  
11 subject to terms and conditions the board deems necessary. If the  
12 board determines a temporary permit was issued by mistake or  
13 denies the application for a permanent license or registration, the  
14 temporary license or registration shall terminate upon either  
15 personal service of the notice of termination upon the permitholder  
16 or service by certified mail, return receipt requested, at the  
17 permitholder's address of record with the board, whichever comes  
18 first. Neither for purposes of retaining a temporary permit nor for  
19 purposes of any disciplinary or license denial proceeding before  
20 the board shall the temporary permitholder be deemed to have a  
21 vested property right or interest in the permit.

22 (c) *The board may allow the temporary use of a mobile*  
23 *pharmacy when a pharmacy is destroyed or damaged, the mobile*  
24 *pharmacy is necessary to protect the health and safety of the public,*  
25 *and the following conditions are met:*

26 (1) *The mobile pharmacy shall provide services only on or*  
27 *immediately contiguous to the site of the damaged or destroyed*  
28 *pharmacy.*

29 (2) *The mobile pharmacy is under the control and management*  
30 *of the pharmacist-in-charge of the pharmacy that was destroyed*  
31 *or damaged.*

32 (3) *A licensed pharmacist is on the premises while drugs are*  
33 *being dispensed.*

34 (4) *Reasonable security measures are taken to safeguard the*  
35 *drug supply maintained in the mobile pharmacy.*

36 (5) *The pharmacy operating the mobile pharmacy provides the*  
37 *board with records of the destruction or damage of the pharmacy*  
38 *and an expected restoration date.*

1     (6) *Within three calendar days of restoration of the pharmacy*  
2     *services, the board is provided with notice of the restoration of*  
3     *the permanent pharmacy.*

4     (7) *The mobile pharmacy is not operated for more than 48 hours*  
5     *following the restoration of the permanent pharmacy.*

6     SEC. 57. Section 4111 of the Business and Professions Code  
7     is amended to read:

8     4111. (a) Except as otherwise provided in subdivision (b), (d),  
9     or (e), the board shall not issue or renew a license to conduct a  
10    pharmacy to any of the following:

11    (1) A person or persons authorized to prescribe or write a  
12    prescription, as specified in Section 4040, in the State of California.

13    (2) A person or persons with whom a person or persons specified  
14    in paragraph (1) shares a community or other financial interest in  
15    the permit sought.

16    (3) Any corporation that is controlled by, or in which 10 percent  
17    or more of the stock is owned by a person or persons prohibited  
18    from pharmacy ownership by paragraph (1) or (2).

19    (b) Subdivision (a) shall not preclude the issuance of a permit  
20    for an inpatient hospital pharmacy to the owner of the hospital in  
21    which it is located.

22    (c) The board may require any information the board deems is  
23    reasonably necessary for the enforcement of this section.

24    (d) Subdivision (a) shall not preclude the issuance of a new or  
25    renewal license for a pharmacy to be owned or owned and operated  
26    by a person licensed on or before August 1, 1981, under the  
27    Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2  
28    (commencing with Section 1340) of Division 2 of the Health and  
29    Safety Code) and qualified on or before August 1, 1981, under  
30    subsection (d) of Section 1310 of Title XIII of the federal Public  
31    Health Service Act, as amended, whose ownership includes persons  
32    defined pursuant to paragraphs (1) and (2) of subdivision (a).

33    (e) Subdivision (a) shall not preclude the issuance of a new or  
34    renewal license for a pharmacy to be owned or owned and operated  
35    by a pharmacist authorized to issue a drug order pursuant to  
36    ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~  
37    ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~  
38    ~~4052 either Section 4052.1 or 4052.2.~~

39    SEC. 58. Section 4126.5 of the Business and Professions Code  
40    is amended to read:

1 4126.5. (a) A pharmacy may furnish dangerous drugs only to  
2 the following:

3 (1) A wholesaler owned or under common control by the  
4 wholesaler from whom the dangerous drug was acquired.

5 (2) The pharmaceutical manufacturer from whom the dangerous  
6 drug was acquired.

7 (3) A licensed wholesaler acting as a reverse distributor.

8 (4) Another pharmacy or wholesaler to alleviate a temporary  
9 shortage of a dangerous drug that could result in the denial of  
10 health care. A pharmacy furnishing dangerous drugs pursuant to  
11 this paragraph may only furnish a quantity sufficient to alleviate  
12 the temporary shortage.

13 (5) A patient or to another pharmacy pursuant to a prescription  
14 or as otherwise authorized by law.

15 (6) A health care provider that is not a pharmacy but that is  
16 authorized to purchase dangerous drugs.

17 (7) To another pharmacy under common control.

18 (b) Notwithstanding any other provision of law, a violation of  
19 this section ~~by either a pharmacy whose primary or sole business~~  
20 ~~is filling prescriptions for patients of long-term care facilities or a~~  
21 ~~person engaged in a prohibited transaction with a pharmacy whose~~  
22 ~~primary or sole business is filling prescriptions for patients of~~  
23 ~~long-term care facilities~~ may subject the *person or* persons who  
24 committed the violation to a fine not to exceed the amount specified  
25 in Section 125.9 for each occurrence pursuant to a citation issued  
26 by the board.

27 (c) Amounts due from any person under this section on or after  
28 January 1, 2005, shall be offset as provided under Section 12419.5  
29 of the Government Code. Amounts received by the board under  
30 this section shall be deposited into the Pharmacy Board Contingent  
31 Fund.

32 (d) For purposes of this section, “common control” means the  
33 power to direct or cause the direction of the management and  
34 policies of another person whether by ownership, by voting rights,  
35 by contract, or by other means.

36 ~~(e) For purposes of subdivision (b) of this section and~~  
37 ~~subdivision (s) of Section 4301, “long-term care facility” shall~~  
38 ~~have the same meaning given the term in Section 1418 of the~~  
39 ~~Health and Safety Code.~~

1 SEC. 59. Section 4161 of the Business and Professions Code  
2 is amended to read:

3 4161. (a) A person located outside this state that (1) ships,  
4 *sells*, mails, or delivers dangerous drugs or dangerous devices into  
5 this state *or* (2) *sells, brokers, or distributes dangerous drugs or*  
6 *devices within this state* shall be considered a nonresident  
7 wholesaler.

8 (b) A nonresident wholesaler shall be licensed by the board  
9 prior to shipping, *selling*, mailing, or delivering dangerous drugs  
10 or dangerous devices to a site located in this state *or selling,*  
11 *brokering, or distributing dangerous drugs or devices within this*  
12 *state.*

13 (c) A separate license shall be required for each place of business  
14 owned or operated by a nonresident wholesaler from or through  
15 which dangerous drugs or dangerous devices are shipped, *sold,*  
16 mailed, or delivered to a site located in this state *or sold, brokered,*  
17 *or distributed within this state.* A license shall be renewed annually  
18 and shall not be transferable.

19 (d) The following information shall be reported, in writing, to  
20 the board at the time of initial application for licensure by a  
21 nonresident wholesaler, on renewal of a nonresident wholesaler  
22 license, or within 30 days of a change in that information:

23 (1) Its agent for service of process in this state.

24 (2) Its principal corporate officers, as specified by the board, if  
25 any.

26 (3) Its general partners, as specified by the board, if any.

27 (4) Its owners if the applicant is not a corporation or partnership.

28 (e) A report containing the information in subdivision (d) shall  
29 be made within 30 days of any change of ownership, office,  
30 corporate officer, or partner.

31 (f) A nonresident wholesaler shall comply with all directions  
32 and requests for information from the regulatory or licensing  
33 agency of the state in which it is licensed, as well as with all  
34 requests for information made by the board.

35 (g) A nonresident wholesaler shall maintain records of dangerous  
36 drugs and dangerous devices sold, traded, or transferred to persons  
37 in this state *or within this state*, so that the records are in a readily  
38 retrievable form.

39 (h) A nonresident wholesaler shall at all times maintain a valid,  
40 unexpired license, permit, or registration to conduct the business

1 of the wholesaler in compliance with the laws of the state in which  
2 it is a resident. An application for a nonresident wholesaler license  
3 in this state shall include a license verification from the licensing  
4 authority in the applicant's state of residence.

5 (i) The board may not issue or renew a nonresident wholesaler  
6 license until the nonresident wholesaler identifies a designated  
7 representative-in-charge and notifies the board in writing of the  
8 identity and license number of the designated  
9 representative-in-charge.

10 (j) The designated representative-in-charge shall be responsible  
11 for the nonresident wholesaler's compliance with state and federal  
12 laws governing wholesalers. A nonresident wholesaler shall  
13 identify and notify the board of a new designated  
14 representative-in-charge within 30 days of the date that the prior  
15 designated representative-in-charge ceases to be the designated  
16 representative-in-charge.

17 (k) The board may issue a temporary license, upon conditions  
18 and for periods of time as the board determines to be in the public  
19 interest. A temporary license fee shall be five hundred fifty dollars  
20 (\$550) or another amount established by the board not to exceed  
21 the annual fee for renewal of a license to compound injectable  
22 sterile drug products. When needed to protect public safety, a  
23 temporary license may be issued for a period not to exceed 180  
24 days, subject to terms and conditions that the board deems  
25 necessary. If the board determines that a temporary license was  
26 issued by mistake or denies the application for a permanent license,  
27 the temporary license shall terminate upon either personal service  
28 of the notice of termination upon the licenseholder or service by  
29 certified mail, return receipt requested, at the licenseholder's  
30 address of record with the board, whichever occurs first. Neither  
31 for purposes of retaining a temporary license, nor for purposes of  
32 any disciplinary or license denial proceeding before the board,  
33 shall the temporary licenseholder be deemed to have a vested  
34 property right or interest in the license.

35 (l) The registration fee shall be the fee specified in subdivision  
36 (f) of Section 4400.

37 SEC. 60. Section 4174 of the Business and Professions Code  
38 is amended to read:

39 4174. Notwithstanding any other provision of law, a pharmacist  
40 may dispense drugs or devices upon the drug order of a nurse

1 practitioner functioning pursuant to Section 2836.1 or a certified  
2 nurse-midwife functioning pursuant to Section 2746.51, a drug  
3 order of a physician assistant functioning pursuant to Section  
4 3502.1 or a naturopathic doctor functioning pursuant to Section  
5 3640.5, or the order of a pharmacist acting under Section 4052  
6 4052.1, 4052.2, or 4052.3.

7 SEC. 61. Section 4231 of the Business and Professions Code  
8 is amended to read:

9 4231. (a) The board shall not renew a pharmacist license unless  
10 the applicant submits proof satisfactory to the board that he or she  
11 has successfully completed 30 hours of approved courses of  
12 continuing pharmacy education during the two years preceding  
13 the application for renewal.

14 (b) Notwithstanding subdivision (a), the board shall not require  
15 completion of continuing education for the first renewal of a  
16 pharmacist license.

17 (c) If an applicant for renewal of a pharmacist license submits  
18 the renewal application and payment of the renewal fee but does  
19 not submit proof satisfactory to the board that the licensee has  
20 completed 30 hours of continuing pharmacy education, the board  
21 shall not renew the license and shall issue the applicant an inactive  
22 pharmacist license. A licensee with an inactive pharmacist license  
23 issued pursuant to this section may obtain an active pharmacist  
24 license by paying the renewal fees due and submitting satisfactory  
25 proof to the board that the licensee has completed 30 hours of  
26 continuing pharmacy education.

27 (d) *If, as part of an investigation or audit conducted by the*  
28 *board, a pharmacist fails to provide documentation substantiating*  
29 *the completion of continuing education as required in subdivision*  
30 *(a), the board shall cancel the active pharmacist license and issue*  
31 *an inactive pharmacist license in its place. A licensee with an*  
32 *inactive pharmacist license issued pursuant to this section may*  
33 *obtain an active pharmacist license by paying the renewal fees*  
34 *due and submitting satisfactory proof to the board that the licensee*  
35 *has completed 30 hours of continuing pharmacy education.*

36 SEC. 62. Section 4301 of the Business and Professions Code  
37 is amended to read:

38 4301. The board shall take action against any holder of a license  
39 who is guilty of unprofessional conduct or whose license has been  
40 procured by fraud or misrepresentation or issued by mistake.

1 Unprofessional conduct shall include, but is not limited to, any of  
2 the following:

3 (a) Gross immorality.

4 (b) Incompetence.

5 (c) Gross negligence.

6 (d) The clearly excessive furnishing of controlled substances  
7 in violation of subdivision (a) of Section 11153 of the Health and  
8 Safety Code.

9 (e) The clearly excessive furnishing of controlled substances in  
10 violation of subdivision (a) of Section 11153.5 of the Health and  
11 Safety Code. Factors to be considered in determining whether the  
12 furnishing of controlled substances is clearly excessive shall  
13 include, but not be limited to, the amount of controlled substances  
14 furnished, the previous ordering pattern of the customer (including  
15 size and frequency of orders), the type and size of the customer,  
16 and where and to whom the customer distributes its product.

17 (f) The commission of any act involving moral turpitude,  
18 dishonesty, fraud, deceit, or corruption, whether the act is  
19 committed in the course of relations as a licensee or otherwise,  
20 and whether the act is a felony or misdemeanor or not.

21 (g) Knowingly making or signing any certificate or other  
22 document that falsely represents the existence or nonexistence of  
23 a state of facts.

24 (h) The administering to oneself, of any controlled substance,  
25 or the use of any dangerous drug or of alcoholic beverages to the  
26 extent or in a manner as to be dangerous or injurious to oneself,  
27 to a person holding a license under this chapter, or to any other  
28 person or to the public, or to the extent that the use impairs the  
29 ability of the person to conduct with safety to the public the practice  
30 authorized by the license.

31 (i) Except as otherwise authorized by law, knowingly selling,  
32 furnishing, giving away, or administering, or offering to sell,  
33 furnish, give away, or administer, any controlled substance to an  
34 addict.

35 (j) The violation of any of the statutes of this state, of any other  
36 state, or of the United States regulating controlled substances and  
37 dangerous drugs.

38 (k) The conviction of more than one misdemeanor or any felony  
39 involving the use, consumption, or self-administration of any



1 dangerous drug or alcoholic beverage, or any combination of those  
2 substances.

3 (l) The conviction of a crime substantially related to the  
4 qualifications, functions, and duties of a licensee under this chapter.  
5 The record of conviction of a violation of Chapter 13 (commencing  
6 with Section 801) of Title 21 of the United States Code regulating  
7 controlled substances or of a violation of the statutes of this state  
8 regulating controlled substances or dangerous drugs shall be  
9 conclusive evidence of unprofessional conduct. In all other cases,  
10 the record of conviction shall be conclusive evidence only of the  
11 fact that the conviction occurred. The board may inquire into the  
12 circumstances surrounding the commission of the crime, in order  
13 to fix the degree of discipline or, in the case of a conviction not  
14 involving controlled substances or dangerous drugs, to determine  
15 if the conviction is of an offense substantially related to the  
16 qualifications, functions, and duties of a licensee under this chapter.  
17 A plea or verdict of guilty or a conviction following a plea of nolo  
18 contendere is deemed to be a conviction within the meaning of  
19 this provision. The board may take action when the time for appeal  
20 has elapsed, or the judgment of conviction has been affirmed on  
21 appeal or when an order granting probation is made suspending  
22 the imposition of sentence, irrespective of a subsequent order under  
23 Section 1203.4 of the Penal Code allowing the person to withdraw  
24 his or her plea of guilty and to enter a plea of not guilty, or setting  
25 aside the verdict of guilty, or dismissing the accusation,  
26 information, or indictment.

27 (m) The cash compromise of a charge of violation of Chapter  
28 13 (commencing with Section 801) of Title 21 of the United States  
29 Code regulating controlled substances or of Chapter 7  
30 (commencing with Section 14000) of Part 3 of Division 9 of the  
31 Welfare and Institutions Code relating to the Medi-Cal program.  
32 The record of the compromise is conclusive evidence of  
33 unprofessional conduct.

34 (n) The revocation, suspension, or other discipline by another  
35 state of a license to practice pharmacy, operate a pharmacy, or do  
36 any other act for which a license is required by this chapter.

37 (o) Violating or attempting to violate, directly or indirectly, or  
38 assisting in or abetting the violation of or conspiring to violate any  
39 provision or term of this chapter or of the applicable federal and  
40 state laws and regulations governing pharmacy, including

1 regulations established by the board or by any other state or federal  
2 regulatory agency.

3 (p) Actions or conduct that would have warranted denial of a  
4 license.

5 (q) Engaging in any conduct that subverts or attempts to subvert  
6 an investigation of the board.

7 (r) The selling, trading, transferring, or furnishing of drugs  
8 obtained pursuant to Section 256b of Title 42 of the United States  
9 Code to any person a licensee knows or reasonably should have  
10 known, not to be a patient of a covered entity, as defined in  
11 paragraph (4) of subsection (a) of Section 256b of Title 42 of the  
12 United States Code.

13 (s) The clearly excessive furnishing of dangerous drugs by a  
14 wholesaler to a pharmacy that primarily or solely dispenses  
15 prescription drugs to patients of long-term care facilities. Factors  
16 to be considered in determining whether the furnishing of  
17 dangerous drugs is clearly excessive shall include, but not be  
18 limited to, the amount of dangerous drugs furnished to a pharmacy  
19 that primarily or solely dispenses prescription drugs to patients of  
20 long-term care facilities, the previous ordering pattern of the  
21 pharmacy, and the general patient population to whom the  
22 pharmacy distributes the dangerous drugs. That a wholesaler has  
23 established, and employs, a tracking system that complies with  
24 the requirements of subdivision (b) of Section 4164 shall be  
25 considered in determining whether there has been a violation of  
26 this subdivision. This provision shall not be interpreted to require  
27 a wholesaler to obtain personal medical information or be  
28 authorized to permit a wholesaler to have access to personal  
29 medical information except as otherwise authorized by Section 56  
30 and following of the Civil Code. *For purposes of this section,*  
31 *“long-term care facility” shall have the same meaning given the*  
32 *term in Section 1418 of the Health and Safety Code.*

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

34 SEC. 63. Section 4305 of the Business and Professions Code  
35 is amended to read:

36 4305. (a) ~~Any person who has obtained a license to conduct~~  
37 ~~a pharmacy, shall notify the board within 30 days of the termination~~  
38 ~~of employment of any pharmacist who takes charge of, or acts as~~  
39 ~~manager of the pharmacy. Failure to notify the board within the~~  
40 ~~30-day period shall constitute grounds for disciplinary action.~~

1 *Failure by any pharmacist to notify the board in writing that he*  
2 *or she has ceased to act as the pharmacist-in-charge of a*  
3 *pharmacy, or by any pharmacy to notify the board in writing that*  
4 *a pharmacist-in-charge is no longer acting in that capacity, within*  
5 *the 30-day period specified in Sections 4101 and 4113 shall*  
6 *constitute grounds for disciplinary action.*

7 *(b) Operation of a pharmacy for more than 30 days without*  
8 *supervision or management by a pharmacist-in-charge shall*  
9 *constitute grounds for disciplinary action.*

10 ~~(b)~~

11 *(c) Any person who has obtained a license to conduct a*  
12 *pharmacy, who willfully fails to timely notify the board that the*  
13 *pharmacist-in-charge of the termination of employment of any*  
14 *pharmacist who takes charge of, or acts as manager of the*  
15 *pharmacy has ceased to act in that capacity, and who continues*  
16 *to permit the compounding or dispensing of prescriptions, or the*  
17 *furnishing of drugs or poisons, in his or her pharmacy, except by*  
18 *a pharmacist subject to the supervision and management of a*  
19 *responsible pharmacist-in-charge, shall be subject to summary*  
20 *suspension or revocation of his or her license to conduct a*  
21 *pharmacy.*

22 ~~*(e) Any pharmacist who takes charge of, or acts as manager of*~~  
23 ~~*a pharmacy, who terminates his or her employment at the*~~  
24 ~~*pharmacy, shall notify the board within 30 days of termination of*~~  
25 ~~*employment. Failure to notify the board within the 30-day period*~~  
26 ~~*shall constitute grounds for disciplinary action.*~~

27 SEC. 64. Section 4329 of the Business and Professions Code  
28 is amended to read:

29 4329. Any nonpharmacist who takes charge of or acts as  
30 ~~manager~~ *supervisor, manager, or pharmacist-in-charge* of any  
31 pharmacy, or who compounds or dispenses a prescription or  
32 furnishes dangerous drugs except as otherwise provided in this  
33 chapter, is guilty of a misdemeanor.

34 SEC. 65. Section 4330 of the Business and Professions Code  
35 is amended to read:

36 4330. (a) Any person who has obtained a license to conduct  
37 a pharmacy, who fails to place in charge of the pharmacy a  
38 pharmacist, or any person, who by himself or herself, or by any  
39 other person, permits the compounding or dispensing of  
40 prescriptions, or the furnishing of dangerous drugs, in his or her

1 pharmacy, except by a pharmacist, or as otherwise provided in this  
2 chapter, is guilty of a misdemeanor.

3 (b) Any ~~nonpharmacist~~ *pharmacy* owner who commits any act  
4 that would subvert or tend to subvert the efforts of the  
5 pharmacist-in-charge to comply with the laws governing the  
6 operation of the pharmacy is guilty of a misdemeanor.

7 SEC. 66. Section 4857 of the Business and Professions Code  
8 is amended to read:

9 4857. (a) A veterinarian licensed under the provisions of this  
10 chapter shall not disclose any information concerning an animal  
11 receiving veterinary services, the client responsible for the animal  
12 receiving veterinary services, or the veterinary care provided to  
13 an animal, except under any one of the following circumstances:

14 (1) Upon written or witnessed oral authorization by knowing  
15 and informed consent of the client responsible for the animal  
16 receiving services or an authorized agent of the client.

17 (2) Upon authorization received by electronic transmission when  
18 originated by the client responsible for the animal receiving  
19 services or an authorized agent of the client.

20 (3) In response to a valid court order or subpoena.

21 (4) As may be required to ensure compliance with any federal,  
22 state, county, or city ~~laws or regulations~~ *law or regulation*,  
23 *including, but not limited to, the California Public Records Act*  
24 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
25 *Title 1 of the Government Code).*

26 (5) Nothing in this section is intended to prevent the sharing of  
27 veterinary medical information between veterinarians or facilities  
28 for the purpose of diagnosis or treatment of the animal who is the  
29 subject of the medical records.

30 (6) As otherwise provided in this section.

31 (b) This section shall not apply to the extent that the client  
32 responsible for an animal or an authorized agent of the client  
33 responsible for the animal has filed or caused to be filed a civil or  
34 criminal complaint that places the veterinarian's care and treatment  
35 of the animal or the nature and extent of the injuries to the animal  
36 ~~at issue~~, *issue*, or when the veterinarian is acting to comply with  
37 ~~federal~~, *federal*, state, county, or city laws or regulations.

38 (c) A veterinarian shall be subject to the criminal penalties set  
39 forth in Section 4831 or any other provision of this code for a  
40 violation of this section. In addition, any veterinarian who

1 negligently releases confidential information shall be liable in a  
2 civil action for any damages caused by the release of that  
3 information.

4 (d) Nothing in this section is intended to prevent the sharing of  
5 veterinary medical information between veterinarians and peace  
6 officers, humane society officers, or animal control officers who  
7 are acting to protect the welfare of animals.

8 SEC. 67. Section 4980.04 is added to the Business and  
9 Professions Code, to read:

10 4980.04. This chapter shall be known and may be cited as the  
11 Marriage and Family Therapist Act.

12 SEC. 68. Section 4980.30 of the Business and Professions  
13 Code is amended to read:

14 4980.30. Except as otherwise provided herein, a person desiring  
15 to practice and to advertise the performance of marriage and family  
16 therapy services shall apply to the board for a license ~~and shall~~,  
17 pay the license fee required by this chapter, *and obtain a license*  
18 *from the board*.

19 SEC. 69. Section 4980.43 of the Business and Professions  
20 Code is amended to read:

21 4980.43. (a) Prior to applying for licensure examinations, each  
22 applicant shall complete experience that shall comply with the  
23 following:

24 (1) A minimum of 3,000 hours completed during a period of at  
25 least 104 weeks.

26 (2) Not more than 40 hours in any seven consecutive days.

27 (3) Not less than 1,700 hours of supervised experience  
28 completed subsequent to the granting of the qualifying master's  
29 or doctor's degree.

30 (4) Not more than 1,300 hours of experience obtained prior to  
31 completing a master's or doctor's degree. This experience shall  
32 be composed as follows:

33 (A) Not more than 750 hours of counseling and direct supervisor  
34 contact.

35 (B) Not more than 250 hours of professional enrichment  
36 activities, excluding personal psychotherapy as described in  
37 paragraph (2) of subdivision (I).

38 (C) Not more than 100 hours of personal psychotherapy as  
39 described in paragraph (2) of subdivision (I). The applicant shall

1 be credited for three hours of experience for each hour of personal  
2 psychotherapy.

3 (5) No hours of experience may be gained prior to completing  
4 either 12 semester units or 18 quarter units of graduate instruction  
5 and becoming a trainee except for personal psychotherapy.

6 (6) No hours of experience gained more than six years prior to  
7 the date the application for ~~licensure~~ *examination eligibility* was  
8 filed, except that up to 500 hours of clinical experience gained in  
9 the supervised practicum required by subdivision (b) of Section  
10 4980.40 shall be exempt from this six-year requirement.

11 (7) Not more than a total of 1,000 hours of experience for direct  
12 supervisor contact and professional enrichment activities.

13 (8) Not more than 500 hours of experience providing group  
14 therapy or group counseling.

15 (9) Not more than 250 hours of postdegree experience  
16 administering and evaluating psychological tests of counselees,  
17 writing clinical reports, writing progress notes, or writing process  
18 notes.

19 (10) Not more than 250 hours of experience providing  
20 counseling or crisis counseling on the telephone.

21 (11) Not less than 500 total hours of experience in diagnosing  
22 and treating couples, families, and children.

23 (12) Not more than 125 hours of experience providing personal  
24 psychotherapy services via telemedicine in accordance with Section  
25 2290.5.

26 (b) All applicants, trainees, and registrants shall be at all times  
27 under the supervision of a supervisor who shall be responsible for  
28 ensuring that the extent, kind, and quality of counseling performed  
29 is consistent with the training and experience of the person being  
30 supervised, and who shall be responsible to the board for  
31 compliance with all laws, rules, and regulations governing the  
32 practice of marriage and family therapy. Supervised experience  
33 shall be gained by interns and trainees either as an employee or as  
34 a volunteer. The requirements of this chapter regarding gaining  
35 hours of experience and supervision are applicable equally to  
36 employees and volunteers. Experience shall not be gained by  
37 interns or trainees as an independent contractor.

38 (c) Supervision shall include at least one hour of direct  
39 supervisor contact in each week for which experience is credited  
40 in each work setting, as specified:

1 (1) A trainee shall receive an average of at least one hour of  
2 direct supervisor contact for every five hours of client contact in  
3 each setting.

4 (2) Each individual supervised after being granted a qualifying  
5 degree shall receive an average of at least one hour of direct  
6 supervisor contact for every 10 hours of client contact in each  
7 setting in which experience is gained.

8 (3) For purposes of this section, “one hour of direct supervisor  
9 contact” means one hour of face-to-face contact on an individual  
10 basis or two hours of face-to-face contact in a group of not more  
11 than eight persons.

12 (4) All experience gained by a trainee shall be monitored by the  
13 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios  
14 specified in this subdivision shall be applicable to all hours gained  
15 on or after January 1, 1995.

16 (d) (1) A trainee may be credited with supervised experience  
17 completed in any setting that meets all of the following:

18 (A) Lawfully and regularly provides mental health counseling  
19 or psychotherapy.

20 (B) Provides oversight to ensure that the trainee’s work at the  
21 setting meets the experience and supervision requirements set forth  
22 in this chapter and is within the scope of practice for the profession  
23 as defined in Section 4980.02.

24 (C) Is not a private practice owned by a licensed marriage and  
25 family therapist, a licensed psychologist, a licensed clinical social  
26 worker, a licensed physician and surgeon, or a professional  
27 corporation of any of those licensed professions.

28 (2) Experience may be gained by the trainee solely as part of  
29 the position for which the trainee volunteers or is employed.

30 (e) (1) An intern may be credited with supervised experience  
31 completed in any setting that meets both of the following:

32 (A) Lawfully and regularly provides mental health counseling  
33 or psychotherapy.

34 (B) Provides oversight to ensure that the intern’s work at the  
35 setting meets the experience and supervision requirements set forth  
36 in this chapter and is within the scope of practice for the profession  
37 as defined in Section 4980.02.

38 (2) An applicant shall not be employed or volunteer in a private  
39 practice, as defined in subparagraph (C) of paragraph (1) of  
40 subdivision (d), until registered as an intern.

1 (3) While an intern may be either a paid employee or a  
2 volunteer, employers are encouraged to provide fair remuneration  
3 to interns.

4 (4) Except for periods of time during a supervisor's vacation or  
5 sick leave, an intern who is employed or volunteering in private  
6 practice shall be under the direct supervision of a licensee that has  
7 satisfied the requirements of subdivision (g) of Section 4980.03.  
8 The supervising licensee shall either be employed by and practice  
9 at the same site as the intern's employer, or shall be an owner or  
10 shareholder of the private practice. Alternative supervision may  
11 be arranged during a supervisor's vacation or sick leave if the  
12 supervision meets the requirements of this section.

13 (5) Experience may be gained by the intern solely as part of the  
14 position for which the intern volunteers or is employed.

15 (f) Except as provided in subdivision (g), all persons shall  
16 register with the board as an intern in order to be credited for  
17 postdegree hours of supervised experience gained toward licensure.

18 (g) Except when employed in a private practice setting, all  
19 postdegree hours of experience shall be credited toward licensure  
20 so long as the applicant applies for the intern registration within  
21 90 days of the granting of the qualifying master's or doctor's  
22 degree and is thereafter granted the intern registration by the board.

23 (h) Trainees, interns, and applicants shall not receive any  
24 remuneration from patients or clients, and shall only be paid by  
25 their employers.

26 (i) Trainees, interns, and applicants shall only perform services  
27 at the place where their employers regularly conduct business,  
28 which may include performing services at other locations, so long  
29 as the services are performed under the direction and control of  
30 their employer and supervisor, and in compliance with the laws  
31 and regulations pertaining to supervision. Trainees and interns  
32 shall have no proprietary interest in their employers' businesses  
33 and shall not lease or rent space, pay for furnishings, equipment  
34 or supplies, or in any other way pay for the obligations of their  
35 employers.

36 (j) Trainees, interns, or applicants who provide volunteered  
37 services or other services, and who receive no more than a total,  
38 from all work settings, of five hundred dollars (\$500) per month  
39 as reimbursement for expenses actually incurred by those trainees,  
40 interns, or applicants for services rendered in any lawful work



1 setting other than a private practice shall be considered an  
2 employee and not an independent contractor. The board may audit  
3 applicants who receive reimbursement for expenses, and the  
4 applicants shall have the burden of demonstrating that the payments  
5 received were for reimbursement of expenses actually incurred.

6 (k) Each educational institution preparing applicants for  
7 licensure pursuant to this chapter shall consider requiring, and  
8 shall encourage, its students to undergo individual, marital or  
9 conjoint, family, or group counseling or psychotherapy, as  
10 appropriate. Each supervisor shall consider, advise, and encourage  
11 his or her interns and trainees regarding the advisability of  
12 undertaking individual, marital or conjoint, family, or group  
13 counseling or psychotherapy, as appropriate. Insofar as it is deemed  
14 appropriate and is desired by the applicant, the educational  
15 institution and supervisors are encouraged to assist the applicant  
16 in locating that counseling or psychotherapy at a reasonable cost.

17 (l) For purposes of this chapter, “professional enrichment  
18 activities” includes the following:

19 (1) Workshops, seminars, training sessions, or conferences  
20 directly related to marriage and family therapy attended by the  
21 applicant that are approved by the applicant’s supervisor.

22 (2) Participation by the applicant in personal psychotherapy  
23 which includes group, marital or conjoint, family, or individual  
24 psychotherapy by an appropriately licensed professional.

25 SEC. 70. Section 4981 of the Business and Professions Code  
26 is repealed.

27 ~~4981. This article applies to licenses to engage in the business~~  
28 ~~of marriage and family therapy, and does not apply to the licenses~~  
29 ~~provided for in Article 5 (commencing with Section 4986) except~~  
30 ~~that the board shall have all powers provided in this article not~~  
31 ~~inconsistent with this chapter.~~

32 SEC. 71. Section 4990.09 is added to the Business and  
33 Professions Code, to read:

34 4990.09. The board shall not publish on the Internet the final  
35 determination of a citation and fine of one thousand five hundred  
36 dollars (\$1,500) or less issued against a licensee or registrant  
37 pursuant to Section 125.9 for a period of time in excess of five  
38 years from the date of issuance of the citation.

39 SEC. 72. Section 4994.1 of the Business and Professions Code  
40 is repealed.

1     ~~4994.1. If those moneys transferred from the Behavioral~~  
2     ~~Science Examiners Fund to the General Fund pursuant to the 1991~~  
3     ~~Budget Act are redeposited to the Behavioral Science Examiners~~  
4     ~~Fund, the fees assessed by the board shall be reduced~~  
5     ~~correspondingly.~~

6     SEC. 73. Section 4996.2 of the Business and Professions Code  
7     is amended to read:

8     4996.2. Each applicant shall furnish evidence satisfactory to  
9     the board that he or she complies with all of the following  
10    requirements:

11    (a) Is at least 21 years of age.

12    (b) Has received a master's degree from an accredited school  
13    of social work.

14    (c) Has had two years of supervised post-master's degree  
15    experience, as specified in Section ~~4996.20, 4996.21, or 4996.23.~~

16    (d) Has not committed any crimes or acts constituting grounds  
17    for denial of licensure under Section 480. The board shall not issue  
18    a registration or license to any person who has been convicted of  
19    any crime in this or another state or in a territory of the United  
20    States that involves sexual abuse of children or who is required to  
21    register pursuant to Section 290 of the Penal Code or the equivalent  
22    in another state or territory.

23    (e) Has completed adequate instruction and training in the  
24    subject of alcoholism and other chemical substance dependency.  
25    This requirement applies only to applicants who matriculate on or  
26    after January 1, 1986.

27    (f) Has completed instruction and training in spousal or partner  
28    abuse assessment, detection, and intervention. This requirement  
29    applies to an applicant who began graduate training during the  
30    period commencing on January 1, 1995, and ending on December  
31    31, 2003. An applicant who began graduate training on or after  
32    January 1, 2004, shall complete a minimum of 15 contact hours  
33    of coursework in spousal or partner abuse assessment, detection,  
34    and intervention strategies, including knowledge of community  
35    resources, cultural factors, and same gender abuse dynamics.  
36    Coursework required under this subdivision may be satisfactory  
37    if taken either in fulfillment of other educational requirements for  
38    licensure or in a separate course. This requirement for coursework  
39    shall be satisfied by, and the board shall accept in satisfaction of  
40    the requirement, a certification from the chief academic officer of

1 the educational institution from which the applicant graduated that  
2 the required coursework is included within the institution's required  
3 curriculum for graduation.

4 (g) Has completed a minimum of 10 contact hours of training  
5 or coursework in human sexuality as specified in Section 1807 of  
6 Title 16 of the California Code of Regulations. This training or  
7 coursework may be satisfactory if taken either in fulfillment of  
8 other educational requirements for licensure or in a separate course.

9 (h) Has completed a minimum of seven contact hours of training  
10 or coursework in child abuse assessment and reporting as specified  
11 in Section 1807.2 of Title 16 of the California Code of Regulations.  
12 This training or coursework may be satisfactory if taken either in  
13 fulfillment of other educational requirements for licensure or in a  
14 separate course.

15 SEC. 74. Section 4996.17 of the Business and Professions  
16 Code is amended to read:

17 4996.17. (a) Experience gained outside of California shall be  
18 accepted toward the licensure requirements if it is substantially  
19 the equivalent of the requirements of this chapter.

20 (b) The board may issue a license to any person who, at the time  
21 of application, ~~has held~~ holds a valid active clinical social work  
22 license issued by a board of clinical social work examiners or  
23 corresponding authority of any state, if the person passes the board  
24 administered licensing examinations as specified in Section 4996.1  
25 and pays the required fees. Issuance of the license is conditioned  
26 upon all of the following:

27 (1) The applicant has supervised experience that is substantially  
28 the equivalent of that required by this chapter. If the applicant has  
29 less than 3,200 hours of qualifying supervised experience, time  
30 actively licensed as a clinical social worker shall be accepted at a  
31 rate of 100 hours per month up to a maximum of 1,200 hours.

32 (2) Completion of the following coursework or training in or  
33 out of this state:

34 (A) A minimum of seven contact hours of training or coursework  
35 in child abuse assessment and reporting as specified in Section 28,  
36 and any regulations promulgated thereunder.

37 (B) A minimum of 10 contact hours of training or coursework  
38 in human sexuality as specified in Section 25, and any regulations  
39 promulgated thereunder.

1 (C) A minimum of 15 contact hours of training or coursework  
2 in alcoholism and other chemical substance dependency, as  
3 specified by regulation.

4 (D) A minimum of 15 contact hours of coursework or training  
5 in spousal or partner abuse assessment, detection, and intervention  
6 strategies.

7 (3) The applicant's license is not suspended, revoked, restricted,  
8 sanctioned, or voluntarily surrendered in any state.

9 (4) The applicant is not currently under investigation in any  
10 other state, and has not been charged with an offense for any act  
11 substantially related to the practice of social work by any public  
12 agency, entered into any consent agreement or been subject to an  
13 administrative decision that contains conditions placed by an  
14 agency upon an applicant's professional conduct or practice,  
15 including any voluntary surrender of license, or been the subject  
16 of an adverse judgment resulting from the practice of social work  
17 that the board determines constitutes evidence of a pattern of  
18 incompetence or negligence.

19 (5) The applicant shall provide a certification from each state  
20 where he or she holds a license pertaining to licensure, disciplinary  
21 action, and complaints pending.

22 (6) The applicant is not subject to denial of licensure under  
23 Section 480, 4992.3, 4992.35, or 4992.36.

24 (c) The board may issue a license to any person who, at the time  
25 of application, has held a valid, active clinical social work license  
26 for a minimum of four years, issued by a board of clinical social  
27 work examiners or a corresponding authority of any state, if the  
28 person passes the board administered licensing examinations as  
29 specified in Section 4996.1 and pays the required fees. Issuance  
30 of the license is conditioned upon all of the following:

31 (1) Completion of the following coursework or training in or  
32 out of state:

33 (A) A minimum of seven contact hours of training or coursework  
34 in child abuse assessment and reporting as specified in Section 28,  
35 and any regulations promulgated thereunder.

36 (B) A minimum of 10 contact hours of training or coursework  
37 in human sexuality as specified in Section 25, and any regulations  
38 promulgated thereunder.

1 (C) A minimum of 15 contact hours of training or coursework  
2 in alcoholism and other chemical substance dependency, as  
3 specified by regulation.

4 (D) A minimum of 15 contact hours of coursework or training  
5 in spousal or partner abuse assessment, detection, and intervention  
6 strategies.

7 (2) The applicant has been licensed as a clinical social worker  
8 continuously for a minimum of four years prior to the date of  
9 application.

10 (3) The applicant's license is not suspended, revoked, restricted,  
11 sanctioned, or voluntarily surrendered in any state.

12 (4) The applicant is not currently under investigation in any  
13 other state, and has not been charged with an offense for any act  
14 substantially related to the practice of social work by any public  
15 agency, entered into any consent agreement or been subject to an  
16 administrative decision that contains conditions placed by an  
17 agency upon an applicant's professional conduct or practice,  
18 including any voluntary surrender of license, or been the subject  
19 of an adverse judgment resulting from the practice of social work  
20 that the board determines constitutes evidence of a pattern of  
21 incompetence or negligence.

22 (5) The applicant provides a certification from each state where  
23 he or she holds a license pertaining to licensure, disciplinary action,  
24 and complaints pending.

25 (6) The applicant is not subject to denial of licensure under  
26 Section 480, 4992.3, 4992.35, or 4992.36.

27 SEC. 75. Section 4996.18 of the Business and Professions  
28 Code is amended to read:

29 4996.18. (a) A person who wishes to be credited with  
30 experience toward licensure requirements shall register with the  
31 board as an associate clinical social worker prior to obtaining that  
32 experience. The application shall be made on a form prescribed  
33 by the board.

34 (b) An applicant for registration shall satisfy the following  
35 requirements:

36 (1) Possess a master's degree from an accredited school or  
37 department of social work.

38 (2) Have committed no crimes or acts constituting grounds for  
39 denial of licensure under Section 480.

(c) An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(d) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(e) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of ~~Section 4996.20, 4996.21, or 4996.23~~. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

(f) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education. These applicants shall provide the board with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree

1 meets all requirements, including, but not limited to, course  
2 requirements regardless of evaluation or accreditation.

3 (g) A registrant shall not provide clinical social work services  
4 to the public for a fee, monetary or otherwise, except as an  
5 employee.

6 (h) A registrant shall inform each client or patient prior to  
7 performing any professional services that he or she is unlicensed  
8 and is under the supervision of a licensed professional.

9 SEC. 76. Section 4996.20 of the Business and Professions  
10 Code is repealed.

11 4996.20. The experience required by subdivision (c) of Section  
12 4996.2 shall meet the following criteria:

13 (a) ~~An applicant shall have at least 3,200 hours of post-master's~~  
14 ~~experience, supervised by a licensed clinical social worker, in~~  
15 ~~providing clinical social work services consisting of psychosocial~~  
16 ~~diagnosis; assessment; treatment, including psychotherapy and~~  
17 ~~counseling; client-centered advocacy; consultation; and evaluation~~  
18 ~~as permitted by Section 4996.9. For persons applying for licensure~~  
19 ~~on or after January 1, 1992, this experience shall have been gained~~  
20 ~~in not less than two nor more than six years and shall have been~~  
21 ~~gained within the six years immediately preceding the date on~~  
22 ~~which the application for licensure was filed.~~

23 (b) ~~Notwithstanding the requirements of subdivision (a) that~~  
24 ~~3,200 hours of experience shall be gained under the supervision~~  
25 ~~of a licensed clinical social worker, up to 1,000 hours of the~~  
26 ~~required experience may be gained under the supervision of a~~  
27 ~~licensed mental health professional acceptable to the board.~~

28 For purposes of this section, "supervision" means responsibility  
29 for and control of the quality of social work services being  
30 provided. Consultation shall not be considered to be supervision.  
31 Supervision shall include at least one hour of direct supervision  
32 for each week of experience claimed. Not less than one-half of the  
33 hours of required supervision shall be individual supervision. The  
34 remaining hours may be group supervision. "Individual  
35 supervision" means one supervisor meets with one supervisee at  
36 a time. "Group supervision" means a supervisor meets with a group  
37 of no more than eight supervisees at a time.

38 (c) ~~For purposes of this section, a "private practice setting" is~~  
39 ~~any setting other than a governmental entity, a school, college or~~  
40 ~~university, a nonprofit and charitable corporation or a licensed~~

1 health facility. Employment in a private practice setting shall not  
2 commence until the applicant has been registered as an associate  
3 clinical social worker. A registrant employed in a private practice  
4 setting shall not:

5 (1) Pay his or her employer for supervision, and shall receive  
6 fair remuneration from his or her employer.

7 (2) Receive any remuneration from patients or clients and shall  
8 only be paid by his or her employer.

9 (3) Perform services at any place except where the registrant's  
10 employer regularly conducts business.

11 (4) Have any proprietary interest in the employer's business.

12 (d) A person employed in a setting other than a private practice  
13 setting may obtain supervision from a person not employed by the  
14 registrant's employer if that person has signed a written contract  
15 with the employer to take supervisory responsibility for the  
16 registrant's social work services.

17 (e) This section shall apply only to persons who apply for  
18 registration on or before December 31, 1998.

19 SEC. 77. Section 4996.21 of the Business and Professions  
20 Code is repealed.

21 4996.21. The experience required by subdivision (c) of Section  
22 4996.2 shall meet the following criteria:

23 (a) On or after January 1, 1999, an associate shall have at least  
24 3,200 hours of post-master's degree experience in providing  
25 clinical social work services as permitted by Section 4996.9. At  
26 least 1,700 of these hours shall be gained under the supervision of  
27 a licensed clinical social worker. The remaining hours of the  
28 required experience may be gained under the supervision of a  
29 licensed mental health professional acceptable to the board as  
30 defined in a regulation adopted by the board. Experience shall  
31 consist of the following:

32 (1) A minimum of 2,000 hours in psychosocial diagnosis,  
33 assessment, and treatment, including psychotherapy or counseling.

34 (2) A maximum of 1,200 hours in client-centered advocacy,  
35 consultation, evaluation, and research.

36 (3) Experience shall have been gained in not less than two nor  
37 more than six years and shall have been gained within the six years  
38 immediately preceding the date on which the application for  
39 licensure was filed.



1 ~~(b) Supervision means responsibility for and control of the~~  
2 ~~quality of clinical social work services being provided.~~

3 ~~(c) Consultation or peer discussion shall not be considered to~~  
4 ~~be supervision.~~

5 ~~(d) Supervision shall include at least one hour of direct~~  
6 ~~supervisor contact for a minimum of 104 weeks and shall include~~  
7 ~~at least one hour of direct supervisor contact for every 10 hours~~  
8 ~~of client contact in each setting where experience is gained. Of the~~  
9 ~~104 weeks of required supervision, 52 weeks shall be individual~~  
10 ~~supervision, and of the 52 weeks of required individual supervision,~~  
11 ~~not less than 13 weeks shall be supervised by a licensed clinical~~  
12 ~~social worker. For purposes of this section, “one hour of direct~~  
13 ~~supervisor contact” means one hour of face-to-face contact on an~~  
14 ~~individual basis or two hours of face-to-face contact in a group~~  
15 ~~setting of not more than eight persons.~~

16 ~~(e) The supervisor and the associate shall develop a supervisory~~  
17 ~~plan that describes the goals and objectives of supervision. These~~  
18 ~~goals shall include the ongoing assessment of strengths and~~  
19 ~~limitations and the assurance of practice in accordance with the~~  
20 ~~laws and regulations. The associate shall submit to the board the~~  
21 ~~initial original supervisory plan upon application for licensure.~~

22 ~~(f) (1) Experience shall only be gained in a setting that meets~~  
23 ~~both of the following:~~

24 ~~(A) Lawfully and regularly provides clinical social work, mental~~  
25 ~~health counseling, or psychotherapy.~~

26 ~~(B) Provides oversight to ensure that the associate’s work at the~~  
27 ~~setting meets the experience and supervision requirements set forth~~  
28 ~~in this chapter and is within the scope of practice for the profession~~  
29 ~~as defined in Section 4996.9.~~

30 ~~(2) Experience shall not be gained until the applicant has been~~  
31 ~~registered as an associate clinical social worker.~~

32 ~~(3) Employment in a private practice as defined in paragraph~~  
33 ~~(4) shall not commence until the applicant has been registered as~~  
34 ~~an associate clinical social worker.~~

35 ~~(4) A private practice setting is a setting that is owned by a~~  
36 ~~licensed clinical social worker, a licensed marriage and family~~  
37 ~~therapist, a licensed psychologist, a licensed physician and surgeon,~~  
38 ~~or a professional corporation of any of those licensed professions.~~

1     ~~(5) If volunteering, the associate shall provide the board with a~~  
2     ~~letter from his or her employer verifying his or her voluntary status~~  
3     ~~upon application for licensure.~~

4     ~~(6) If employed, the associate shall provide the board with copies~~  
5     ~~of his or her W-2 tax forms for each year of experience claimed~~  
6     ~~upon application for licensure.~~

7     ~~(g) While an associate may be either a paid employee or a~~  
8     ~~volunteer, employers are encouraged to provide fair remuneration~~  
9     ~~to associates.~~

10    ~~(h) An associate shall not do the following:~~

11    ~~(1) Receive any remuneration from patients or clients and shall~~  
12    ~~only be paid by his or her employer.~~

13    ~~(2) Have any proprietary interest in the employer's business.~~

14    ~~(i) An associate, whether employed or volunteering, may obtain~~  
15    ~~supervision from a person not employed by the associate's~~  
16    ~~employer if that person has signed a written agreement with the~~  
17    ~~employer to take supervisory responsibility for the associate's~~  
18    ~~social work services.~~

19    SEC. 78. Section 5515.5 is added to the Business and  
20    Professions Code, to read:

21    5515.5. (a) Notwithstanding Section 5515, the following  
22    provisions shall apply:

23    (1) Of the architect members of the board appointed by the  
24    Governor whose terms commence on July 1, 2009, the term of two  
25    members shall expire on June 30, 2013, and the term of one  
26    member shall expire on June 30, 2015.

27    (2) Of the architect members of the board appointed by the  
28    Governor whose terms commence on July 1, 2010, one member's  
29    term shall expire on June 30, 2014, and one member's term shall  
30    expire on June 30, 2016.

31    (3) The term of the public member of the board appointed by  
32    the Governor whose term commences on July 1, 2010, shall expire  
33    on June 30, 2015.

34    (4) Of the public members of the board appointed by the  
35    Governor whose terms commence on July 1, 2012, one member's  
36    term shall expire on June 30, 2016, and one member's term shall  
37    expire on June 30, 2017.

38    (b) Except as provided in subdivision (a), this section shall not  
39    be construed to affect the application of Section 5515 to the terms  
40    of any current or future members of the board.

1 SEC. 79. Section 5801 of the Business and Professions Code  
2 is amended to read:

3 5801. A certified interior designer may obtain a stamp from  
4 an interior design organization that shall include a number that  
5 uniquely identifies and bears the name of that certified interior  
6 designer. The stamp certifies that the interior designer has provided  
7 the interior design organization with evidence of passage of an  
8 interior design examination approved by that interior design  
9 organization and any of the following:

10 (a) He or she is a graduate of a four or five-year accredited  
11 interior design degree program, and has two years of diversified  
12 interior design experience.

13 (b) He or she has completed a three-year accredited interior  
14 design certificate program, and has completed three years of  
15 diversified interior design experience.

16 (c) He or she has completed a two-year accredited interior design  
17 program and has completed four years of diversified interior design  
18 experience.

19 (d) He or she has *at least eight years of interior design*  
20 *education, or at least eight years of diversified interior design*  
21 *experience, or* a combination of interior design education and  
22 diversified interior design experience that together total at least  
23 eight years.

24 SEC. 80. Section 6534 of the Business and Professions Code  
25 is amended to read:

26 6534. (a) The bureau shall maintain the following information  
27 in each licensee's file, shall make this information available to a  
28 court for any purpose, including the determination of the  
29 appropriateness of appointing or continuing the appointment of,  
30 or removing, the licensee as a conservator, guardian, trustee, or  
31 personal representative, and shall otherwise keep this information  
32 confidential, except as provided in subdivisions (b) and (c) of this  
33 section:

34 (1) The names of the licensee's current conservatees or wards  
35 and the trusts or estates currently administered by the licensee.

36 (2) The aggregate dollar value of all assets currently under the  
37 licensee's supervision as a professional fiduciary.

38 (3) The licensee's current addresses and telephone numbers for  
39 his or her place of business and place of residence.

(4) Whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or the licensee has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired for cause as a conservator, guardian, trustee, personal representative or has ever resigned as a conservator, guardian, trustee, or personal representative in a specific case, the circumstances causing that removal or resignation, and the case names, court locations, and case numbers associated with the removal or resignation.

(5) The case names, court locations, and case numbers of all conservatorship, guardianship, or trust or other estate administration cases that are closed for which the licensee served as the conservator, guardian, trustee, or personal representative.

(6) Information regarding any discipline imposed upon the licensee by the bureau.

(7) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy in the last 10 years.

(b) The bureau shall make the information in paragraphs (2), (4), (6), and (7) of subdivision (a) available to the public.

(c) The bureau shall also publish information regarding licensees on the Internet as specified in Section 27. The information shall include, but shall not be limited to, information regarding license status and the information specified under subdivision (b).

SEC. 81. Section 6536 of the Business and Professions Code is amended to read:

6536. The bureau shall review all applications for licensure and may investigate an applicant's qualifications for licensure. The bureau shall approve those applications that meet the requirements for licensure, but shall not issue a license to any applicant who meets any of the following criteria:

(a) Does not meet the qualifications for licensure under this chapter.

(b) Has been convicted of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary.

(c) Has engaged in fraud or deceit in applying for a license under this chapter.

1 (d) Has engaged in dishonesty, fraud, or gross negligence in  
2 performing the functions or duties of a ~~professional~~ fiduciary,  
3 including engaging in such conduct prior to January 1, 2009.

4 (e) Has been removed as a ~~professional~~ fiduciary by a court for  
5 breach of trust committed intentionally, with gross negligence, in  
6 bad faith, or with reckless indifference, or has demonstrated a  
7 pattern of negligent conduct, including a removal prior to January  
8 1, 2009, and all appeals have been taken, or the time to file an  
9 appeal has expired.

10 SEC. 82. Section 6561 of the Business and Professions Code  
11 is amended to read:

12 6561. (a) A licensee shall initially, and annually thereafter,  
13 file with the bureau a statement under penalty of perjury containing  
14 the following:

15 (1) Her or his business address, telephone number, and facsimile  
16 number.

17 (2) Whether or not he or she has been removed as a ~~fiduciary~~  
18 ~~by a court for breach of trust committed intentionally, with gross~~  
19 ~~negligence, in bad faith, or with reckless indifference, or he or she~~  
20 ~~has demonstrated a pattern of negligent conduct, including a~~  
21 ~~removal prior to becoming licensed, and all appeals have been~~  
22 ~~taken, or the time to file an appeal has expired~~ *conservator,*  
23 *guardian, trustee, or personal representative for cause.* The  
24 licensee may file an additional statement of the issues and facts  
25 pertaining to the case.

26 (3) The case names, court locations, and case numbers for all  
27 matters where the licensee has been appointed by the court.

28 (4) Whether he or she has been found by a court to have  
29 breached a fiduciary duty.

30 (5) Whether he or she has resigned or settled a matter in which  
31 a complaint has been filed, along with the case number and a  
32 statement of the issues and facts pertaining to the allegations.

33 (6) Any licenses or professional certificates held by the licensee.

34 (7) Any ownership or beneficial interests in any businesses or  
35 other enterprises held by the licensee or by a family member that  
36 receives or has received payments from a client of the licensee.

37 (8) Whether the licensee has filed for bankruptcy or held a  
38 controlling financial interest in a business that filed for bankruptcy  
39 in the last ten years.

1 (9) The name of any persons or entities that have an interest in  
2 the licensee's professional fiduciary business.

3 (10) Whether the licensee has been convicted of a crime.

4 (b) The statement by the licensee required by this section may  
5 be filed electronically with the bureau, in a form approved by the  
6 bureau. However, any additional statement filed under paragraph  
7 (2) of subdivision (a) shall be filed in writing.

8 SEC. 83. Section 6761 of the Business and Professions Code  
9 is repealed.

10 ~~6761. In determining the qualifications of an applicant for~~  
11 ~~registration, a majority vote of the board is required.~~

12 SEC. 84. Section 7616 of the Business and Professions Code  
13 is amended to read:

14 7616. (a) A licensed funeral establishment is a place of  
15 business conducted in a building or separate portion of a building  
16 having a specific street address or location and devoted exclusively  
17 to those activities as are incident, convenient, or related to the  
18 preparation and arrangements, financial and otherwise, for the  
19 funeral, transportation, burial or other disposition of human remains  
20 and including, but not limited to, either of the following:

21 (1) A suitable room for the storage of human remains.

22 (2) A preparation room equipped with a sanitary flooring and  
23 necessary drainage and ventilation and containing necessary  
24 instruments and supplies for the preparation, sanitation, or  
25 embalming of human remains for burial or transportation.

26 (b) Licensed funeral establishments under common ownership  
27 or by contractual agreement within close geographical proximity  
28 of each other shall be deemed to be in compliance with the  
29 requirements of paragraph (1) or (2) of subdivision (a) if at least  
30 one of the establishments has a room described in those paragraphs.

31 (c) Except as provided in Section 7609, and except accredited  
32 embalming schools and colleges engaged in teaching students the  
33 art of embalming, no person shall operate or maintain or hold  
34 himself or herself out as operating or maintaining any of the  
35 facilities specified in paragraph (2) of subdivision (a), unless he  
36 or she is licensed as a funeral director.

37 (d) Nothing in this section shall be construed to require a funeral  
38 establishment to conduct its business or financial transactions at  
39 the same location as its preparation or storage of human remains.

(e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the maintenance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

~~(f) Every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal of its funeral director's license, be issued a funeral establishment license.~~

SEC. 85. Section 7629 of the Business and Professions Code is amended to read:

7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral ~~director~~ *establishment* so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

SEC. 86. Section 8740 of the Business and Professions Code is amended to read:

8740. (a) An application for each division of the examination for a license as a land surveyor shall be made to the board on the form prescribed by it, with all statements therein made under oath, and shall be accompanied by the application fee fixed by this chapter.

(b) The board may authorize an organization specified by the board pursuant to Section ~~8747~~ 8745 to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 87. Section 8746 of the Business and Professions Code is amended to read:

~~8746. In determining the qualifications of any applicant for license, a majority vote of the board is required.~~

8746. An applicant failing on examination, upon the payment of another application fee, may be examined again.

SEC. 88. Section 9855.15 is added to the Business and Professions Code, to read:

1 9855.15. (a) Notwithstanding any other provision of law, a  
2 violation of Section 9855.1 is an infraction subject to the  
3 procedures described in Sections 19.6 and 19.7 of the Penal Code  
4 when either of the following applies:

5 (1) A complaint or a written notice to appear in court pursuant  
6 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part  
7 2 of the Penal Code is filed in court charging the offense as an  
8 infraction unless the defendant, at the time he or she is arraigned,  
9 after being advised of his or her rights, elects to have the case  
10 proceed as a misdemeanor.

11 (2) The court, with the consent of the defendant and the  
12 prosecution, determines that the offense is an infraction in which  
13 event the case shall proceed as if the defendant has been arraigned  
14 on an infraction complaint.

15 (b) Subdivision (a) does not apply to a violation of Section  
16 9855.1 if the defendant has had his or her registration previously  
17 revoked or suspended.

18 (c) Notwithstanding any other provision of law, a violation of  
19 Section 9855.1, which is an infraction, is punishable by a fine of  
20 not less than two hundred fifty dollars (\$250) and not more than  
21 one thousand dollars (\$1,000).

22 No portion of the minimum fine may be suspended by the court  
23 unless as a condition of that suspension the defendant is required  
24 to submit proof of a current valid registration to act as a service  
25 contractor the absence of which was the basis for his or her  
26 conviction.

27 SEC. 89. Section 8659 of the Government Code is amended  
28 to read:

29 8659. Any physician or surgeon (whether licensed in this state  
30 or any other state), hospital, pharmacist, *respiratory care*  
31 *practitioner*, nurse, or dentist who renders services during any  
32 state of war emergency, a state of emergency, or a local emergency  
33 at the express or implied request of any responsible state or local  
34 official or agency shall have no liability for any injury sustained  
35 by any person by reason of ~~such~~ *those* services, regardless of how  
36 or under what circumstances or by what cause ~~such~~ *those* injuries  
37 are sustained; provided, however, that the immunity herein granted  
38 shall not apply in the event of a willful act or omission.

39 SEC. 90. Section 8778.5 of the Health and Safety Code is  
40 amended to read:



1 8778.5. Each special care trust fund established pursuant to  
2 this article shall be administered in compliance with the following  
3 requirements:

4 (a) (1) The board of trustees shall honor a written request of  
5 revocation by the trustor within 30 days upon receipt of the written  
6 request.

7 (2) Except as provided in paragraph (3), the board of trustees  
8 upon revocation of a special care trust may assess a revocation fee  
9 on the earned income of the trust only, the amount of which shall  
10 not exceed 10 percent of the trust corpus, as set forth in subdivision  
11 (c) of Section 2370 of Title 16 of the California Code of  
12 Regulations.

13 (3) If, prior to or upon the death of the beneficiary of a revocable  
14 special care trust, the ~~board of trustees~~ *cemetery authority* is unable  
15 to perform the services of the special care trust fund agreement,  
16 the board of trustees shall pay the entire trust corpus and all earned  
17 income to the beneficiary or trustor, or the legal representative of  
18 either the beneficiary or trustor, without the imposition of a  
19 revocation fee.

20 (b) Notwithstanding subdivision (d) of Section 2370 of Title 16  
21 of the California Code of Regulations, the board of trustees may  
22 charge an annual fee for administering a revocable special care  
23 trust fund, which may be recovered by administrative withdrawals  
24 from current trust income, but the total administrative withdrawals  
25 in any year shall not exceed 4 percent of the trust balance.

26 (c) Notwithstanding Section 8785, any person, partnership, or  
27 corporation who violates this section shall be subject to disciplinary  
28 action as provided in Article 6 (commencing with Section 9725)  
29 of Chapter 19 of Division 3 of the Business and Professions Code,  
30 or by a civil fine not exceeding five hundred dollars (\$500), or by  
31 both, as determined by the Cemetery and Funeral Bureau and shall  
32 not be guilty of a crime.

33 SEC. 91. Section 11150 of the Health and Safety Code is  
34 amended to read:

35 11150. No person other than a physician, dentist, podiatrist,  
36 or veterinarian, or naturopathic doctor acting pursuant to Section  
37 3640.7 of the Business and Professions Code, or pharmacist acting  
38 within the scope of a project authorized under Article 1  
39 (commencing with Section 128125) of Chapter 3 of Part 3 of  
40 Division 107 or within the scope of either ~~subparagraph (D)~~ of

1 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph  
2 (5) of, subdivision (a) of Section 4052 *Section 4052.1 or 4052.2*  
3 of the Business and Professions Code, a registered nurse acting  
4 within the scope of a project authorized under Article 1  
5 (commencing with Section 128125) of Chapter 3 of Part 3 of  
6 Division 107, a certified nurse-midwife acting within the scope of  
7 Section 2746.51 of the Business and Professions Code, a nurse  
8 practitioner acting within the scope of Section 2836.1 of the  
9 Business and Professions Code, a physician assistant acting within  
10 the scope of a project authorized under Article 1 (commencing  
11 with Section 128125) of Chapter 3 of Part 3 of Division 107 or  
12 Section 3502.1 of the Business and Professions Code, a  
13 naturopathic doctor acting within the scope of Section 3640.5 of  
14 the Business and Professions Code, or an optometrist acting within  
15 the scope of Section 3041 of the Business and Professions Code,  
16 or an out-of-state prescriber acting pursuant to Section 4005 of the  
17 Business and Professions Code shall write or issue a prescription.

18 SEC. 92. Section 11165 of the Health and Safety Code is  
19 amended to read:

20 11165. (a) To assist law enforcement and regulatory agencies  
21 in their efforts to control the diversion and resultant abuse of  
22 Schedule II, Schedule III, and Schedule IV controlled substances,  
23 and for statistical analysis, education, and research, the Department  
24 of Justice shall, contingent upon the availability of adequate funds  
25 from the Contingent Fund of the Medical Board of California, the  
26 Pharmacy Board Contingent Fund, the State Dentistry Fund, the  
27 Board of Registered Nursing Fund, and the Osteopathic Medical  
28 Board of California Contingent Fund, maintain the Controlled  
29 Substance Utilization Review and Evaluation System (CURES)  
30 for the electronic monitoring of the prescribing and dispensing of  
31 Schedule II, Schedule III, and Schedule IV controlled substances  
32 by all practitioners authorized to prescribe or dispense these  
33 controlled substances.

34 (b) The reporting of Schedule III and Schedule IV controlled  
35 substance prescriptions to CURES shall be contingent upon the  
36 availability of adequate funds from the Department of Justice. The  
37 Department of Justice may seek and use grant funds to pay the  
38 costs incurred from the reporting of controlled substance  
39 prescriptions to CURES. Funds shall not be appropriated from the  
40 Contingent Fund of the Medical Board of California, the Pharmacy

1 Board Contingent Fund, the State Dentistry Fund, the Board of  
2 Registered Nursing Fund, the Naturopathic Doctor's Fund, or the  
3 Osteopathic Medical Board of California Contingent Fund to pay  
4 the costs of reporting Schedule III and Schedule IV controlled  
5 substance prescriptions to CURES.

6 (c) CURES shall operate under existing provisions of law to  
7 safeguard the privacy and confidentiality of patients. Data obtained  
8 from CURES shall only be provided to appropriate state, local,  
9 and federal persons or public agencies for disciplinary, civil, or  
10 criminal purposes and to other agencies or entities, as determined  
11 by the Department of Justice, for the purpose of educating  
12 practitioners and others in lieu of disciplinary, civil, or criminal  
13 actions. Data may be provided to public or private entities, as  
14 approved by the Department of Justice, for educational, peer  
15 review, statistical, or research purposes, provided that patient  
16 information, including any information that may identify the  
17 patient, is not compromised. Further, data disclosed to any  
18 individual or agency as described in this subdivision shall not be  
19 disclosed, sold, or transferred to any third party.

20 (d) For each prescription for a Schedule II, Schedule III, or  
21 Schedule IV controlled substance, the dispensing pharmacy *or*  
22 *clinic* shall provide the following information to the Department  
23 of Justice on a weekly basis and in a format specified by the  
24 Department of Justice:

25 (1) Full name, address, and the telephone number of the ultimate  
26 user or research subject, or contact information as determined by  
27 the Secretary of the United States Department of Health and Human  
28 Services, and the gender, and date of birth of the ultimate user.

29 (2) The prescriber's category of licensure and license number;  
30 federal controlled substance registration number; and the state  
31 medical license number of any prescriber using the federal  
32 controlled substance registration number of a government-exempt  
33 facility.

34 (3) Pharmacy prescription number, license number, and federal  
35 controlled substance registration number.

36 (4) NDC (National Drug Code) number of the controlled  
37 substance dispensed.

38 (5) Quantity of the controlled substance dispensed.

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

40 (7) Number of refills ordered.

1 (8) Whether the drug was dispensed as a refill of a prescription  
2 or as a first-time request.

3 (9) Date of origin of the prescription.

4 (10) Date of dispensing of the prescription.

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

6 SEC. 93. Section 14132.100 of the Welfare and Institutions  
7 Code is amended to read:

8 14132.100. (a) The federally qualified health center services  
9 described in Section 1396d(a)(2)(C) of Title 42 of the United States  
10 Code are covered benefits.

11 (b) The rural health clinic services described in Section 1396d  
12 (a)(2)(B) of Title 42 of the United States Code are covered benefits.

13 (c) Federally qualified health center services and rural health  
14 clinic services shall be reimbursed on a per-visit basis in  
15 accordance with the definition of “visit” set forth in subdivision  
16 (g).

17 (d) Effective October 1, 2004, and on each October 1, thereafter,  
18 until no longer required by federal law, federally qualified health  
19 center (FQHC) and rural health clinic (RHC) per-visit rates shall  
20 be increased by the Medicare Economic Index applicable to  
21 primary care services in the manner provided for in Section  
22 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to  
23 January 1, 2004, FQHC and RHC per-visit rates shall be adjusted  
24 by the Medicare Economic Index in accordance with the  
25 methodology set forth in the state plan in effect on October 1,  
26 2001.

27 (e) (1) An FQHC or RHC may apply for an adjustment to its  
28 per-visit rate based on a change in the scope of services provided  
29 by the FQHC or RHC. Rate changes based on a change in the  
30 scope of services provided by an FQHC or RHC shall be evaluated  
31 in accordance with Medicare reasonable cost principles, as set  
32 forth in Part 413 (commencing with Section 413.1) of Title 42 of  
33 the Code of Federal Regulations, or its successor.

34 (2) Subject to the conditions set forth in subparagraphs (A) to  
35 (D), inclusive, of paragraph (3), a change in scope of service means  
36 any of the following:

37 (A) The addition of a new FQHC or RHC service that is not  
38 incorporated in the baseline prospective payment system (PPS)  
39 rate, or a deletion of an FQHC or RHC service that is incorporated  
40 in the baseline PPS rate.

1 (B) A change in service due to amended regulatory requirements  
2 or rules.

3 (C) A change in service resulting from relocating or remodeling  
4 an FQHC or RHC.

5 (D) A change in types of services due to a change in applicable  
6 technology and medical practice utilized by the center or clinic.

7 (E) An increase in service intensity attributable to changes in  
8 the types of patients served, including, but not limited to,  
9 populations with HIV or AIDS, or other chronic diseases, or  
10 homeless, elderly, migrant, or other special populations.

11 (F) Any changes in any of the services described in subdivision  
12 (a) or (b), or in the provider mix of an FQHC or RHC or one of  
13 its sites.

14 (G) Changes in operating costs attributable to capital  
15 expenditures associated with a modification of the scope of any  
16 of the services described in subdivision (a) or (b), including new  
17 or expanded service facilities, regulatory compliance, or changes  
18 in technology or medical practices at the center or clinic.

19 (H) Indirect medical education adjustments and a direct graduate  
20 medical education payment that reflects the costs of providing  
21 teaching services to interns and residents.

22 (I) Any changes in the scope of a project approved by the federal  
23 Health Resources and Service Administration (HRSA).

24 (3) No change in costs shall, in and of itself, be considered a  
25 scope-of-service change unless all of the following apply:

26 (A) The increase or decrease in cost is attributable to an increase  
27 or decrease in the scope of services defined in subdivisions (a) and  
28 (b), as applicable.

29 (B) The cost is allowable under Medicare reasonable cost  
30 principles set forth in Part 413 (commencing with Section 413) of  
31 Subchapter B of Chapter 4 of Title 42 of the Code of Federal  
32 Regulations, or its successor.

33 (C) The change in the scope of services is a change in the type,  
34 intensity, duration, or amount of services, or any combination  
35 thereof.

36 (D) The net change in the FQHC's or RHC's rate equals or  
37 exceeds 1.75 percent for the affected FQHC or RHC site. For  
38 FQHCs and RHCs that filed consolidated cost reports for multiple  
39 sites to establish the initial prospective payment reimbursement  
40 rate, the 1.75-percent threshold shall be applied to the average

1 per-visit rate of all sites for the purposes of calculating the cost  
2 associated with a scope-of-service change. “Net change” means  
3 the per-visit rate change attributable to the cumulative effect of all  
4 increases and decreases for a particular fiscal year.

5 (4) An FQHC or RHC may submit requests for scope-of-service  
6 changes once per fiscal year, only within 90 days following the  
7 beginning of the FQHC’s or RHC’s fiscal year. Any approved  
8 increase or decrease in the provider’s rate shall be retroactive to  
9 the beginning of the FQHC’s or RHC’s fiscal year in which the  
10 request is submitted.

11 (5) An FQHC or RHC shall submit a scope-of-service rate  
12 change request within 90 days of the beginning of any FQHC or  
13 RHC fiscal year occurring after the effective date of this section,  
14 if, during the FQHC’s or RHC’s prior fiscal year, the FQHC or  
15 RHC experienced a decrease in the scope of services provided that  
16 the FQHC or RHC either knew or should have known would have  
17 resulted in a significantly lower per-visit rate. If an FQHC or RHC  
18 discontinues providing onsite pharmacy or dental services, it shall  
19 submit a scope-of-service rate change request within 90 days of  
20 the beginning of the following fiscal year. The rate change shall  
21 be effective as provided for in paragraph (4). As used in this  
22 paragraph, “significantly lower” means an average per-visit rate  
23 decrease in excess of 2.5 percent.

24 (6) Notwithstanding paragraph (4), if the approved  
25 scope-of-service change or changes were initially implemented  
26 on or after the first day of an FQHC’s or RHC’s fiscal year ending  
27 in calendar year 2001, but before the adoption and issuance of  
28 written instructions for applying for a scope-of-service change,  
29 the adjusted reimbursement rate for that scope-of-service change  
30 shall be made retroactive to the date the scope-of-service change  
31 was initially implemented. Scope-of-service changes under this  
32 paragraph shall be required to be submitted within the later of 150  
33 days after the adoption and issuance of the written instructions by  
34 the department, or 150 days after the end of the FQHC’s or RHC’s  
35 fiscal year ending in 2003.

36 (7) All references in this subdivision to “fiscal year” shall be  
37 construed to be references to the fiscal year of the individual FQHC  
38 or RHC, as the case may be.

39 (f) (1) An FQHC or RHC may request a supplemental payment  
40 if extraordinary circumstances beyond the control of the FQHC

1 or RHC occur after December 31, 2001, and PPS payments are  
2 insufficient due to these extraordinary circumstances. Supplemental  
3 payments arising from extraordinary circumstances under this  
4 subdivision shall be solely and exclusively within the discretion  
5 of the department and shall not be subject to subdivision (l). These  
6 supplemental payments shall be determined separately from the  
7 scope-of-service adjustments described in subdivision (e).  
8 Extraordinary circumstances include, but are not limited to, acts  
9 of nature, changes in applicable requirements in the Health and  
10 Safety Code, changes in applicable licensure requirements, and  
11 changes in applicable rules or regulations. Mere inflation of costs  
12 alone, absent extraordinary circumstances, shall not be grounds  
13 for supplemental payment. If an FQHC's or RHC's PPS rate is  
14 sufficient to cover its overall costs, including those associated with  
15 the extraordinary circumstances, then a supplemental payment is  
16 not warranted.

17 (2) The department shall accept requests for supplemental  
18 payment at any time throughout the prospective payment rate year.

19 (3) Requests for supplemental payments shall be submitted in  
20 writing to the department and shall set forth the reasons for the  
21 request. Each request shall be accompanied by sufficient  
22 documentation to enable the department to act upon the request.  
23 Documentation shall include the data necessary to demonstrate  
24 that the circumstances for which supplemental payment is requested  
25 meet the requirements set forth in this section. Documentation  
26 shall include all of the following:

27 (A) A presentation of data to demonstrate reasons for the  
28 FQHC's or RHC's request for a supplemental payment.

29 (B) Documentation showing the cost implications. The cost  
30 impact shall be material and significant, two hundred thousand  
31 dollars (\$200,000) or 1 percent of a facility's total costs, whichever  
32 is less.

33 (4) A request shall be submitted for each affected year.

34 (5) Amounts granted for supplemental payment requests shall  
35 be paid as lump-sum amounts for those years and not as revised  
36 PPS rates, and shall be repaid by the FQHC or RHC to the extent  
37 that it is not expended for the specified purposes.

38 (6) The department shall notify the provider of the department's  
39 discretionary decision in writing.

(g) (1) An FQHC or RHC “visit” means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, “physician” shall be interpreted in a manner consistent with the Centers for Medicare and Medicaid Services’ Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a ~~medical doctor, osteopath~~ *physician and surgeon*, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal services practitioner, as defined in Section 51179.1 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan’s definition of an FQHC or RHC visit.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist or a dental hygienist in alternative practice.

(B) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice for the purposes of establishing its FQHC or RHC rate shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC’s or RHC rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC’s or RHC’s application for, or the department’s approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist or a dental hygienist



1 in alternative practice has been approved. Any approved increase  
2 or decrease in the provider's rate shall be made within six months  
3 after the date of receipt of the department's rate adjustment forms  
4 pursuant to this subparagraph and shall be retroactive to the  
5 beginning of the fiscal year in which the FQHC or RHC submits  
6 the request, but in no case shall the effective date be earlier than  
7 January 1, 2008.

8 (C) An FQHC or RHC that does not provide dental hygienist  
9 or dental hygienist in alternative practice services, and later elects  
10 to add these services, shall process the addition of these services  
11 as a change in scope of service pursuant to subdivision (e).

12 (h) If FQHC or RHC services are partially reimbursed by a  
13 third-party payer, such as a managed care entity (as defined in  
14 Section 1396u-2(a)(1)(B) of Title 42 of the United States Code),  
15 the Medicare Program, or the Child Health and Disability  
16 Prevention (CHDP) program, the department shall reimburse an  
17 FQHC or RHC for the difference between its per-visit PPS rate  
18 and receipts from other plans or programs on a contract-by-contract  
19 basis and not in the aggregate, and may not include managed care  
20 financial incentive payments that are required by federal law to  
21 be excluded from the calculation.

22 (i) (1) An entity that first qualifies as an FQHC or RHC in the  
23 year 2001 or later, a newly licensed facility at a new location added  
24 to an existing FQHC or RHC, and any entity that is an existing  
25 FQHC or RHC that is relocated to a new site shall each have its  
26 reimbursement rate established in accordance with one of the  
27 following methods, as selected by the FQHC or RHC:

28 (A) The rate may be calculated on a per-visit basis in an amount  
29 that is equal to the average of the per-visit rates of three comparable  
30 FQHCs or RHCs located in the same or adjacent area with a similar  
31 caseload.

32 (B) In the absence of three comparable FQHCs or RHCs with  
33 a similar caseload, the rate may be calculated on a per-visit basis  
34 in an amount that is equal to the average of the per-visit rates of  
35 three comparable FQHCs or RHCs located in the same or an  
36 adjacent service area, or in a reasonably similar geographic area  
37 with respect to relevant social, health care, and economic  
38 characteristics.

39 (C) At a new entity's one-time election, the department shall  
40 establish a reimbursement rate, calculated on a per-visit basis, that

1 is equal to 100 percent of the projected allowable costs to the  
2 FQHC or RHC of furnishing FQHC or RHC services during the  
3 first 12 months of operation as an FQHC or RHC. After the first  
4 12-month period, the projected per-visit rate shall be increased by  
5 the Medicare Economic Index then in effect. The projected  
6 allowable costs for the first 12 months shall be cost settled and the  
7 prospective payment reimbursement rate shall be adjusted based  
8 on actual and allowable cost per visit.

9 (D) The department may adopt any further and additional  
10 methods of setting reimbursement rates for newly qualified FQHCs  
11 or RHCs as are consistent with Section 1396a(bb)(4) of Title 42  
12 of the United States Code.

13 (2) In order for an FQHC or RHC to establish the comparability  
14 of its caseload for purposes of subparagraph (A) or (B) of paragraph  
15 (1), the department shall require that the FQHC or RHC submit  
16 its most recent annual utilization report as submitted to the Office  
17 of Statewide Health Planning and Development, unless the FQHC  
18 or RHC was not required to file an annual utilization report. FQHCs  
19 or RHCs that have experienced changes in their services or  
20 caseload subsequent to the filing of the annual utilization report  
21 may submit to the department a completed report in the format  
22 applicable to the prior calendar year. FQHCs or RHCs that have  
23 not previously submitted an annual utilization report shall submit  
24 to the department a completed report in the format applicable to  
25 the prior calendar year. The FQHC or RHC shall not be required  
26 to submit the annual utilization report for the comparable FQHCs  
27 or RHCs to the department, but shall be required to identify the  
28 comparable FQHCs or RHCs.

29 (3) The rate for any newly qualified entity set forth under this  
30 subdivision shall be effective retroactively to the later of the date  
31 that the entity was first qualified by the applicable federal agency  
32 as an FQHC or RHC, the date a new facility at a new location was  
33 added to an existing FQHC or RHC, or the date on which an  
34 existing FQHC or RHC was relocated to a new site. The FQHC  
35 or RHC shall be permitted to continue billing for Medi-Cal covered  
36 benefits on a fee-for-service basis until it is informed of its  
37 enrollment as an FQHC or RHC, and the department shall reconcile  
38 the difference between the fee-for-service payments and the  
39 FQHC's or RHC's prospective payment rate at that time.

1 (j) Visits occurring at an intermittent clinic site, as defined in  
2 subdivision (h) of Section 1206 of the Health and Safety Code, of  
3 an existing FQHC or RHC, or in a mobile unit as defined by  
4 paragraph (2) of subdivision (b) of Section 1765.105 of the Health  
5 and Safety Code, shall be billed by and reimbursed at the same  
6 rate as the FQHC or RHC establishing the intermittent clinic site  
7 or the mobile unit, subject to the right of the FQHC or RHC to  
8 request a scope-of-service adjustment to the rate.

9 (k) An FQHC or RHC may elect to have pharmacy or dental  
10 services reimbursed on a fee-for-service basis, utilizing the current  
11 fee schedules established for those services. These costs shall be  
12 adjusted out of the FQHC's or RHC's clinic base rate as  
13 scope-of-service changes. An FQHC or RHC that reverses its  
14 election under this subdivision shall revert to its prior rate, subject  
15 to an increase to account for all MEI increases occurring during  
16 the intervening time period, and subject to any increase or decrease  
17 associated with applicable scope-of-services adjustments as  
18 provided in subdivision (e).

19 (l) FQHCs and RHCs may appeal a grievance or complaint  
20 concerning ratesetting, scope-of-service changes, and settlement  
21 of cost report audits, in the manner prescribed by Section 14171.  
22 The rights and remedies provided under this subdivision are  
23 cumulative to the rights and remedies available under all other  
24 provisions of law of this state.

25 (m) The department shall, by no later than March 30, 2008,  
26 promptly seek all necessary federal approvals in order to implement  
27 this section, including any amendments to the state plan. To the  
28 extent that any element or requirement of this section is not  
29 approved, the department shall submit a request to the federal  
30 Centers for Medicare and Medicaid Services for any waivers that  
31 would be necessary to implement this section.

32 (n) The department shall implement this section only to the  
33 extent that federal financial participation is obtained.

34 SEC. 94. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O