

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN SENATE MAY 6, 2010

SENATE BILL

No. 1203

**Introduced by Senator DeSaulnier
(Coauthor: Senator Hancock)**

February 18, 2010

~~An act to add Section 101.5 to the Elections Code, relating to voting.~~
An act to add Part 4 (commencing with Section 11975.10) to Division 10.5 of the Health and Safety Code, to amend Section 11165.7 of the Penal Code, and to amend Section 15630 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1203, as amended, DeSaulnier. ~~Elections.~~ *Alcohol and other drug counselor licensing and certification.*

Existing law provides for the registration, certification, and licensure of various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities.

This bill would establish similar registration, certification, and licensure provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs, and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2013, and would make conforming changes related to child, elder, and dependent adult abuse reporting provisions. The bill would make a violation of these provisions a misdemeanor, and would specify various unlawful acts related to its provisions. The bill would authorize the department to assess related

fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.

By establishing a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

Existing law requires that any state or local initiative petition contain a statement, as described, notifying the public that the petition may be circulated by either a paid or a volunteer signature gatherer, and that the public has the right to ask.

This bill would require an individual who receives compensation to circulate an initiative, referendum, or recall petition to wear a badge stating, in no smaller than 30-point font, that he or she is a “paid” signature gatherer and that identifies if and where he or she is registered to vote. The bill would require the individual circulating the initiative, referendum, or recall petition to wear the badge on his or her chest in clear view of all individuals signing or asked to sign the petition.

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

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

1 SECTION 1. Part 4 (commencing with Section 11975.10) is
 2 added to Division 10.5 of the Health and Safety Code, to read:
 3
 4 PART 4. ALCOHOL AND OTHER DRUG COUNSELOR
 5 LICENSING AND CERTIFICATION
 6
 7 CHAPTER 1. GENERAL PROVISIONS
 8
 9 11975.10. This part shall be known, and may be cited, as the
 10 Alcohol and Other Drug Counselor Licensing and Certification
 11 Act.

1 11975.15. For purposes of this part, the following terms have
2 the following meanings:

3 (a) “Registrant,” “Registered Alcohol and Other Drug
4 Counselor” or “RAODC” means an uncertified or unlicensed
5 person who is in the course of completing the requirements for
6 certification or licensure under this part and who having met all
7 the requirements pursuant to Section 11975.30, is registered by
8 the department to practice alcohol and other drug counseling.

9 (b) “Certified Alcohol and Other Drug Counselor” or
10 “CAODC” means a person certified by the department pursuant
11 to Section 11975.35 or 11975.36 to practice alcohol and other
12 drug counseling in a program licensed or certified by the
13 department under this division.

14 (c) “Intern” means an unlicensed alcohol and other drug
15 counselor who is in the course of completing the requirements for
16 licensure under this part, and who having met all the requirements
17 pursuant to Section 11975.39, is registered with a CPTO and
18 recognized as an intern by the department who is preparing for
19 licensure to practice alcohol and drug counseling.

20 (d) “Licensed Alcohol and Other Drug Counselor” or
21 “LAODC” means a person licensed by the department pursuant
22 to Section 11975.40 or 11975.42 to practice alcohol and other
23 drug counseling, who may provide clinical supervision to any other
24 person, recognized by the department as a registrant working
25 toward certification as a CAODC, or an intern seeking licensure
26 under this part, and who may maintain an independent alcohol
27 and other drug counseling practice outside of a program licensed
28 or certified by the department pursuant to this part.

29 (e) “Independent counseling practice” means an individual or
30 individuals who are licensed under this part to engage in the
31 practice of alcohol and other drug counseling, as defined in
32 Section 11975.75, in a setting outside of a licensed facility or
33 certified program.

34 (f) “Clinical supervision” means the ongoing process in which
35 the supervisor participates with one or more supervisors to ensure
36 high-quality service delivery across domains of counselor
37 development, professional and ethical standards, program
38 development, quality assurance, performance evaluation, and
39 administration as described in the Technical Assistance Publication
40 Series No. 21A, 2007 (TAP 21A).

1 (g) “Advertise” includes, but is not limited to, the issuance of
2 any card, sign, or device to any person, or the causing, permitting,
3 or allowing of any sign or marking on or in any building or
4 structure, or in any newspaper or magazine or in any directory,
5 or any printed matter, with or without any limiting qualification.
6 “Advertise” also includes business solicitations communicated by
7 radio or television broadcasting, the Internet, or any other
8 electronic medium.

9 (h) “Counselor Preparation and Testing Organization” or
10 “CPTO” means an organization that meets all the requirements
11 of Section 11975.25 for the purposes of preparing and testing
12 applicants for registration, certification, or licensure.

13 (i) “Institution of higher learning” means an entity accredited
14 by the Western Association of Schools and Colleges or an
15 equivalent regional accrediting agency approved by the United
16 States Department of Education, or compliant with the
17 requirements of the BPPVE (BPPVE) or its successor agency, the
18 BPPVE, pursuant to the California Private Postsecondary
19 Education Act of 2009 (Chapter 8 (commencing with Section
20 94800) of Part 59 of Division 10 of Title 3 of the Education Code).

21 (j) (1) “TAP 21” means the publication published by the United
22 States Department of Health and Human Services, Substance Abuse
23 and Mental Health Services Administration, Center for Substance
24 Abuse Treatment entitled, “Addiction Counseling Competencies,”
25 Technical Assistance Publication Series No. 21, 2006, and, to the
26 extent the department determines it to be consistent with this part,
27 as that publication may be updated.

28 (2) “TAP 21A” means the publication published by the United
29 States Department of Health and Human Services, Substance Abuse
30 and Mental Health Services Administration, Center for Substance
31 Abuse Treatment entitled, “Competencies for Substance Abuse
32 Treatment Clinical Supervisors,” Technical Publication Series
33 No. 21A, 2007, and, to the extent the department determines it to
34 be consistent with this part, as that publication may be updated.

35 (k) “NCCA” means the National Commission for Certifying
36 Agencies, which is an independent organization that establishes
37 accreditation standards, evaluates compliance with those
38 standards, and recognizes programs which demonstrate
39 compliance with those accreditation standards.

1 11975.17. (a) The department shall form a committee to seek
2 the advice and comments of public and private agencies and
3 individuals concerned with alcohol and other drug problems. The
4 committee shall be comprised of an equal number of licensed or
5 certified counselors and public members, respectively. The
6 committee shall advise the department on the following issues:

- 7 (1) The department's implementation of this part.
- 8 (2) Counselor education and testing issues.
- 9 (3) Unprofessional conduct issues.
- 10 (4) Disciplinary issues.
- 11 (5) Counselor performance.
- 12 (6) Reciprocity provisions with other states.
- 13 (7) Other pertinent issues related to counselor training,
14 certification, and licensing as the committee may decide.

15 (b) For purposes of this section, a "public member" means a
16 person who is neither registered, certified, or licensed under this
17 part, nor who has a fiduciary duty to, any employment with, or
18 contractual interest in, any facility or program providing alcohol
19 and other drug treatment, or any group or organization
20 representing, or financially or legally associated with, any aspect
21 of the alcohol and other drug treatment community.

22 (c) The members of the advisory committee shall be appointed
23 not later than January 1, 2013. The director shall take
24 recommendations from organizations, agencies, and the public
25 when making decisions about the membership of the committee.
26 Each CPTO, in good standing, may recommend a nonvoting
27 representative to participate on the advisory committee.

28 (d) The department shall provide support to the advisory
29 committee from fees collected pursuant to this part.

30 11975.18. The duties of the advisory committee established
31 pursuant to Section 11975.17 shall include, but not be limited to,
32 all of the following:

33 (a) Recommend to the director any changes to the definition of
34 unprofessional conduct specified in Section 11975.95 that are
35 consistent with generally accepted ethics codes.

36 (b) Periodically review and make recommendations regarding
37 the efficacy of the complaint process adopted by the department
38 pursuant to paragraph (4) of subdivision (b) of Section 11975.20.

39 (c) Review and provide recommendations on agreements and
40 regulations proposed by the director to implement this part.

1 (d) Review and provide recommendations to the department
2 regarding the department's reports of initial inspections of CPTOs
3 conducted pursuant to paragraph (6) of subdivision (b) of Section
4 11975.20, biennial inspections and unannounced inspections
5 conducted pursuant to paragraph (7) of subdivision (b) of Section
6 11975.20, and agencies seeking approval as a CPTO on a
7 provisional basis pursuant to Section 11975.25.

8 (e) Provide recommendations to the director on any other
9 matters pertaining to this part.

10
11 *CHAPTER 2. ADMINISTRATION*
12

13 11975.20. (a) The department shall administer and enforce
14 this part.

15 (b) In order to carry out the provisions of this part, the
16 department shall do, but shall not be limited to, all of the following:

17 (1) Adopt rules and regulations as necessary to administer and
18 enforce this part. The adoption, amendment, and repeal of those
19 rules and regulations shall be made in accordance with the
20 rulemaking provisions of the Administrative Procedure Act
21 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
22 Division 3 of Title 2 of the Government Code).

23 (2) Commencing January 1, 2013, issue licenses, certificates,
24 and registrations to recognize registrants and interns as meeting
25 the qualifications of this part and any regulations adopted pursuant
26 to this part.

27 (3) Take disciplinary action against all Alcohol and Other Drugs
28 (AOD) counselors, interns and registrants, as appropriate,
29 including reprimand or probation, required training or education,
30 suspension, or revocation of the license or certificate, or the status
31 as a registrant or an intern, issuance of administrative citations,
32 or imposition of administrative fines not to exceed five thousand
33 dollars (\$5,000), or any combination of these for failing to comply
34 with the terms of this part.

35 (4) Adopt regulations for the receipt, investigation, and
36 resolution of complaints made by or against registrants and
37 certified and licensed counselors.

38 (5) Maintain a database of registrants, interns, and certified
39 and licensed counselors, and including the individual's status, any
40 public record of discipline, and other information as the

1 department may adopt by regulation. The department shall also
2 maintain on its Internet Web site a current, simple listing of all
3 registrants and counselors against whom a finalized disciplinary
4 action has been taken, including the specific disciplinary action
5 ordered.

6 (6) On or before January 1, 2013, conduct an initial review of
7 each CPTO and make a determination as to whether each CPTO
8 has met the qualifications and requirements of this part. If a CPTO
9 is determined to have met these qualifications and requirements,
10 the department shall confirm its status as a CPTO for the purposes
11 of preparing and testing applicants. If the department determines
12 that a CPTO has not met one or more of the qualifications or
13 requirements, the department may take any of the appropriate
14 actions specified in subparagraphs (D) and (E) of paragraph (7).
15 The findings of these reviews shall be made available to the
16 advisory committee established pursuant to Section 11975.17, and
17 to the public within 60 days of conducting the review.

18 (7) (A) Commencing January 1, 2013, inspect each CPTO, and
19 each CPTO with provisional status, once every two years to ensure
20 compliance with applicable requirements and regulations,
21 including continuing compliance with the terms and standards by
22 which the CPTO was accredited by the NCCA. The findings of
23 these inspections shall be made available to the advisory committee
24 established pursuant to Section 11975.17, and to the public within
25 60 days of conducting the review.

26 (B) The department may inspect, at any time, with or without
27 providing prior notice, any CPTO to ensure compliance.

28 (C) A CPTO shall comply with all state regulations and with
29 the terms of its NCCA approval.

30 (D) The department shall take disciplinary action against
31 CPTOs, as appropriate, including reprimand or probation, issuing
32 an order to take corrective action, suspension, or revocation of
33 the CPTO's status, imposition of administrative fines not to exceed
34 ten thousand dollars (\$10,000), or any combination of these for
35 failing to comply with the terms of this part.

36 (E) If the department suspends or revokes the status of a CPTO,
37 the department shall determine the appropriate means for
38 licensees, certificants, and registrants, and interns who are
39 affiliated with that CPTO to transfer their credit earned toward

1 *meeting the education and work experience requirements of this*
2 *part, as appropriate, to another CPTO.*

3 *(F) (i) A CPTO has the right to appeal an adverse decision*
4 *made by the department pursuant to subparagraph (D).*

5 *(ii) Prior to filing an appeal pursuant to clause (i), the CPTO*
6 *shall request relief from the director. The director shall respond*
7 *to the request for relief within 30 days of receipt.*

8 *(iii) An appeal shall be determined in accordance with the*
9 *adjudication provisions of the Administrative Procedure Act*
10 *(Chapter 5 (commencing with Section 11500) of Part 1 of Division*
11 *3 of Title 2 of the Government Code).*

12 *(8) Create a process by which a CPTO is required to submit a*
13 *request for recognition as a registrant or an intern to the*
14 *department on behalf of an applicant, including a recommendation*
15 *and summary of the person's qualifications, at the time a person*
16 *applies to a CPTO for status as a registrant or an intern. The*
17 *department may establish a requirement that a CPTO provide an*
18 *applicant's portfolio that includes all the documentation*
19 *concerning the applicant's qualifications not more than five*
20 *business days after the documentation is requested by the*
21 *department.*

22 *(9) Create a process by which a CPTO is required to submit a*
23 *request for certification to the department on behalf of an applicant*
24 *who has been an RAODC and who meets all the requirements for*
25 *certification, including a recommendation and a summary of the*
26 *RAODC's qualifications, at the time the RAODC applies to the*
27 *CPTO for certification as a CAODC. The department may establish*
28 *a requirement that a CPTO provide an applicant's portfolio that*
29 *includes all the documentation concerning the applicant's*
30 *qualifications not more than five business days after the*
31 *documentation is requested by the department.*

32 *(10) Create a process by which a CPTO is required to submit*
33 *a request for licensure to the department on behalf of an applicant*
34 *who meets all the requirements for licensure, including a*
35 *recommendation and a summary of the person's qualifications, at*
36 *the time the applicant applies to the CPTO for licensure as an*
37 *LAODC. The department may establish a requirement that a CPTO*
38 *provide an applicant's portfolio with all the documentation*
39 *concerning the applicant's qualifications not more than five*

1 *business days after the documentation is requested by the*
2 *department.*

3 *11975.25. (a) CPTO shall do all of the following:*

4 *(1) Maintain a business office in the state and notify the*
5 *department and the NCCA of that address and any changes to that*
6 *address.*

7 *(2) Be accredited with the NCCA as of January 1, 2011,*
8 *continuously maintain accreditation, including accreditation*
9 *renewals as required by the NCCA, and abide by all terms of its*
10 *NCCA accreditation, including all final documentation presented*
11 *to the NCCA regarding the CPTO's organizational requirements*
12 *and counselor education and testing provisions.*

13 *(3) Maintain an electronic database of all persons affiliated*
14 *with the CPTO through registration, internship, certification, and*
15 *licensure that includes enough information to allow the CPTO to*
16 *provide the department the information required pursuant to*
17 *paragraphs (8), (9), and (10) of subdivision (c) of Section*
18 *11975.20.*

19 *(4) Comply with the requirements of this part.*

20 *(b) The department shall consider approving as a CPTO any*
21 *other organization not accredited with NCCA as of January 1,*
22 *2011, if the department determines that the organization has gained*
23 *accreditation after that date, and the agency pays an initial review*
24 *fee established pursuant to this part. Approval as a CPTO pursuant*
25 *to this subdivision shall be on a provisional basis for a period of*
26 *three years during which time the department shall inspect the*
27 *CPTO at least once under the terms of subparagraph (A) of*
28 *paragraph (7) of subdivision (c) of Section 11975.20.*

29
30 *CHAPTER 3. REGISTRATION*

31
32 *11975.30. (a) Commencing January 1, 2013, the department*
33 *shall, within 30 business days after receiving a request for*
34 *registration for the person from a CPTO, issue a Registered*
35 *Alcohol and Other Drug Counselor (RAODC) registration to*
36 *recognize as a registrant each person who has met all of the*
37 *following requirements:*

38 *(1) Completed and submitted an application for registration.*

39 *(2) Completed an introductory alcohol and other drug abuse*
40 *class approved by the CPTO before providing any of the services*

1 *defined within the scope of practice specified in Section 11975.75,*
2 *that includes, but is not limited to, instruction as follows:*

3 (A) *At least eight hours of education in the subject of law and*
4 *ethics as it relates to an alcohol and other drug (AOD) counselor's*
5 *ability to practice alcohol and other drug abuse counseling safely.*
6 *This education may include, but need not be limited to, education*
7 *in the legal and regulatory aspects of alcohol and other drug abuse*
8 *treatment, including the scope of practice specified in Section*
9 *11975.75, regulatory restrictions, confidentiality, issues*
10 *surrounding clients' rights, including those pursuant to the federal*
11 *Health Insurance Portability and Accountability Act (HIPAA),*
12 *what constitutes unprofessional conduct under this part, and the*
13 *standards of competency for the practice of alcohol and other drug*
14 *abuse counseling.*

15 (B) *At least eight hours of education in an orientation class in*
16 *the field of addiction treatment that includes screening and referral.*

17 (3) *Signed a statement indicating that he or she has read and*
18 *understands unprofessional conduct as that term is used in Section*
19 *11975.95.*

20 (4) *Submitted to a state and federal level criminal offender*
21 *record information search and passed both background checks as*
22 *specified in Section 11976.35.*

23 (5) *Paid the required fees as specified in Section 11977.15.*

24 (b) (1) *A registrant may provide services, including all of the*
25 *services specified in Section 11975.75, in a licensed facility or*
26 *certified program.*

27 (2) *An individual who is a member of a CPTO, has completed*
28 *the requirements in paragraphs (1) to (3), inclusive, of subdivision*
29 *(a), and has submitted a request for registration to the department,*
30 *but has not yet been recognized, may provide services, including*
31 *all of the services specified in Section 11975.75, in a licensed*
32 *facility or certified program for 30 days pending recognition by*
33 *the department.*

34 (c) *A CPTO shall notify the department regarding each*
35 *applicant's completion of the requirements specified in subdivision*
36 *(a).*

37 (d) *Only a person who has received recognition as a registrant*
38 *or an intern from the department may begin obtaining hours of*
39 *work experience required for certification or licensure.*

1 (e) A registrant shall renew his or her registration at least once
2 every year.

3 11975.31. (a) All registrants shall obtain a minimum of 30
4 hours of education per year working toward certification as an
5 alcohol and other drug (AOD) counselor from an institution of
6 higher learning in a program that provides courses of study that
7 may be applied toward the 315 hours of education, as specified in
8 Section 11975.36, in not more than five years in order for
9 registrants to meet the education requirements for CAODCs. Hours
10 of education that are offered as continuing education units shall
11 not apply to the 30 hours of education per year required by this
12 subdivision.

13 (b) The department shall revoke the registration of a registrant
14 who has been registered for more than five years, but has not
15 received certification, unless the department determines that
16 unusual or extenuating hardships existed for the individual to
17 prevent him or her from completing the requirements within the
18 five-year period. If the department makes this determination
19 regarding an individual, then the CPTO may grant the individual
20 an extension of up to three additional years to complete all
21 certification requirements. Every revocation or extension action
22 taken by the department under this subdivision shall be entered
23 into its database. The CPTO shall enter and display the information
24 in its database within five business days of receiving notification
25 from the department.

26
27 *CHAPTER 4. CERTIFICATION*
28

29 11975.35. Commencing January 1, 2013, and until the
30 disposition of all complete applications actually received by the
31 department prior to January 1, 2016, the department shall issue
32 a Certified Alcohol and Other Drug Counselor (CAODC)
33 certificate, within 90 business days after receipt of an application
34 for a CAODC, to a person who the department determines was
35 certified as an alcohol and other drug (AOD) counselor
36 immediately preceding January 1, 2013, in accordance with
37 regulations of the department in effect on December 31, 2010, and
38 who has met all of the following requirements:

39 (a) Completed and submitted an application for a CAODC
40 certificate to a CPTO.

1 (b) Submitted to a state and federal level criminal offender
2 record information search and passed both background checks as
3 specified in Section 11976.35.

4 (c) Paid the required fees as specified in Section 11977.15.

5 (d) Signed a statement indicating that he or she has read and
6 understands unprofessional conduct as that term is used in Section
7 11975.95.

8 11975.36. Commencing January 1, 2013, the department shall
9 issue a Certified Alcohol and Other Drug Counselor (CAODC)
10 certificate to a person if all of the following requirements are met:

11 (a) The department receives documentation pursuant to
12 paragraph (9) of subdivision (c) of Section 11975.20 from a CPTO
13 that the person has met either of the following requirements:

14 (1) Completed the education requirements as specified in Section
15 11975.45, passed the test administered by a CPTO, and completed
16 all other requirements, including hours of work experience
17 required pursuant to this section and verified by the CPTO.

18 (A) The education requirements shall include a minimum of 350
19 classroom hours and 160 hours of a supervised practicum.

20 (B) The examination administered by a CPTO shall be
21 psychometrically validated to the appropriate level of education
22 and shall examine the person's knowledge of the material as
23 specified in Section 11975.45.

24 (2) Possesses an earned associate of arts or associate of science
25 in alcohol and drug counseling, or other equivalent degree
26 recognized by the department from an institution of higher
27 learning, and has completed 160 hours of a supervised practicum
28 and passed a test administered by a CPTO as specified in Section
29 11975.50.

30 (b) The person completed 2,080 hours of work experience, as
31 specified in Section 11975.60, that are within the scope of practice
32 of a counselor specified in Section 11975.75. The work experience
33 must be gained within six years of the application for certification.

34 (c) The person submitted to a state and federal level criminal
35 offender record information search and passed both background
36 checks as specified in Section 11976.35.

37 (d) The person paid the required fees specified in Section
38 11977.15.

1 (e) The person completed the application for a certificate as a
2 CAODC and satisfied any other requirements of this part for
3 certification as a CAODC.

4 (f) The person signed a statement indicating that he or she has
5 read and understands what constitutes unprofessional conduct as
6 that term is used in Section 11975.95.

7 11975.37. (g) The CPTO shall be responsible for notifying
8 the department, in a manner the department may specify, of
9 pertinent information regarding each applicant's completion of
10 the requirements specified in subdivisions (a) and (b) of Section
11 11975.36. The individual applying to the department for
12 certification shall be responsible for meeting the requirements of
13 subdivisions (c), (d), (e), and (f) of Section 11975.36 and for
14 payment of fees. Upon receiving all of the required information
15 and payment of fees, the department may, with cause, contact the
16 CPTO to elicit additional information regarding any particular
17 application for certification.

18 11975.38. The department shall issue the CAODC certificate
19 unless a finding is made that a particular application for
20 certification should be delayed or denied pursuant to the due
21 process provisions of this part.

22
23 *CHAPTER 5. INTERNSHIPS*
24

25 11975.39. (a) Commencing January 1, 2013, a CPTO shall
26 inform the department of each intern registered with the CPTO
27 within 30 days of the individual becoming registered with the
28 CPTO. Each person registering as an intern shall meet all of the
29 following requirements:

30 (1) Completed and submitted an application for internship. An
31 individual who seeks licensure as an LAODC shall be accepted
32 as an intern prior to either of the following:

33 (A) Providing alcohol and other drug counseling, unless the
34 individual maintains a valid certification pursuant to this part.

35 (B) Gaining the required hours of clinically supervised
36 experience required pursuant to this part.

37 (2) Has begun taking the coursework required to meet the
38 educational requirements specified in Section 11975.42.

1 (3) Submitted to a state and federal level criminal offender
2 record information search and passed both background checks as
3 specified in Section 11976.35.

4 (4) Paid the required fees as specified in Section 11977.15.

5 (5) Signed a statement indicating that he or she has read and
6 understands unprofessional conduct as that term is used in Section
7 11975.95.

8 (b) An intern shall renew his or her registration at least once
9 every year.

10 11975.40. Commencing January 1, 2013, and until the
11 disposition of all completed applications actually received by the
12 department prior to January 1, 2016, the department shall issue
13 a Licensed Alcohol and Other Drug Counselor (LAODC) license
14 to a person who the department determines was certified as an
15 alcohol and other drug (AOD) counselor immediately preceding
16 January 1, 2013, in accordance with regulations of the department
17 in effect on that date, and who has met either of the following
18 requirements prior to January 1, 2013:

19 (a) Possesses an earned master of arts, master of science, or
20 doctoral degree in alcohol and drug counseling, psychology, social
21 work, marriage, family and child counseling, marital and family
22 therapy, or other clinically focused discipline, or an equivalent
23 degree from an institution of higher learning, and has completed
24 all of the following:

25 (1) Six hours of education in clinical supervision techniques.

26 (2) Sixteen hours of education on operating an independent
27 counseling practice, including both of the following:

28 (A) Six hours of education in the subject of law and ethics as it
29 relates to a licensee's ability to practice alcohol and other drug
30 abuse counseling safely. This education may include, but shall not
31 be limited to, education in the legal and regulatory aspects of
32 chemical dependency treatment, regulatory restrictions,
33 confidentiality, issues surrounding clients' rights, and standards
34 of competency for the practice of alcohol and other drug abuse
35 counseling.

36 (B) Ten hours of education in the screening for co-occurring
37 disorders, and referral processes, which will be in accordance
38 with the guidelines and recommendations from the Co-Occurring
39 Center for Excellence (COCE) in the federal Substance Abuse and
40 Mental Health Services Administration (SAMHSA) and other

1 *related materials, and the evaluation of clients using placement*
2 *criteria, such as the ASAM Patient Placement Criteria or other*
3 *validated clinical tools, to determine the most appropriate level*
4 *of care for the client and client's eligibility for admission to a*
5 *particular alcohol and other drug abuse treatment program.*

6 *(3) All of the hours of education required by this section may*
7 *be gained as part of the education leading to a person's earned*
8 *master of arts, master of science, or doctoral degree.*

9 *(4) Submitted to a state and federal level criminal offender*
10 *record information search and passed both background checks as*
11 *specified in Section 11976.35.*

12 *(5) Paid the required fees as specified in Section 11977.15.*

13 *(6) Completed the application for a license to be licensed as a*
14 *LAODC.*

15 *(7) Signed a statement indicating that he or she has read and*
16 *understands what constitutes unprofessional conduct as that term*
17 *is used in Section 11975.95.*

18 *(b) (1) Passed a test prior to January 1, 2012, that is recognized*
19 *by a CPTO, and is sufficient to verify the skill and knowledge*
20 *determined by an applicable job task analysis.*

21 *(2) Completed a course of education as described in Section*
22 *11975.45 that includes at least 315 hours of classroom instruction*
23 *in alcohol and other drug abuse counseling, including, but not*
24 *limited to, a 45-hour classroom practicum course offered by a*
25 *provider approved by the CPTO.*

26 *(3) Completed 10,000 hours of work experience that is within*
27 *the scope of practice of a counselor specified in Section 11975.75*
28 *as a certified counselor and as verified by a CPTO prior to the*
29 *date the application for licensure was filed, and is currently*
30 *certified as a counselor by a CPTO.*

31 *(4) Completed at least 255 hours of fieldwork in a clinically*
32 *supervised practicum approved by a CPTO.*

33 *(5) Completed at least six hours of education in supervision*
34 *techniques.*

35 *(6) Completed at least six hours of education in the subject of*
36 *law and ethics as it relates to a licensee's ability to practice alcohol*
37 *and other drug abuse counseling safely. This education may*
38 *include, but shall not be limited to, education in the legal and*
39 *regulatory aspects of chemical dependency treatment, regulatory*
40 *restrictions, confidentiality, issues surrounding clients' rights, and*

1 standards of competency for the practice of alcohol and other drug
2 abuse counseling.

3 (7) Completed at least 10 hours of education in the recognition
4 of co-occurring disorders, referral processes, and the evaluation
5 of clients using placement criteria, such as the ASAM Patient
6 Placement Criteria to determine the most appropriate level of care
7 for a client and a client's eligibility for admission to a particular
8 alcohol and other drug abuse treatment program.

9 (8) Sixteen hours of education on operating an independent
10 counseling practice.

11 (9) Submitted to a state and federal level criminal offender
12 record information search and passed both background checks as
13 specified in Section 11976.35.

14 (10) Paid the required fees as specified in Section 11977.15.

15 (11) Completed the application to be licensed as a LAODC.

16 (12) Signed a statement indicating that he or she has read and
17 understands what constitutes unprofessional conduct as that term
18 is used in Section 11975.95.

19 (13) Is in possession of an existing certification valid pursuant
20 to Section 11975.90.

21 11975.42. Commencing January 1, 2013, the department shall
22 issue a Licensed Alcohol and Other Drug Counselor (LAODC)
23 license, to a person if all of the following requirements are met:

24 (a) Possesses an earned master of arts, master of science, or
25 doctoral degree in alcohol and drug counseling, psychology, social
26 work, marriage, family and child counseling, marital and family
27 therapy, or other related clinically focused major, or an equivalent
28 degree recognized by the department from an institution of higher
29 learning.

30 (b) Completed all of the following:

31 (1) Forty hours of education in clinical supervision techniques.

32 (2) A minimum of 90 hours of education on operating an
33 independent AOD counseling practice, including the following:

34 (A) Thirty hours of education in the subject of law and ethics
35 as it relates to a licensee's ability to practice alcohol and other
36 drug abuse counseling safely. This education may include, but
37 shall not be limited to, education in the legal and regulatory
38 aspects of chemical dependency treatment including the scope of
39 practice restrictions specified in Section 11975.75, confidentiality,
40 child abuse assessment and reporting, issues surrounding clients'

1 *rights, and the standards of competency for the practice of alcohol*
2 *and other drug abuse counseling.*

3 *(B) Sixty hours of education in psychopathology, including*
4 *screening for co-occurring disorders, and referral processes.*

5 *(C) Training in the use of client placement criteria, including,*
6 *but not limited to, the ASAM Patient Placement Criteria or other*
7 *validated clinical tools, to determine the most appropriate level*
8 *of care for the client and client's eligibility for admission to a*
9 *particular alcohol and other drug abuse treatment program.*

10 *(c) Passed a test administered by a CPTO as specified in Section*
11 *11975.50.*

12 *(d) Completed a supervised practicum required by the institution*
13 *of higher learning that awarded the applicant his or her degree.*

14 *(e) Completed 3,120 hours of work experience as specified in*
15 *Section 11975.60 which hours shall be inclusive of the hours spent*
16 *in the practicum specified in subdivision (d) and the 2,080 work*
17 *experience hours specified in Section 11975.60.*

18 *(f) Submitted to a state and federal level criminal offender*
19 *record information search and passed both background checks as*
20 *specified in Section 11976.35.*

21 *(g) Paid the required fees as specified in Section 11977.15.*

22 *(h) Completed and submitted an application for this license and*
23 *satisfied all other requirements of this part for licensure as an*
24 *LAODC.*

25 *(i) Signed a statement indicating that he or she has read and*
26 *understands what constitutes unprofessional conduct as that term*
27 *is used in Section 11975.95.*

28 *(j) All of the hours of education required by paragraphs (1) and*
29 *(2) of subdivision (b) may be gained as part of the education*
30 *leading to a person's earned master of arts, master of science, or*
31 *doctoral degree.*

32 *11975.45. The curriculum for educational qualifications*
33 *required for certification, licensure, or recognition as a registrant*
34 *or an intern pursuant to this part shall, at a minimum, meet the*
35 *requirements as determined by the TAP 21 for all counselors, and*
36 *by the TAP 21A for AOD counselors at the LAODC level.*

37 *11975.50. A test developed or recognized by a CPTO shall*
38 *meet, at a minimum, all of the following criteria:*

39 *(a) Sufficient to examine and verify the appropriate level of*
40 *skills and knowledge as described in the TAP 21 or TAP 21A and*

1 *the job task analysis created specifically for the level of*
2 *certification and licensure intended.*

3 *(b) Psychometrically validated to cover the curriculum, skills*
4 *and knowledge required by this part including the competencies*
5 *determined by the TAP 21 for all AOD counselors and the TAP*
6 *21A for CAODCs and LAODCs.*

7 *(c) Administered at a frequency and under conditions providing*
8 *reasonable access and security.*

9 *(d) Maintained in accordance with industry standards,*
10 *including, but not limited to, revalidating every five years,*
11 *performing a cut score validated annually to maintain validity,*
12 *and maintaining an annual question bank maintenance.*

13 *(e) Protected, to the best of the CPTO's ability, the integrity of*
14 *the testing instruments utilized and shall maintain a plan of action*
15 *to respond to a compromised test. A CPTO shall report any test*
16 *that becomes compromised at any time to the department with the*
17 *documented incident and plan of action within five business days*
18 *of discovering a compromising incident.*

19 *11975.55. No later than five years after implementation of this*
20 *chapter, the department shall recognize a single test for LAODCs*
21 *after consultation with the advisory committee and public and*
22 *private agencies and individuals with expertise in alcohol and*
23 *other drug abuse counseling.*

24 *11975.60. The work experience required by this part shall meet*
25 *all of the following criteria:*

26 *(a) No hours of experience may be gained more than six years*
27 *prior to the date the application for recognition as a registrant or*
28 *an intern, or for certification or licensure, as applicable, was filed,*
29 *except as specifically provided in this part, unless a CPTO makes*
30 *a determination approved by the department regarding an*
31 *individual for whom a hardship exists, in which case the CPTO*
32 *may allow up to two additional years to gain the work experience.*

33 *(b) Clinical supervision of registrants and interns conducted*
34 *pursuant to this section shall include at least one hour of direct*
35 *supervisor contact during each 40-hour work period, and must be*
36 *conducted while the registrants or interns are performing services*
37 *that are within the scope of practice of a counselor specified in*
38 *Section 11975.75.*

39 *(c) Work experience shall not be gained prior to becoming a*
40 *registrant.*

1 (d) For purposes of this section “one hour of direct supervisor
2 contact” means either of the following:

3 (1) One hour of face-to-face contact on an individual basis
4 during counseling periods or during provision of other services
5 specified in Section 11975.75.

6 (2) Two hours of face-to-face contact during counseling periods
7 or during the provision of other services specified in Section
8 11975.75, with a group that includes not more than five registrants
9 in one session.

10 (e) Work experience may be completed in any setting that meets
11 both of the following:

12 (1) Lawfully and regularly provides alcohol and other drug
13 counseling.

14 (2) Provides administrative supervision to ensure that the
15 registrant’s or intern’s work setting meets the requirements of this
16 part and is within the scope of practice for the profession as
17 specified in Section 11975.75.

18 (f) Clinical supervision hours required of registrants to become
19 eligible for certification shall be supervised by a licensed or
20 certified counselor who has 6,000 hours of work experience that
21 is within the scope of practice of a counselor specified in Section
22 11975.75 and who is approved by a CPTO for supervising
23 registrants in a setting that lawfully provides addiction counseling
24 services or by any of the following licensed professions:

25 (1) A physician and surgeon licensed by the Medical Board of
26 California.

27 (2) A psychologist licensed by the Board of Psychology.

28 (3) A clinical social worker or marriage and family therapist
29 licensed by the Board of Behavioral Sciences

30 (4) Another licensed mental health professional specified by
31 the department by regulation.

32 (g) Hours of work experience that can be credited toward the
33 requirements for licensure pursuant to Section 11975.42 shall
34 meet all of the following requirements:

35 (1) Two thousand eighty hours of work experience credited
36 toward licensure may only be acquired in a setting in which a
37 certified or licensed counselor, or an individual listed in
38 paragraphs (1) to (4), inclusive, of subdivision (f) is physically
39 present.

1 (2) (A) Before beginning the remaining 1,040 hours of work
2 experience required for licensure, a person shall register as an
3 intern with a CPTO and the department. The remaining 1,040
4 experience hours for licensure specified in Section 11975.42 shall
5 be gained under the supervision of an LAODC, or any of the
6 following licensed professionals:

7 (i) A physician and surgeon licensed by the Medical Board of
8 California.

9 (ii) A psychologist licensed by the Board of Psychology.

10 (iii) A clinical social worker or marriage and family therapist
11 licensed by the Board of Behavioral Sciences.

12 (iv) Another licensed mental health professional specified by
13 the department by regulation.

14 (B) A CAODC performing services in a private practice setting
15 shall be supervised by a person who is either an LAODC, a
16 marriage and family therapist, a licensed clinical social worker,
17 a licensed psychologist, a licensed physician and surgeon certified
18 in psychiatry by the American Board of Psychiatry and Neurology,
19 or a physician and surgeon who has completed a residency, but
20 is not yet board certified, in psychiatry. All supervisors of interns
21 seeking hours of work experience for licensure shall have at least
22 6,000 hours of direct treatment experience in substance abuse and
23 addiction.

24 (C) A person supervising an intern shall have a written
25 agreement with the supervisee describing the planned hours of
26 practice, supervision schedule, nature of work assignments, and
27 other specifications that the supervisor reasonably deems
28 appropriate to the supervisee's level of training.

29 (D) A person supervising an intern shall evaluate a supervisee
30 at least annually, emphasizing his or her strengths and
31 shortcomings, as well as areas in which the supervisee should
32 pursue additional knowledge or skill development. These
33 evaluations shall be signed by both the supervisor and the
34 supervisee and copies shall be retained by both for seven years.
35 The department may request copies of these evaluations.

36 (E) Clinical supervision conducted pursuant to this subdivision
37 shall include at least 50 hours of face-to-face supervision per year.
38 As necessary, clinical supervisors shall make themselves available
39 to each supervisee for face-to-face consultations or consultations
40 via telephone or other electronic means.

1 (F) A clinical supervisor of interns shall be limited to
2 supervising no more than five supervisees in one session.

3 (h) (1) Supervisors who are certified counselors but who do
4 not hold an LAODC license or who are not listed among persons
5 listed in paragraphs (1) to (4), inclusive, of subdivision (f) shall
6 complete the following:

7 (A) Forty hours of education in the subject matter covered by
8 the TAP 21A as specified in Section 11975.45.

9 (B) CPTOs shall require alcohol and other drug supervisors to
10 have at least three years experience in a setting that lawfully and
11 regularly provides alcohol and other drug (AOD) counseling.

12 (i) Total work experience hours shall be gained in each of the
13 service areas that are within the scope of practice of a counselor
14 specified in Section 11975.75, approximately in ratios normally
15 engaged in by those currently working in the field.

16 (j) Work experience may be gained solely as part of the position
17 or positions in which the individual volunteers or is employed as
18 an AOD counselor carrying out the duties of an AOD counselor.

19 (k) All persons shall be registered with or be certified by the
20 department in order to be credited for the work experience
21 necessary for certification or licensure.

22 11975.65. Nothing in this part shall be construed to constrict,
23 limit, or withdraw the Medical Practice Act (Chapter 5
24 (commencing with Section 2000)), the Nursing Practice Act
25 (Chapter 6 (commencing with Section 2700)), the Psychology
26 Licensing Act (Chapter 6.6 (commencing with Section 2900)), the
27 Marriage and Family Therapist Act (Chapter 13 (commencing
28 with Section 4980)), or the Clinical Social Worker Practice Act
29 (Chapter 14 (commencing with Section 4991)) as these are set
30 forth in Division 2 of the Business and Professions Code, or
31 Substance Abuse Professionals as defined by the United States
32 Department of Transportation.

33 11975.70. This part shall not apply to any of the following,
34 provided that this exception shall not preclude the department
35 from considering any conduct in any setting in its determination
36 of fitness for registration, certification, or licensure or in any
37 disciplinary matter.

38 (a) A person who engages in the practice of alcohol and drug
39 counseling exclusively as an employee or volunteer of an agency
40 of the:

1 (1) *Armed Forces.*

2 (2) *United States government.*

3 (3) *State of California.*

4 (b) *A person who is an unpaid member of a peer or self-help*
5 *group who performs peer group or self-help activities if the person*
6 *does not use a title stating or implying that he or she is a licensed*
7 *alcohol and other drug (AOD) counselor or any other designation*
8 *listed in Section 11975.85.*

9 (c) *A cleric or other religious leader who provides spiritual*
10 *advice and guidance to members of his or her congregation or*
11 *order, or to other persons, if it is free of charge.*

12 (d) *A director, officer, or staff member of a program described*
13 *in Section 8001 of the Penal Code.*

14 (e) *A person who is providing alcohol and other drug abuse*
15 *counseling services and is listed in paragraphs (1) to (4), inclusive,*
16 *of Subdivision (f) of Section 11975.60 or who is a Substance Abuse*
17 *Professional as defined by the United States Department of*
18 *Transportation.*

19 11975.75. (a) *An individual licensed, registered, or certified*
20 *under this part may engage in the practice of alcohol and other*
21 *drug abuse counseling within the scope at his or her license,*
22 *registration, or certification. Alcohol and other drug abuse*
23 *counseling is the application of counseling approaches and*
24 *methods derived from alcohol and drug theory and research, for*
25 *the purpose of treating alcohol and other drug abuse problems,*
26 *the practice of which conforms to the practitioner's level of*
27 *training, education, and experience. A person who is employed by*
28 *or volunteers in a treatment program, but who is not certified or*
29 *licensed, or recognized as a registrant or intern, may respond to*
30 *general inquiries from the public or potential clients regarding*
31 *the general organization and operation of the program, the types*
32 *of services offered, site locations, clients rights, including their*
33 *right to confidentiality, and other questions that may be asked via*
34 *telephone, personal communication, or web-based contact with*
35 *the program so long as that person does not engage in the activities*
36 *specified in subdivision (c), except that he or she may provide*
37 *information that could fall under the practice delineated in*
38 *paragraph (3) of subdivision (c) if the information is of a general*
39 *nature of the type that normally appears in a brochure or Internet*

1 *Web site published by the program, and does not address any*
2 *person’s individual treatment.*

3 *(b) A counselor or registrant may perform the acts listed in this*
4 *section only for the purpose of treating alcohol and other drug*
5 *problems.*

6 *(c) For purposes of this part, “alcohol and other drug abuse*
7 *counseling” means performing any of the following services for*
8 *the purpose of treating alcohol and other drug abuse:*

9 *(1) Screening, which means the process by which a client is*
10 *determined to be eligible for admission to a particular alcohol*
11 *and other drug abuse treatment program.*

12 *(2) Initial intake, which means the administrative and initial*
13 *assessment procedures for admission to an alcohol and other drug*
14 *abuse treatment program. “Assessment” shall not include*
15 *psychological testing intended to measure or diagnose mental*
16 *illness.*

17 *(3) Orientation, which means the act of describing to the client*
18 *the general nature and goals of the alcohol and other drug abuse*
19 *treatment program, including rules governing client conduct and*
20 *infractions that can lead to disciplinary action or discharge from*
21 *the program.*

22 *(4) Alcohol and other drug abuse counseling, including*
23 *individual, group, and significant others. The utilization of special*
24 *skills to assist individuals, families, or groups in achieving*
25 *objectives through exploration of a problem and its ramifications,*
26 *examination of attitudes and feelings, considerations of alternative*
27 *solutions, and decision making as each relates to substance abuse.*
28 *Counseling shall be limited to assisting a client in learning more*
29 *about himself or herself for the purposes of understanding how to*
30 *effectuate clearly perceived, realistically defined goals related to*
31 *abstinence. Counseling is limited to assisting the client to learn*
32 *or acquire new skills that will enable the client to cope and adjust*
33 *to life situations without the use of substances.*

34 *(5) Case management, which means the activities that bring*
35 *services, agencies, resources, or individuals together within a*
36 *planned framework of action toward achievement of established*
37 *goals. Case management may involve liaison activities and*
38 *collateral contacts.*

39 *(6) Crisis intervention, which means the provision of services*
40 *that respond to an alcohol or drug abuser’s needs during acute*

1 *emotional or physical distress, including, but not limited to,*
2 *referrals for assessment of the client's need for additional*
3 *psychological or medical treatment for client behaviors that signal*
4 *risk or prolonged distress.*

5 *(7) Assessment, which means the use of procedures by which a*
6 *counselor or program identifies and evaluates an individual's*
7 *strengths, weaknesses, problems, and needs for the development*
8 *of the alcohol and other drug abuse treatment plan.*

9 *(8) Treatment planning, which means the process by which the*
10 *counselor and the client identify and rank problems needing*
11 *resolution, establish agreed-upon immediate and long-term goals,*
12 *and decide on a treatment process and the resources to be utilized.*

13 *(9) Client education, which means the provision of information*
14 *to individuals and groups concerning alcohol and other drugs of*
15 *abuse and the services and resources available.*

16 *(10) Referral, which means the process of identifying the needs*
17 *of the client that cannot be met by the counselor or agency, as well*
18 *as assisting the client in utilizing the support systems and*
19 *community resources available.*

20 *(11) Reports and recordkeeping, which means the documentation*
21 *of the client's progress in achieving the client's goals.*

22 *(12) Consultation with other professionals with regard to client*
23 *treatment or services and communicating with other professionals*
24 *to ensure comprehensive, quality care for the client.*

25 *(d) A licensee, certified counselor, or registrant may perform*
26 *the acts listed in this section only for the purpose of treating*
27 *alcohol and other drug abuse and only within a program that is*
28 *certified or a facility that is licensed by the department, or within*
29 *an independent counseling practice if performed in accordance*
30 *with applicable provisions of this part.*

31 *(e) Nothing in this part shall be interpreted to prohibit the*
32 *department from requiring the hiring or contractual retention of*
33 *one or more LAODCs as a condition of licensing a facility or*
34 *certifying a program. Nothing in this part shall be interpreted to*
35 *authorize a state or local governmental agency to require a*
36 *licensed facility or certified program to hire or contractually retain*
37 *one or more LAODCs as a condition of allocating funds to or*
38 *making contracts with licensed facilities or certified programs.*

39 *11975.77. A licensee who operates an independent counseling*
40 *practice shall, within 14 days of assessment, refer any client*

1 *assessed as needing additional services not within the scope of*
2 *practice as specified in Section 11975.75 to another licensed*
3 *professional, as appropriate.*

4 *11975.80. (a) The department shall issue a license or*
5 *certification to each applicant meeting the requirements of this*
6 *part. This license or certification shall permit the holder to engage*
7 *in alcohol and other drug counseling as specified in Section*
8 *11975.75, entitle the holder to use the title of licensed counselor*
9 *or CAODC, as applicable, and authorize the holder to hold himself*
10 *or herself out as qualified to perform the functions delineated by*
11 *this part, subject to any limitations relating to the level of the*
12 *license or certification or other conditions that may be imposed*
13 *by this part. The form of the license or certification shall be*
14 *determined by the department.*

15 *(b) The department shall recognize as a registrant or an intern*
16 *each individual applicant meeting the requirements of this part.*
17 *This recognition shall permit the holder to engage in alcohol and*
18 *other drug counseling as specified in Section 11975.75, entitle the*
19 *individual to use the title of RAODC, or AOD counselor intern as*
20 *applicable, and authorize the holder to hold himself or herself out*
21 *as qualified to perform the functions delineated by this part. The*
22 *form of the registration or internship shall be determined by the*
23 *department.*

24 *11975.85. (a) A person who has received a certificate or*
25 *license under this part may use the title “Certified Alcohol and*
26 *Other Drug Counselor” or “CAODC,” or “Licensed Alcohol and*
27 *Other Drug Counselor” or “LAODC,” in accordance with the*
28 *type of certificate or license possessed. Every person who styles*
29 *himself or herself or who holds himself or herself out to be a*
30 *Certified Alcohol and Other Drug Counselor, or Licensed Alcohol*
31 *and Other Drug Counselor without holding a license or*
32 *certification, in good standing under this part, is guilty of a*
33 *misdemeanor.*

34 *(b) A person who has been recognized by the department as a*
35 *registrant under this part may use the title “Registered Alcohol*
36 *and Other Drug Counselor” or “RAODC.” Every person who*
37 *styles himself or herself or who holds himself or herself out to be*
38 *a RAODC without recognition from the department in good*
39 *standing under this part is guilty of a misdemeanor.*

1 (c) A person who has been recognized by the department as an
2 intern under this part may use the title “Alcohol and Other Drug
3 Counselor Intern” or “Intern.” Every person who styles himself
4 or herself or who holds himself or herself out to be an Alcohol and
5 Other Drug Counselor Intern without recognition from the
6 department in good standing under this part is guilty of a
7 misdemeanor.

8 11975.90. (a) It is unlawful for a person to engage in the
9 practice of alcohol and other drug counseling unless at the time
10 of so doing the person holds a valid, unexpired, and unrevoked
11 certificate or license under this part, or has been recognized by
12 the department as a registrant or an intern pursuant to this part,
13 excluding this practice by a person who is exempt pursuant to
14 Section 11975.70.

15 (b) It is unlawful to engage in the unsupervised practice of
16 alcohol and other drug abuse counseling by a person who is
17 registered or certified under this part except in a facility exempt
18 from licensure or certification by this division, or is licensed by
19 the State Department of Health Care Services or the State
20 Department of Public Health, or is a facility licensed or a program
21 certified by the department or that is an independent counseling
22 practice. This subdivision does not apply to a person who holds a
23 valid, unexpired, and unrevoked license issued by the department
24 under this part or who is working in an independent practice as
25 defined by this part.

26 (c) Between January 1, 2013, and January 1, 2016, it is not
27 unlawful for a person to engage in the practice of alcohol and
28 other drug counseling if the person holds a valid, unexpired, and
29 unrevoked certification or registration in accordance with the
30 regulations of the department in effect immediately preceding
31 December 31, 2010.

32 (d) Nothing in this part shall be construed to mean that
33 counselors and staff working in a facility licensed or certified by
34 the State Department of Alcohol and Drug Programs are required
35 to obtain a license.

36 (e) This section shall become operative on January 1, 2013.

37 11975.95. The department may deny, revoke, suspend, or
38 impose conditions upon a license, certification, or registered status
39 of a registrant or an intern, for unprofessional conduct.

1 *Unprofessional conduct, includes, but is not limited to, any of the*
2 *following:*

3 *(a) The conviction of a crime that permits denial of a license,*
4 *certification, or recognition as a registrant or an intern, pursuant*
5 *to Section 11976.35 or which the department finds is substantially*
6 *related to the qualifications, functions, or duties of a licensee,*
7 *certificant, intern, or registrant under this part.*

8 *(b) Securing a license, certification, or recognition from the*
9 *department as a registrant or an intern, by fraud, deceit, or*
10 *misrepresentation on any application submitted to the department,*
11 *whether engaged in by an applicant for a license, certification, or*
12 *registration, or in support of any application by another.*

13 *(c) Unlawfully administering to himself or herself any controlled*
14 *substance as defined in Section 4021 of the Business and*
15 *Professions Code, or using any of the dangerous drugs or devices*
16 *specified in Section 4022 of the Business and Professions Code or*
17 *using any alcoholic beverage to the extent, or in a manner, as to*
18 *be dangerous or injurious to the person applying for a license,*
19 *certification, or recognition as a registrant or intern, or holding*
20 *a license, certification, or recognition as a registrant or intern*
21 *under this part, or to any other person, or to the public, or, to the*
22 *extent that the use impairs the ability of the person applying for*
23 *or holding a license, certification, or recognition as a registrant*
24 *or intern, to conduct with safety to the public the counseling*
25 *authorized by this part. The department may deny an application*
26 *for a license, certification, or any recognition as a registrant or*
27 *intern, or may revoke the license, certification, or recognition as*
28 *a registrant or intern, of any person who unlawfully uses or offers*
29 *to use a controlled substance as defined in Section 4021 of the*
30 *Business and Professions Code, a dangerous drug or device*
31 *specified in Section 4022 of the Business and Professions Code,*
32 *or alcohol in the course of performing alcohol and other drug*
33 *counseling. This provision does not apply to any person also*
34 *licensed as a physician and surgeon under Chapter 5 (commencing*
35 *with Section 2000) of the Business and Professions Code or the*
36 *Osteopathic Act who lawfully prescribes drugs to a patient under*
37 *his or her care.*

38 *(d) Gross negligence or incompetence in the performance of*
39 *alcohol and other drug counseling.*

- 1 (e) Violating, attempting to violate, or conspiring to violate this
2 part or any regulation adopted by the department.
- 3 (f) Misrepresentation as to the type or status of a license,
4 certification, or any recognition as a registrant or intern, held by
5 the person, or otherwise misrepresenting or permitting
6 misrepresentation of his or her education, professional
7 qualifications, or professional affiliations to any person or entity.
- 8 (g) Impersonation of another by any alcohol and other drug
9 (AOD) counselor or applicant for a license, certification, or
10 recognition as a registrant or intern, or, in the case of a an AOD
11 counselor, allowing any other person to use his or her license, or
12 certification, or registration, recognition as a registrant or intern.
- 13 (h) Aiding or abetting any unlicensed, or uncertified person, or
14 any person not recognized as a registrant or intern, to engage in
15 conduct for which a license, certification, or recognition as a
16 registrant or intern, is required under this part.
- 17 (i) Intentionally or recklessly causing physical or emotional
18 harm to any client or verbally, physically, or sexually harassing,
19 threatening, or abusing any participant, patient, resident, their
20 family members, or other persons who are significant to them.
- 21 (j) The commission of any dishonest, corrupt, or fraudulent act
22 substantially related to the qualifications, functions, or duties of
23 an AOD counselor or registrant.
- 24 (k) Soliciting or engaging in sexual relations with a client or
25 with a former client within two years from the termination date of
26 therapy with the client, soliciting sexual relations with a client, or
27 committing an act of sexual abuse, or sexual misconduct with a
28 client, or committing an act punishable as a sexually related crime,
29 if that act or solicitation is substantially related to the
30 qualifications, functions, or duties of an alcohol and other drug
31 counselor treatment.
- 32 (l) (1) Engaging in a social or business relationship with a
33 current client, program participant, patient, or resident, a current
34 client's family member, or other persons significant to the client
35 while they are in treatment.
- 36 (2) Exploiting a former client, program participant, patient, or
37 resident or other person significant to a client.
- 38 (m) Performing, or holding oneself out as being able to perform,
39 or offering to perform, or permitting any registrant or intern under

1 *supervision, to perform any professional services beyond the scope*
2 *of a registration or internship authorized by this part.*

3 *(n) Failure to maintain confidentiality, except as otherwise*
4 *required or permitted by law, including, but not limited to, Part 2*
5 *(commencing with Section 2.1) of Subchapter A of Chapter 1 of*
6 *Title 42 of the Code of Federal Regulations.*

7 *(o) Prior to the commencement of treatment, failing to disclose*
8 *to the client or prospective client the fee to be charged for the*
9 *professional services, or the basis upon which that fee will be*
10 *computed.*

11 *(p) Paying, accepting, or soliciting any consideration,*
12 *compensation, or remuneration, whether monetary or otherwise,*
13 *for the referral of professional clients. All consideration,*
14 *compensation, or remuneration shall be in relation to professional*
15 *counseling services actually provided by the LAODC, CAODC,*
16 *registrant or intern. Nothing in this subdivision shall prevent*
17 *collaboration among two or more AOD counselors or other*
18 *professionals in a case or cases. However, no fee shall be charged*
19 *for that collaboration, except when disclosure of the fee has been*
20 *made in compliance with subdivision (o).*

21 *(q) Advertising or using a name or professional status in a*
22 *manner that is false, misleading, or deceptive.*

23 *(r) Conduct in the clinical supervision of any individual AOD*
24 *counselor that violates this part or rules or regulations adopted*
25 *by the department.*

26 *(s) Failure to keep records consistent with sound professional*
27 *judgment, the standards of the profession, and the nature of the*
28 *services being rendered.*

29 *(t) Failure to comply with the child abuse reporting*
30 *requirements of Section 11166 of the Penal Code.*

31 *(u) Failure to comply with the elder and dependent adult abuse*
32 *reporting requirements of Section 15630 of the Welfare and*
33 *Institutions Code.*

34 *(v) Willful denial of access to client records as otherwise*
35 *provided by law.*

36 *(w) A registrant, intern, or certified counselor shall not receive*
37 *any remuneration from patients or clients, and shall be paid only*
38 *by his or her employer.*

39 *11976.10. The department shall revoke a license or*
40 *certification, or withdraw a recognition of a registrant or intern,*

1 issued under this part upon a decision made in accordance with
2 the procedures set forth in the adjudication provisions of the
3 Administrative Procedure Act (Chapter 5 (commencing with
4 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
5 Code) that contains any finding of fact that the AOD counselor
6 engaged in any act of sexual contact, as defined in Section 729 of
7 the Business and Professions Code, when that act is with a client,
8 or with a former client when the relationship was terminated
9 primarily for the purpose of engaging in that act. The revocation
10 shall not be stayed by the administrative law judge or the
11 department.

12 11976.15. The department may deny an application, or may
13 suspend or revoke a license, certification, or recognition of a
14 registrant or an intern, issued under this part, for denial of
15 licensure, revocation, suspension, restriction, or other disciplinary
16 action imposed by another state or territory of the United States,
17 or by any other governmental agency, on a license, certificate, or
18 recognition of a registrant or an intern to practice alcohol and
19 other drug counseling or other healing art. A certified copy of the
20 disciplinary action decision or judgment shall be conclusive
21 evidence of that action.

22 11976.20. The director may temporarily suspend a license,
23 certification, or the status of a registrant or an intern, prior to a
24 hearing when, in the opinion of the director, the action is necessary
25 to protect a client from physical or mental abuse, abandonment,
26 or other substantial threat to health or safety. The director shall
27 give notice of the temporary suspension and the effective date of
28 the temporary suspension and, at the same time, shall serve an
29 accusation. Upon receipt of a notice of defense to the accusation,
30 the director shall, within 15 days, set the matter for hearing, and
31 the hearing shall be held as soon as possible. The temporary
32 suspension shall remain in effect until the time the hearing is
33 completed and the director has made a final determination on the
34 need for the temporary suspension to remain in place pending
35 resolution of the accusation. However, the temporary suspension
36 shall be deemed vacated if the director fails to make a final
37 determination on the merits within 30 days after the hearing, if
38 the director hears the matter personally or within 30 days after
39 the department receives the proposed decision from the Office of

1 *Administrative Hearings, or if the matter is heard by a hearing*
2 *officer.*

3 *11976.25. (a) A person who has applied for or received a*
4 *license, certification, or recognition as a registrant or an intern,*
5 *from the department under this part has the right to appeal an*
6 *adverse decision of the department with regard to his or her*
7 *application, license, certificate, or recognition of a registrant or*
8 *an intern.*

9 *(b) An appeal shall be determined in accordance with the*
10 *adjudication provisions of the Administrative Procedure Act*
11 *(Chapter 5 (commencing with Section 11500) of Part 1 of Division*
12 *3 of Title 2 of the Government Code).*

13 *11976.30. An applicant who fails a test administered by the*
14 *CPTO may within one year from the notification date of failure*
15 *retake that test in accordance with procedures established by the*
16 *CPTO.*

17 *11976.35. (a) An applicant for a license, certification, or*
18 *recognition as a registrant or an intern under this part shall*
19 *consent to a state and federal level criminal offender record*
20 *information search as part of a criminal history background check.*
21 *Refusal to consent to the criminal history background check, as*
22 *delineated in this section, shall result in denial of the license,*
23 *certification, or recognition as a registrant or an intern.*

24 *(b) The following procedure shall be followed for criminal*
25 *offender record information searches:*

26 *(1) The department shall submit to the Department of Justice*
27 *fingerprint images and related information required by the*
28 *Department of Justice for all alcohol and other drug counselor*
29 *licensure, certification, registration or intern applicants to obtain*
30 *information on the existence and content of a record of state or*
31 *federal convictions, state or federal arrests, and the existence and*
32 *content of a record of state or federal arrests for which the*
33 *Department of Justice establishes that the person is free on bail*
34 *or on his or her own recognizance pending trial or appeal.*

35 *(2) When received, the Department of Justice shall forward the*
36 *relevant information to the Federal Bureau of Investigation*
37 *requests for federal summary criminal history information received*
38 *pursuant to this section. The Department of Justice shall review*
39 *the information returned from the Federal Bureau of Investigation*
40 *and compile and disseminate a response to the department.*

1 (3) *The Department of Justice shall provide a response to the*
2 *department pursuant to paragraph (1) of subdivision (p) of Section*
3 *11105 of the Penal Code.*

4 (4) *The department shall request from the Department of Justice*
5 *subsequent arrest notification service, as provided pursuant to*
6 *Section 11105.2 of the Penal Code, for all persons described in*
7 *paragraph (1).*

8 (5) *The Department of Justice shall charge fees sufficient to*
9 *cover the cost of processing the request described in this section.*
10 *The applicant shall be responsible for payment of these fees.*

11 (6) *The applicant shall pay the fee for fingerprint image rolling*
12 *and electronic submission charged by the live scan device operator.*

13 (c) *Before issuing a certification or license or recognizing an*
14 *individual as a registrant or an intern, the department shall ensure*
15 *that the state and federal level criminal history of the applicant is*
16 *reviewed.*

17 (d) *The department shall deny any person's license, certification,*
18 *or the person's status as a registrant or an intern if, at the time of*
19 *the department's determination, the person meets one or more of*
20 *the following criteria:*

21 (1) *Subject to subdivisions (b) and (e), he or she has been*
22 *convicted of three or more serious felonies listed in subdivision*
23 *(c) of Section 1192.7 of the Penal Code. Each conviction must*
24 *have arisen from a different incident and all of the incidents*
25 *resulting in conviction must have occurred within a single five-year*
26 *period. The most recent conviction must have occurred more than*
27 *five years prior to the date of the department's determination.*

28 (2) *The person is required to register as a sex offender pursuant*
29 *to Section 290 of the Penal Code or was convicted of violating*
30 *equivalent provisions of any jurisdiction outside of California.*

31 (3) *Subject to subdivisions (b) and (e), the person has been*
32 *convicted of a violent felony, as defined in subdivision (c) of Section*
33 *667.5 of the Penal Code, within nine years prior to of the date of*
34 *the department's determination.*

35 (e) (1) *After the expiration of three years from the date of*
36 *conviction, if a person described in paragraph (1) or (3) of*
37 *subdivision (d) is on parole, he or she may be certified, licensed,*
38 *or recognized by the department as a registrant or an intern, if*
39 *the department receives the written approval of his or her parole*
40 *officer or the Board of Parole Hearings, as the Board of Parole*

1 *Hearings may provide. The Board of Parole Hearings may*
2 *withdraw approval with written notice to the alcohol and other*
3 *drug (AOD) counselor and to the department. The AOD*
4 *counselor's certification or licensure or status as a registrant or*
5 *an intern shall be revoked by the department upon receipt of the*
6 *notice of withdrawal of approval and the counselor shall have no*
7 *further recourse against the department. The Board of Parole*
8 *Hearings shall set the procedure for review of the withdrawal of*
9 *approval. If approval is reinstated, the department shall reinstate*
10 *the AOD counselor if he or she is otherwise eligible for*
11 *reinstatement under this part and complies with all applicable*
12 *requirements.*

13 *(2) Paragraph (1) shall also apply to a person convicted of a*
14 *crime that the department, by regulation, determines is*
15 *substantially related to the practice of alcohol and drug counseling.*

16 *(f) The department shall prohibit an independent practice,*
17 *licensed facility, or certified program that serves minor children,*
18 *or a facility that allows minor children of clients to reside in the*
19 *facility, from employing, allowing in a licensed facility, or allowing*
20 *contact with clients of a licensed facility by, an employee,*
21 *prospective employee, or person who is not a client who meets any*
22 *of the following criteria:*

23 *(1) The person has engaged in conduct that the department*
24 *determines is inimical to the health, morals, welfare, or safety of*
25 *an individual receiving services from the LAODC, the facility, or*
26 *to the people of the State of California.*

27 *(2) The person has been denied an exemption to work or to be*
28 *present in a facility, when that person has been convicted of a*
29 *crime to which Section 1522 applies.*

30 *(3) The person has engaged in other conduct that would*
31 *constitute a basis for disciplining an LAODC.*

32 *(4) The person is permitted to receive a license under provisions*
33 *of subdivision (e).*

34 *(g) The department shall, subject to subdivisions (b) and (c),*
35 *revoke the certificate or license, or the recognition as a registrant*
36 *or intern of any person convicted of any offense provided for in*
37 *subdivision (d).*

38 *(h) This section shall become operative on January 1, 2013.*

39 *11976.50. (a) Licenses or certifications issued under this part*
40 *shall expire two years after the issue date.*

1 **(b)** *To renew an unexpired license or certification, the counselor*
2 *shall, on or before the expiration date of the license or certification,*
3 *complete all of the following actions:*

4 **(1)** *Apply for a renewal on a form prescribed by the department.*

5 **(2)** *Pay a renewal fee, to be determined by the department.*

6 **(3)** *Complete at least 30 hours per year of continuing education,*
7 *including at least three hours each year relating to ethics and the*
8 *code of conduct. A minimum of 20 of these hours shall be provided*
9 *by an approved provider with a CEU provider number. Up to 10*
10 *of these hours may include in-service education, presentation of*
11 *related training, or self-improvement development that focuses on*
12 *personal and professional growth.*

13 **(4)** *Notify the department of either of the following:*

14 **(A)** *If he or she has been convicted of a misdemeanor or felony*
15 *that permits denial of a license, certification, or registration,*
16 *pursuant to Section 11976.35, or which the department finds is*
17 *substantially related to the practice of alcohol and other drug*
18 *counseling.*

19 **(B)** *If any disciplinary action has been taken by a regulatory or*
20 *licensing board, in this or any other state, subsequent to the*
21 *licensee's last renewal.*

22 **(c)** *To renew an expired license or certification within three*
23 *years of its expiration, the counselor shall, as a condition precedent*
24 *to renewal, do all of the following:*

25 **(1)** *Apply for renewal on a form prescribed by the department.*

26 **(2)** *Pay the renewal fees that would have been paid if the license*
27 *had not been delinquent.*

28 **(3)** *Pay all delinquency fees.*

29 **(4)** *Complete the applicable continuing education requirements.*

30 **(5)** *Notify the department in writing whether he or she has been*
31 *convicted of a misdemeanor or felony described in subdivision (a)*
32 *of Section 11975.95, or if he or she has been subject to disciplinary*
33 *action since the last renewal.*

34 **(d)** *The department shall adopt regulations to allow for the*
35 *reinstatement of a license or certification that is not renewed within*
36 *three years after its expiration.*

37 **11976.55.** *A counselor shall display his or her license or*
38 *certification or the approval from the department as a registrant*
39 *or an intern, in a conspicuous place in the counselor's primary*
40 *place of business. The current renewal receipt shall be displayed*

1 near the license or certification or the approval from the
2 department as a registrant or an intern.

3 11976.60. An LAODC who conducts a private practice under
4 a fictitious business name shall not use a name that is false,
5 misleading, or deceptive, and shall inform the client, prior to the
6 commencement of treatment, of the name and license designation
7 of the owner or owners of the practice.

8 11976.70. An LAODC, CAODC, or the recognition of a
9 registrant or an intern shall be required to renew a license or
10 certification, or recognition as a registrant or an intern that has
11 been suspended. Renewal does not, while the license, certificate,
12 or recognition as a registrant or an intern remains suspended,
13 change the terms of the suspension and the counselor shall wait
14 until the license, certificate, or recognition as a registrant or an
15 intern is reinstated pursuant to this part before resuming the
16 activities for which the license, certificate, or recognition as a
17 registrant or an intern are required or conduct in violation of the
18 order or judgment by which it was suspended.

19 11976.80. (a) An alcohol and other drug (AOD) counselor
20 may apply to the department to request that his or her license,
21 certification, or his or her recognition as a registrant or intern be
22 placed on inactive status. A person who holds an inactive license
23 or certification or who holds an inactive recognition by the
24 department as a registrant or an intern shall pay a fee of one-half
25 of the active renewal fee and shall be exempt from continuing
26 education requirements specified in paragraph (3) of subdivision
27 (b) of Section 11976.50, and all education, and hours of work
28 experience required for annual registration, but shall otherwise
29 be subject to this part and shall not engage in the practice of
30 alcohol and other drug counseling in this state.

31 (b) A counselor on inactive status who has not committed any
32 acts or crimes constituting grounds for denial may, upon request,
33 have his or her license, certification, or recognition as a registrant
34 or an intern, to practice AOD counseling placed on active status.
35 A person requesting his or her license, certification, or recognition
36 as a registrant or intern to be placed on active status at any time
37 during a renewal cycle shall pay a pro rata portion of the renewal
38 fees.

39 (c) A person requesting to move from inactive to active status
40 whose license or certification will expire less than one year from

1 *the date of the request shall be required to complete the hours of*
2 *continuing education for licensure or certificate renewal in*
3 *proportion to those required for the entire active period for license*
4 *or certification. A person requesting to move from inactive to active*
5 *status whose license or certification will expire more than one*
6 *year from the date of the request shall be required to complete all*
7 *of the required hours of continuing education for license or*
8 *certificate renewal.*

9 11976.85. *A person licensed, certified, or recognized as a*
10 *registrant or an intern under this part shall comply with both of*
11 *the following:*

12 (a) *Provide written notice to the CPTO and department within*
13 *30 days of any change of his or her residential or work address.*

14 (b) *Provide written notice to the department within 30 days of*
15 *a name change giving both the old and the new names along with*
16 *a copy of the legal document authorizing the name change,*
17 *including, but not limited to, a court order or marriage license.*

18 11976.90. (a) *Except as otherwise provided in this part, an*
19 *accusation filed pursuant to Section 11503 of the Government*
20 *Code against a person licensed, certified, or recognized as a*
21 *registrant or an intern pursuant to this part shall be filed within*
22 *three years from the date the department discovers the alleged act*
23 *or omission that is the basis for disciplinary action or within seven*
24 *years from the date the alleged act or omission that is the basis*
25 *for disciplinary action occurred, whichever occurs first.*

26 (b) *An accusation filed against a person licensed, certified, or*
27 *recognized as a registrant or an intern pursuant to this part*
28 *alleging the procurement of a license, certification, or recognition*
29 *as a registrant or an intern by fraud or misrepresentation is not*
30 *subject to the limitations set forth in subdivision (a).*

31 (c) *An accusation alleging sexual misconduct shall be filed*
32 *within three years after the department discovers the act or*
33 *omission alleged as the grounds for disciplinary action or within*
34 *10 years after the act or omission alleged as the grounds for*
35 *disciplinary action occurred, whichever occurs first.*

36 (d) *If an alleged act or omission involves a minor, the seven-year*
37 *limitation period provided for by subdivision (a) and the 10-year*
38 *limitation period provided for by subdivision (c) shall be tolled*
39 *until the minor reaches the age of majority.*

1 (e) The limitation period provided by subdivision (a) shall be
2 tolled during any period if material evidence necessary for
3 prosecuting or determining whether a disciplinary action would
4 be appropriate is unavailable to the department due to an ongoing
5 criminal investigation.

6 (f) For purposes of this section, “discovers” means the latest
7 of the occurrence of any of the following with respect to each act
8 or omission alleged as the basis for disciplinary action:

9 (1) The date the department received a complaint or report
10 describing the act or omission.

11 (2) The date, subsequent to the original complaint or report,
12 on which the department became aware of additional acts or
13 omissions alleged as the basis for disciplinary action relating to
14 the original complaint or report against the individual.

15 (3) The date the department receives from the complainant a
16 written release of information pertaining to the complainant’s
17 diagnosis and treatment.

18 11976.95. (a) Nothing in this part shall apply to an alcohol
19 and other drug (AOD) counselor who is in this state for either of
20 the following reasons:

21 (1) The person is an invited guest of a professional association
22 or an educational institution, is in the state for the sole purpose
23 of engaging in professional education through lectures, clinics,
24 or demonstrations, and is, at the time of the consultation, lecture,
25 or demonstration, licensed to practice alcohol and other drug
26 counseling in the state or country in which he or she resides.

27 (b) AOD counselors in the state pursuant to subdivision (a)
28 shall not open an office or appoint a place to meet clients or
29 receive calls from clients within this state.

30 11976.97. (a) Education and work experience gained outside
31 of California may be accepted toward the licensure or certification
32 requirements if it is substantially the equivalent of the requirements
33 of this part.

34 (b) The department shall issue a license or certification to a
35 person who, at the time of application, meets all of the following
36 requirements:

37 (1) Has held a valid active alcohol and other drug (AOD)
38 counseling license or certification issued by a board of alcohol
39 and other drug counseling examiners or corresponding authority

1 of another state as long as the applicant has had substantially the
2 equivalent education and experience as it required by this part.

3 (2) Passes a current applicable test.

4 (3) Pays the required fees.

5 (4) Passes the required background check.

6 (5) Is not subject to denial of licensure or certification under
7 this part

8

9

CHAPTER 6. FISCAL PROVISIONS

10

11 11977.10. The Alcohol and Other Drug Counselors License
12 Fund is hereby established in the State Treasury. All fees and fines
13 collected by the department in accordance with this part, and,
14 notwithstanding Section 16305.7 of the Government Code, any
15 interest and dividends earned on money in the fund, shall be
16 deposited in this fund. The money in the fund shall be available to
17 the department, upon appropriation by the Legislature, for the
18 purpose of supporting the counselor licensing activities of the
19 department.

20 11977.15. (a) The department shall, by regulation, assess fees
21 relating to the licensure, certification, or recognition as a
22 registrant or intern of alcohol and other drug (AOD) counselors
23 that do not exceed the amounts necessary to cover all the
24 department's expenses to administer of this part.

25 The fee for the state level criminal offender record information
26 search shall be set by the Department of Justice and the fee for
27 the federal level criminal offender record information search shall
28 be set by the Federal Bureau of Investigation.

29 (b) The department shall assess each CPTO quarterly a fee for
30 the requests for registration and certification presented during
31 the previous quarter. A CPTO shall provide payment for registrants
32 and certified counselors within 90 days of receipt of an assessment
33 fee.

34 (c) The department may establish fees based on other categories
35 or classifications that the department deems necessary or
36 convenient to maintain an effective and equitable fee structure,
37 but that do not exceed the costs of administering this part.

38 (d) The department shall review its fee annually.

1 (e) This section shall not establish or limit the fees charged by
2 a CPTO for education, examinations, or application preparation
3 or submission.

4 SEC. 2. Section 11165.7 of the Penal Code is amended to read:

5 11165.7. (a) As used in this article, “mandated reporter” is
6 defined as any of the following:

7 (1) A teacher.

8 (2) An instructional aide.

9 (3) A teacher’s aide or teacher’s assistant employed by any
10 public or private school.

11 (4) A classified employee of any public school.

12 (5) An administrative officer or supervisor of child welfare and
13 attendance, or a certificated pupil personnel employee of any public
14 or private school.

15 (6) An administrator of a public or private day camp.

16 (7) An administrator or employee of a public or private youth
17 center, youth recreation program, or youth organization.

18 (8) An administrator or employee of a public or private
19 organization whose duties require direct contact and supervision
20 of children.

21 (9) Any employee of a county office of education or the State
22 Department of Education, whose duties bring the employee into
23 contact with children on a regular basis.

24 (10) A licensee, an administrator, or an employee of a licensed
25 community care or child day care facility.

26 (11) A Head Start program teacher.

27 (12) A licensing worker or licensing evaluator employed by a
28 licensing agency as defined in Section 11165.11.

29 (13) A public assistance worker.

30 (14) An employee of a child care institution, including, but not
31 limited to, foster parents, group home personnel, and personnel of
32 residential care facilities.

33 (15) A social worker, probation officer, or parole officer.

34 (16) An employee of a school district police or security
35 department.

36 (17) Any person who is an administrator or presenter of, or a
37 counselor in, a child abuse prevention program in any public or
38 private school.

39 (18) A district attorney investigator, inspector, or local child
40 support agency caseworker unless the investigator, inspector, or

1 caseworker is working with an attorney appointed pursuant to
2 Section 317 of the Welfare and Institutions Code to represent a
3 minor.

4 (19) A peace officer, as defined in Chapter 4.5 (commencing
5 with Section 830) of Title 3 of Part 2, who is not otherwise
6 described in this section.

7 (20) A firefighter, except for volunteer firefighters.

8 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
9 resident, intern, podiatrist, chiropractor, licensed nurse, dental
10 hygienist, optometrist, marriage, ~~and family and child counselor,~~
11 *therapist*, clinical social worker, or any other person who is
12 currently licensed under Division 2 (commencing with Section
13 500) of the Business and Professions Code.

14 (22) Any emergency medical technician I or II, paramedic, or
15 other person certified pursuant to Division 2.5 (commencing with
16 Section 1797) of the Health and Safety Code.

17 (23) A psychological assistant registered pursuant to Section
18 2913 of the Business and Professions Code.

19 (24) A marriage, family, and child therapist trainee, as defined
20 in subdivision (c) of Section 4980.03 of the Business and
21 Professions Code.

22 (25) An unlicensed marriage, family, and child therapist intern
23 registered under Section 4980.44 of the Business and Professions
24 Code.

25 (26) A state or county public health employee who treats a minor
26 for venereal disease or any other condition.

27 (27) A coroner.

28 (28) A medical examiner, or any other person who performs
29 autopsies.

30 (29) A commercial film and photographic print processor, as
31 specified in subdivision (e) of Section 11166. As used in this
32 article, “commercial film and photographic print processor” means
33 any person who develops exposed photographic film into negatives,
34 slides, or prints, or who makes prints from negatives or slides, for
35 compensation. The term includes any employee of such a person;
36 it does not include a person who develops film or makes prints for
37 a public agency.

38 (30) A child visitation monitor. As used in this article, “child
39 visitation monitor” means any person who, for financial
40 compensation, acts as monitor of a visit between a child and any

1 other person when the monitoring of that visit has been ordered
2 by a court of law.

3 (31) An animal control officer or humane society officer. For
4 the purposes of this article, the following terms have the following
5 meanings:

6 (A) “Animal control officer” means any person employed by a
7 city, county, or city and county for the purpose of enforcing animal
8 control laws or regulations.

9 (B) “Humane society officer” means any person appointed or
10 employed by a public or private entity as a humane officer who is
11 qualified pursuant to Section 14502 or 14503 of the Corporations
12 Code.

13 (32) A clergy member, as specified in subdivision (d) of Section
14 11166. As used in this article, “clergy member” means a priest,
15 minister, rabbi, religious practitioner, or similar functionary of a
16 church, temple, or recognized denomination or organization.

17 (33) Any custodian of records of a clergy member, as specified
18 in this section and subdivision (d) of Section 11166.

19 (34) Any employee of any police department, county sheriff’s
20 department, county probation department, or county welfare
21 department.

22 (35) An employee or volunteer of a Court Appointed Special
23 Advocate program, as defined in Rule 1424 of the California Rules
24 of Court.

25 (36) A custodial officer as defined in Section 831.5.

26 (37) Any person providing services to a minor child under
27 Section 12300 or 12300.1 of the Welfare and Institutions Code.

28 (38) An alcohol and *other* drug counselor. As used in this article,
29 an “alcohol and drug counselor” is a person providing counseling,
30 therapy, counselor or other clinical services for a state licensed
31 licensed, certified, or certified drug, alcohol, or drug recognized
32 by the department as a registrant or an intern under Part 4
33 (commencing with Section 11975.10) of Division 1.5 of the Health
34 and alcohol treatment program Safety Code. However, alcohol or
35 *other* drug abuse, or both alcohol and *other* drug abuse, is not in
36 and of itself a sufficient basis for reporting child abuse or neglect.

37 (b) Except as provided in paragraph (35) of subdivision (a),
38 volunteers of public or private organizations whose duties require
39 direct contact with and supervision of children are not mandated
40 reporters but are encouraged to obtain training in the identification

1 and reporting of child abuse and neglect and are further encouraged
2 to report known or suspected instances of child abuse or neglect
3 to an agency specified in Section 11165.9.

4 (c) Employers are strongly encouraged to provide their
5 employees who are mandated reporters with training in the duties
6 imposed by this article. This training shall include training in child
7 abuse and neglect identification and training in child abuse and
8 neglect reporting. Whether or not employers provide their
9 employees with training in child abuse and neglect identification
10 and reporting, the employers shall provide their employees who
11 are mandated reporters with the statement required pursuant to
12 subdivision (a) of Section 11166.5.

13 (d) School districts that do not train their employees specified
14 in subdivision (a) in the duties of mandated reporters under the
15 child abuse reporting laws shall report to the State Department of
16 Education the reasons why this training is not provided.

17 (e) Unless otherwise specifically provided, the absence of
18 training shall not excuse a mandated reporter from the duties
19 imposed by this article.

20 (f) Public and private organizations are encouraged to provide
21 their volunteers whose duties require direct contact with and
22 supervision of children with training in the identification and
23 reporting of child abuse and neglect.

24 *SEC. 3. Section 15630 of the Welfare and Institutions Code is*
25 *amended to read:*

26 15630. (a) Any person who has assumed full or intermittent
27 responsibility for the care or custody of an elder or dependent
28 adult, whether or not he or she receives compensation, including
29 administrators, supervisors, and any licensed staff of a public or
30 private facility that provides care or services for elder or dependent
31 adults, or any elder or dependent adult care custodian, health
32 practitioner, clergy member, or employee of a county adult
33 protective services agency or a local law enforcement agency, is
34 a mandated reporter. *An alcohol and other drug counselor licensed,*
35 *certified, or recognized by the department as a registrant or an*
36 *intern pursuant to Part 4 (commencing with Section 11975.10) of*
37 *Division 10.5 of the Health and Safety Code is also a mandated*
38 *reporter.*

39 (b) (1) Any mandated reporter who, in his or her professional
40 capacity, or within the scope of his or her employment, has

1 observed or has knowledge of an incident that reasonably appears
2 to be physical abuse, as defined in Section 15610.63 of the Welfare
3 and Institutions Code, abandonment, abduction, isolation, financial
4 abuse, or neglect, or is told by an elder or dependent adult that he
5 or she has experienced behavior, including an act or omission,
6 constituting physical abuse, as defined in Section 15610.63 of the
7 Welfare and Institutions Code, abandonment, abduction, isolation,
8 financial abuse, or neglect, or reasonably suspects that abuse, shall
9 report the known or suspected instance of abuse by telephone
10 immediately or as soon as practicably possible, and by written
11 report sent within two working days, as follows:

12 (A) If the abuse has occurred in a long-term care facility, except
13 a state mental health hospital or a state developmental center, the
14 report shall be made to the local ombudsperson or the local law
15 enforcement agency.

16 The local ombudsperson and the local law enforcement agency
17 shall, as soon as practicable, except in the case of an emergency
18 or pursuant to a report required to be made pursuant to clause (v),
19 in which case these actions shall be taken immediately, do all of
20 the following:

21 (i) Report to the State Department of Public Health any case of
22 known or suspected abuse occurring in a long-term health care
23 facility, as defined in subdivision (a) of Section 1418 of the Health
24 and Safety Code.

25 (ii) Report to the State Department of Social Services any case
26 of known or suspected abuse occurring in a residential care facility
27 for the elderly, as defined in Section 1569.2 of the Health and
28 Safety Code, or in an adult day care facility, as defined in paragraph
29 (2) of subdivision (a) of Section 1502.

30 (iii) Report to the State Department of Public Health and the
31 California Department of Aging any case of known or suspected
32 abuse occurring in an adult day health care center, as defined in
33 subdivision (b) of Section 1570.7 of the Health and Safety Code.

34 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse
35 any case of known or suspected criminal activity.

36 (v) Report all cases of known or suspected physical abuse and
37 financial abuse to the local district attorney's office in the county
38 where the abuse occurred.

39 (B) If the suspected or alleged abuse occurred in a state mental
40 hospital or a state developmental center, the report shall be made

1 to designated investigators of the State Department of Mental
2 Health or the State Department of Developmental Services, or to
3 the local law enforcement agency.

4 Except in an emergency, the local law enforcement agency shall,
5 as soon as practicable, report any case of known or suspected
6 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

7 (C) If the abuse has occurred any place other than one described
8 in subparagraph (A), the report shall be made to the adult protective
9 services agency or the local law enforcement agency.

10 (2) (A) A mandated reporter who is a clergy member who
11 acquires knowledge or reasonable suspicion of elder or dependent
12 adult abuse during a penitential communication is not subject to
13 paragraph (1). For purposes of this subdivision, “penitential
14 communication” means a communication that is intended to be in
15 confidence, including, but not limited to, a sacramental confession
16 made to a clergy member who, in the course of the discipline or
17 practice of his or her church, denomination, or organization is
18 authorized or accustomed to hear those communications and under
19 the discipline tenets, customs, or practices of his or her church,
20 denomination, or organization, has a duty to keep those
21 communications secret.

22 (B) Nothing in this subdivision shall be construed to modify or
23 limit a clergy member’s duty to report known or suspected elder
24 and dependent adult abuse when he or she is acting in the capacity
25 of a care custodian, health practitioner, or employee of an adult
26 protective services agency.

27 (C) Notwithstanding any other provision in this section, a clergy
28 member who is not regularly employed on either a full-time or
29 part-time basis in a long-term care facility or does not have care
30 or custody of an elder or dependent adult shall not be responsible
31 for reporting abuse or neglect that is not reasonably observable or
32 discernible to a reasonably prudent person having no specialized
33 training or experience in elder or dependent care.

34 (3) (A) A mandated reporter who is a physician and surgeon,
35 a registered nurse, or a psychotherapist, as defined in Section 1010
36 of the Evidence Code, shall not be required to report, pursuant to
37 paragraph (1), an incident where all of the following conditions
38 exist:

39 (i) The mandated reporter has been told by an elder or dependent
40 adult that he or she has experienced behavior constituting physical

1 abuse, as defined in Section 15610.63 ~~of the Welfare and~~
2 ~~Institutions Code~~, abandonment, abduction, isolation, financial
3 abuse, or neglect.

4 (ii) The mandated reporter is not aware of any independent
5 evidence that corroborates the statement that the abuse has
6 occurred.

7 (iii) The elder or dependent adult has been diagnosed with a
8 mental illness or dementia, or is the subject of a court-ordered
9 conservatorship because of a mental illness or dementia.

10 (iv) In the exercise of clinical judgment, the physician and
11 surgeon, the registered nurse, or the psychotherapist, as defined
12 in Section 1010 of the Evidence Code, reasonably believes that
13 the abuse did not occur.

14 (B) This paragraph shall not be construed to impose upon
15 mandated reporters a duty to investigate a known or suspected
16 incident of abuse and shall not be construed to lessen or restrict
17 any existing duty of mandated reporters.

18 (4) (A) In a long-term care facility, a mandated reporter shall
19 not be required to report as a suspected incident of abuse, as defined
20 in Section 15610.07, an incident where all of the following
21 conditions exist:

22 (i) The mandated reporter is aware that there is a proper plan
23 of care.

24 (ii) The mandated reporter is aware that the plan of care was
25 properly provided or executed.

26 (iii) A physical, mental, or medical injury occurred as a result
27 of care provided pursuant to clause (i) or (ii).

28 (iv) The mandated reporter reasonably believes that the injury
29 was not the result of abuse.

30 (B) This paragraph shall not be construed to require a mandated
31 reporter to seek, nor to preclude a mandated reporter from seeking,
32 information regarding a known or suspected incident of abuse prior
33 to reporting. This paragraph shall apply only to those categories
34 of mandated reporters that the State Department of Public Health
35 determines, upon approval by the Bureau of Medi-Cal Fraud and
36 Elder Abuse and the state long-term care ombudsperson, have
37 access to plans of care and have the training and experience
38 necessary to determine whether the conditions specified in this
39 section have been met.

1 (c) (1) Any mandated reporter who has knowledge, or
2 reasonably suspects, that types of elder or dependent adult abuse
3 for which reports are not mandated have been inflicted upon an
4 elder or dependent adult, or that his or her emotional well-being
5 is endangered in any other way, may report the known or suspected
6 instance of abuse.

7 (2) If the suspected or alleged abuse occurred in a long-term
8 care facility other than a state mental health hospital or a state
9 developmental center, the report may be made to the long-term
10 care ombudsperson program. Except in an emergency, the local
11 ombudsperson shall report any case of known or suspected abuse
12 to the State Department of Public Health and any case of known
13 or suspected criminal activity to the Bureau of Medi-Cal Fraud
14 and Elder Abuse, as soon as is practicable.

15 (3) If the suspected or alleged abuse occurred in a state mental
16 health hospital or a state developmental center, the report may be
17 made to the designated investigator of the State Department of
18 Mental Health or the State Department of Developmental Services
19 or to a local law enforcement agency or to the local ombudsperson.
20 Except in an emergency, the local ombudsperson and the local law
21 enforcement agency shall report any case of known or suspected
22 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,
23 as soon as is practicable.

24 (4) If the suspected or alleged abuse occurred in a place other
25 than a place described in paragraph (2) or (3), the report may be
26 made to the county adult protective services agency.

27 (5) If the conduct involves criminal activity not covered in
28 subdivision (b), it may be immediately reported to the appropriate
29 law enforcement agency.

30 (d) When two or more mandated reporters are present and jointly
31 have knowledge or reasonably suspect that types of abuse of an
32 elder or a dependent adult for which a report is or is not mandated
33 have occurred, and when there is agreement among them, the
34 telephone report may be made by a member of the team selected
35 by mutual agreement, and a single report may be made and signed
36 by the selected member of the reporting team. Any member who
37 has knowledge that the member designated to report has failed to
38 do so shall thereafter make the report.

39 (e) A telephone report of a known or suspected instance of elder
40 or dependent adult abuse shall include, if known, the name of the

1 person making the report, the name and age of the elder or
2 dependent adult, the present location of the elder or dependent
3 adult, the names and addresses of family members or any other
4 adult responsible for the elder's or dependent adult's care, the
5 nature and extent of the elder's or dependent adult's condition, the
6 date of the incident, and any other information, including
7 information that led that person to suspect elder or dependent adult
8 abuse, as requested by the agency receiving the report.

9 (f) The reporting duties under this section are individual, and
10 no supervisor or administrator shall impede or inhibit the reporting
11 duties, and no person making the report shall be subject to any
12 sanction for making the report. However, internal procedures to
13 facilitate reporting, ensure confidentiality, and apprise supervisors
14 and administrators of reports may be established, provided they
15 are not inconsistent with this chapter.

16 (g) (1) Whenever this section requires a county adult protective
17 services agency to report to a law enforcement agency, the law
18 enforcement agency shall, immediately upon request, provide a
19 copy of its investigative report concerning the reported matter to
20 that county adult protective services agency.

21 (2) Whenever this section requires a law enforcement agency
22 to report to a county adult protective services agency, the county
23 adult protective services agency shall, immediately upon request,
24 provide to that law enforcement agency a copy of its investigative
25 report concerning the reported matter.

26 (3) The requirement to disclose investigative reports pursuant
27 to this subdivision shall not include the disclosure of social services
28 records or case files that are confidential, nor shall this subdivision
29 be construed to allow disclosure of any reports or records if the
30 disclosure would be prohibited by any other provision of state or
31 federal law.

32 (h) Failure to report, or impeding or inhibiting a report of,
33 physical abuse, as defined in Section 15610.63 of the ~~Welfare and~~
34 ~~Institutions Code~~, abandonment, abduction, isolation, financial
35 abuse, or neglect of an elder or dependent adult, in violation of
36 this section, is a misdemeanor, punishable by not more than six
37 months in the county jail, by a fine of not more than one thousand
38 dollars (\$1,000), or by both that fine and imprisonment. Any
39 mandated reporter who willfully fails to report, or impedes or
40 inhibits a report of, physical abuse, as defined in Section 15610.63

1 of the ~~Welfare and Institutions Code~~, abandonment, abduction,
2 isolation, financial abuse, or neglect of an elder or dependent adult,
3 in violation of this section, where that abuse results in death or
4 great bodily injury, shall be punished by not more than one year
5 in a county jail, by a fine of not more than five thousand dollars
6 (\$5,000), or by both that fine and imprisonment. If a mandated
7 reporter intentionally conceals his or her failure to report an
8 incident known by the mandated reporter to be abuse or severe
9 neglect under this section, the failure to report is a continuing
10 offense until a law enforcement agency specified in paragraph (1)
11 of subdivision (b) of Section 15630 of the ~~Welfare and Institutions~~
12 ~~Code~~ discovers the offense.

13 (i) For purposes of this section, “dependent adult” shall have
14 the same meaning as in Section 15610.23.

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

24 ~~SECTION 1. Section 101.5 is added to the Elections Code, to~~
25 ~~read:~~

26 ~~101.5. (a) An individual who receives compensation to~~
27 ~~circulate an initiative, referendum, or recall petition shall identify~~
28 ~~himself or herself as a paid signature gatherer by wearing a badge~~
29 ~~stating “PAID SIGNATURE GATHERER.”~~

30 ~~(b) An individual subject to this section shall identify the~~
31 ~~jurisdiction in which he or she is registered to vote, by placing on~~
32 ~~the badge required by subdivision (a), the name of the county in~~
33 ~~California in which he or she is registered to vote. If he or she is~~
34 ~~not registered to vote, the badge shall state “NOT REGISTERED~~
35 ~~TO VOTE.”~~

36 ~~(c) The individual circulating an initiative, referendum, or recall~~
37 ~~petition shall wear the badge required by subdivisions (a) and (b)~~
38 ~~on his or her chest in clear view of all individuals signing or asked~~
39 ~~to sign the petition.~~

- 1 ~~(d) The print on the badge shall be no smaller than 30-point~~
- 2 font.

O