

ASSEMBLY BILL

No. 3473

**Introduced by Committee on Consumer Protection,
Governmental Efficiency, and Economic Development
(Assembly Members Morrissey (Chairman), Baldwin,
Firestone, Knight, Thompson, and Woods)**

March 6, 1996

An act to amend Sections 110, 2467, 2601, 2602, 2603, 2604, 2604.5, 2605, 2606, 2607, 2607.5, 2608.5, 2609, 2611, 2612, 2613, 2614, 2615, 2620.3, 2620.5, 2630, 2632, 2633, 2634, 2636, 2636.1, 2636.5, 2637, 2638, 2639, 2650, 2650.1, 2651, 2652, 2653, 2655, 2655.1, 2655.2, 2655.3, 2655.4, 2655.5, 2655.6, 2655.7, 2655.71, 2655.8, 2655.9, 2655.91, 2655.92, 2660, 2661, 2661.5, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2672, 2680, 2682, 2684, 2685, 2687, 2688, 2688.5, 2689, 2690, 2696, 2987.5, 3356, 3360, 3401, 3427.5, 3901, 3902, 3924, 3930.5, 4980.03, 4980.40, 4984.5, 4984.6, 4987.5, 4990.1, 4990.2, 4990.15, 4994, 4996.3, 4996.6, 4998, 8516, 8522, 8550, 8564.5, 8614, 8617, 8622, and 8675 of, to add Section 8656 to, and to repeal Sections 3924.5, 3930.1, 4940.1, 4940.2, 4940.3, and 4990.17 of, the Business and Professions Code, relating to businesses and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3473, as introduced, Committee on Consumer Protection, Governmental Efficiency, and Economic Development. Businesses and professions.

(1) Existing law prohibits the Department of Consumer Affairs from having possession and control of examination

questions prior to submission to applicants at scheduled examinations.

This bill would create an exception to the prohibition if authorized by one of the boards within the department.

(2) Under existing law, the practice of podiatric medicine is regulated by the California Board of Podiatric Medicine, which is required to convene its annual meetings in or near either Sacramento, Los Angeles, or San Francisco, but is otherwise permitted to hold meetings at places and times the board deems necessary.

This bill would permit the board to convene any of its meetings at times it deems necessary.

(3) Under existing law, known as the Physical Therapy Practice Act, the Physical Therapy Examination Committee of California regulates the licensure and practice of physical therapy.

This bill would change the name of the Physical Therapy Examination Committee of California to the Physical Therapy Board of California and make technical, conforming changes to the Physical Therapy Practice Act so that specific terms used in the act are consistent throughout.

(4) Under existing law, the Hearing Aid Dispensers Examining Committee oversees the licensing, and administers the regulation, of individuals who engage in the practice of fitting and selling hearing aids. Under existing law, the committee is required to administer both a written and practical examination of persons who apply for a license to fit or sell hearing aids and is required to hold examinations at least twice a year. In addition, the committee is authorized to issue temporary licenses to persons who are licensed in other states when the persons supply specified information. These persons are required to take the first licensing examination offered by the committee after they have held the license for 90 days.

This bill would require that the committee hold a practical examination twice a year.

The bill would require that persons who hold a temporary license on the basis of being licensed in another state take a written examination within 90 days after the date the temporary license is issued.



The bill would authorize the committee to deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for violation of any regulation adopted pursuant to the law regulating hearing aid dispensers.

(5) Under existing law, the State Board of Nursing Home Administrators administers the provisions of the Nursing Home Administrator's Licensing Act. Existing law provides that it is a misdemeanor for any person to act or serve in the capacity of nursing home administrator without a license. Existing law requires a holder of a license to reregister biennially. Under the act, the board is required, among other things, to establish standards for the operation of nursing homes, as defined, issue and revoke licenses for the administration of nursing homes, and submit reports to the Legislature concerning the administration of nursing homes. The act has required the board in the past to submit specified reports and studies to the Legislature by specified dates. The act also prohibits nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities.

This bill would change the name of the act to the Nursing Home Administrator's Act.

The bill would change the definition of "nursing home" for purposes of the act. By changing the definition of a crime, the bill would impose a state-mandated local program.

The bill would require license renewal instead of reregistration and would require a statement under penalty of perjury whether the licensee was convicted of a crime during the preceding renewal period. By creating a new crime, the bill would impose a state-mandated local program.

The bill would repeal provisions of the act that require the board to submit reports to the Legislature that have since been submitted.

The bill would delete the provisions of the act that prohibit nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities and instead prohibit these persons from being employed as administrators of nursing homes.



(6) Under existing law, the Acupuncture Committee, which exists within the Division of Licensing of the Medical Board of California, administers the Acupuncture Licensing Act. Among other things, the Acupuncture Committee is required to conduct evaluations of acupuncture tutorial programs and to conduct evaluations and develop regulations that specify the requirements that must be met by foreign-trained applicants for licensure as acupuncturists.

This bill would repeal the provision that requires the Acupuncture Committee to conduct these evaluations and develop these regulations.

(7) Existing law establishes the Board of Behavioral Science Examiners and the Behavioral Science Examiners Fund.

This bill would change the names to the Board of Behavioral Sciences and the Behavioral Sciences Fund.

Existing law authorizes the board, in any order issued in resolution of a disciplinary proceeding before the board, to request the administrative law judge to direct any registrant or licensee found to have violated or to be in violation of certain charges to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution, as prescribed, and specifies procedures to enforce an order for payment. Existing law prohibits the board from renewing or reinstating the license or registration of, or from accepting any petition for reinstatement or modification of probation from, any licensee or registrant who has failed to pay all of the costs ordered, except under prescribed conditions where a financial hardship has been demonstrated. Existing law requires all costs recovered to be deposited into the Behavioral Science Examiners Fund, which is continuously appropriated to the board.

This bill would repeal these provisions.

(8) Under existing law, persons who engage in various facets of structural pest control are required to be licensed and their activities in the area of structural pest control are regulated. Existing law provides that violation of the law governing structural pest control is subject to specified criminal penalties.



Among the persons licensed and regulated are applicators of specified types of chemical fumigants used in pest control. Under existing law, applicators, once licensed, are permitted to apply specified chemical fumigants for a period of 3 years, after which they are required to apply for renewal of their license and pass a written examination.

Existing law permits specified governmental agencies to levy fines for violations of the restrictions on structural pest control activities.

This bill would clarify that it is unlawful for an applicator to act in that capacity without being licensed and delete the requirement that applicators apply to renew their licenses and pass a written examination every 3 years.

The bill would place restrictions, as specified, on persons who fail to pay fines levied for violation of these provisions.

The bill would make technical, conforming changes to the structural pest control laws.

The bill would impose a state-mandated local program by imposing criminal penalties on certain persons who violate the provisions of the bill.

(9) This bill would make other technical changes.

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

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

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

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

1 SECTION 1. Section 110 of the Business and
2 Professions Code is amended to read:
3 110. The department shall have possession and
4 control of all records, books, papers, offices, equipment,
5 supplies, funds, appropriations, land and other
6 property—real or personal—now or hereafter held for
7 the benefit or use of all of the bodies, offices or officers
8 comprising the department. The title to all property held



1 by any of these bodies, offices or officers for the use and
2 benefit of the State, is vested in the State of California to
3 be held in the possession of the department. ~~The~~
4 ~~department, however, Except as authorized by a board,~~
5 *the department* shall not have the possession and control
6 of examination questions prior to submission to applicants
7 at scheduled examinations.

8 SEC. 2. Section 2467 of the Business and Professions
9 Code is amended to read:

10 2467. (a) ~~The board shall hold at least one regular~~
11 ~~meeting annually in the County of Sacramento, the~~
12 ~~County of Los Angeles, and the City and County of San~~
13 ~~Francisco or the environs of any such county or city and~~
14 ~~county. The board may otherwise convene from time to~~
15 ~~time as it deems necessary. Other meetings of the board~~
16 ~~may be held at such places as the board may designate.~~
17 *may convene from time to time as it deems necessary.*

18 (b) Four members of the board constitute a quorum
19 for the transaction of business at any meeting.

20 (c) It shall require the affirmative vote of a majority of
21 those members present at a meeting, such members
22 constituting at least a quorum, to pass any motion,
23 resolution, or measure.

24 (d) The board shall annually elect one of its members
25 to act as president and a member to act as vice president
26 who shall hold their respective positions at the pleasure
27 of the board. The president may call meetings of any duly
28 appointed subcommittee at a specified time and place.

29 SEC. 3. Section 2601 of the Business and Professions
30 Code is amended to read:

31 2601. ~~“Committee”~~ *“Board”* as used in this chapter
32 means the Physical Therapy ~~Examining—Committee~~
33 *Board* of California.

34 SEC. 4. Section 2602 of the Business and Professions
35 Code is amended to read:

36 2602. There is hereby created within the jurisdiction
37 of the Medical Board of California, a Physical Therapy
38 ~~Examining—Committee~~ *Board* of California, hereinafter
39 referred to as the ~~committee~~ *board*. The ~~committee~~
40 *board* shall enforce and administer this chapter.



1 This section shall become inoperative on July 1, 1999,
2 and, as of January 1, 2000, is repealed, unless a later
3 enacted statute, which becomes effective on or before
4 January 1, 2000, deletes or extends the dates on which it
5 becomes inoperative and is repealed.

6 SEC. 5. Section 2603 of the Business and Professions
7 Code is amended to read:

8 2603. The members of the ~~committee~~ *board* consist of
9 the following: three physical therapists who shall have
10 practiced physical therapy for five years and shall be
11 licensed by the ~~committee~~ *board* and three public
12 members who shall not be licentiates of the ~~committee~~
13 *board* or of any other board under the Medical Board of
14 California or of any board referred to in Sections 1000 and
15 3600.

16 SEC. 6. Section 2604 of the Business and Professions
17 Code is amended to read:

18 2604. The members of the ~~committee~~ *board* shall be
19 appointed for a term of four years, expiring on the first
20 day of June of each year.

21 The Governor shall appoint one of the public members
22 and the three physical therapist members of the
23 ~~committee~~ *board* qualified as provided in Section 2603.
24 The Senate Rules Committee and the Speaker of the
25 Assembly shall each appoint a public member, and their
26 initial appointment shall be made to fill, respectively, the
27 first and second public member vacancies which occur on
28 or after January 1, 1983.

29 Not more than one member of the ~~committee~~ *board*
30 shall be appointed from the full-time faculty of any
31 university, college, or other educational institution.

32 No person may serve as a member of the ~~committee~~
33 *board* for more than two consecutive terms. Vacancies
34 shall be filled by appointment for the unexpired term.
35 Annually the ~~committee~~ *board* shall elect one of its
36 members as ~~chairperson~~ *president*.

37 The appointing power shall have the power to remove
38 any member of the ~~committee~~ *board* from office for
39 neglect of any duty required by law or for incompetency
40 or unprofessional or dishonorable conduct.



1 SEC. 7. Section 2604.5 of the Business and Professions
2 Code is amended to read:

3 2604.5. The public members shall be appointed from
4 persons having all of the following qualifications:

5 (a) Be a citizen of California.

6 (b) Shall not be an officer or faculty member of any
7 college, school or institution engaged in physical therapy
8 education.

9 (c) Shall not be a licentiate of the ~~board~~ *Medical Board*
10 *of California* or of any board under this division or of any
11 board referred to in Sections 1000 and 3600.

12 SEC. 8. Section 2605 of the Business and Professions
13 Code is amended to read:

14 2605. It shall be the duty of the ~~committee~~ *board* to
15 examine applicants for a license as provided by this
16 chapter, at such places and at such times as shall be
17 designated by the ~~committee~~ *board* in its discretion. It
18 may employ physical therapists licensed pursuant to this
19 chapter to aid it in that examination. The examination
20 shall reasonably test the applicant's knowledge of
21 physical therapy in areas such as: anatomy, pathology,
22 kinesiology, physiology, psychology, physics,
23 electrotherapy, radiation therapy, hydrotherapy,
24 massage, therapeutic exercise, physical therapy as
25 applied to medicine, neurology, orthopedics, surgery,
26 psychiatry, procedures of evaluation, testing, measuring,
27 and technical procedures in the practice of physical
28 therapy, consultation, and program planning.

29 SEC. 9. Section 2606 of the Business and Professions
30 Code is amended to read:

31 2606. Each member of the ~~committee~~ *board* shall
32 receive a per diem and expenses as provided in Section
33 103.

34 SEC. 10. Section 2607 of the Business and Professions
35 Code is amended to read:

36 2607. The ~~committee~~ *board* may employ, subject to
37 law, such clerical assistants and, except as provided in
38 Section 159.5, other employees as it may deem necessary
39 ~~to carry~~ *to carry* out its powers and duties.



1 The ~~committee~~ *board* may as necessary select and
2 contract with physical therapy consultants who are
3 licensed physical therapists to assist it in its programs on
4 an intermittent basis. Notwithstanding any other
5 provision of law, the ~~committee~~ *board* may contract with
6 these consultants on a sole source basis. For the purposes
7 of Division 3.6 (commencing with Section 810) of Title 1
8 of the Government Code, any consultant under contract
9 with the ~~committee~~ *board* shall be considered a public
10 employee.

11 SEC. 11. Section 2607.5 of the Business and
12 Professions Code is amended to read:

13 2607.5. The ~~committee~~ *board* may appoint a person
14 exempt from civil service who shall be designated as an
15 executive officer and who shall exercise the powers and
16 perform the duties delegated by the ~~committee~~ *board*
17 and vested in him or her by this chapter.

18 This section shall become inoperative on July 1, 1999,
19 and, as of January 1, 2000, is repealed, unless a later
20 enacted statute, which becomes effective on or before
21 January 1, 2000, deletes or extends the dates on which it
22 becomes inoperative and is repealed.

23 SEC. 12. Section 2608.5 of the Business and
24 Professions Code is amended to read:

25 2608.5. Each member of the ~~committee~~ *board*, or any
26 licensed physical therapist appointed by the ~~committee~~
27 *board*, may inspect, or require reports from, a general or
28 specialized hospital or any other facility providing
29 physical therapy care, treatment or services and the
30 physical therapy staff thereof, with respect to the physical
31 therapy care, treatment, services, or facilities provided
32 therein, and may inspect physical therapy patient records
33 with respect to the care, treatment, services, or facilities.
34 The authority to make inspections and to require reports
35 as provided by this section shall not be delegated by a
36 member of the ~~committee~~ *board* to any person other than
37 a physical therapist and shall be subject to the restrictions
38 against disclosure described in Section 2263.

39 SEC. 13. Section 2609 of the Business and Professions
40 Code is amended to read:



1 2609. The ~~committee~~ *board* shall issue, suspend, and
2 revoke licenses and approvals to practice physical
3 therapy as provided in this chapter.

4 SEC. 14. Section 2611 of the Business and Professions
5 Code is amended to read:

6 2611. The ~~committee~~ *board* shall hold at least one
7 regular meeting annually in the Cities of Sacramento, Los
8 Angeles and San Francisco. The ~~committee~~ *board* may
9 convene from time to time until its business is concluded.
10 Special meetings of the ~~committee~~ *board* may be held at
11 such time and place as the ~~committee~~ *board* may
12 designate.

13 SEC. 15. Section 2612 of the Business and Professions
14 Code is amended to read:

15 2612. Notice of each meeting of the ~~committee~~ *board*
16 shall be given in accordance with the Bagley-Keene Open
17 Meeting Act (Article 9 (commencing with Section 11120)
18 of Chapter 1 of Part 1 of Division 3 of Title 2 of the
19 Government Code).

20 SEC. 16. Section 2613 of the Business and Professions
21 Code is amended to read:

22 2613. The ~~committee~~ *board* may appoint qualified
23 persons to give the whole or any portion of any
24 examination as provided in this chapter, who shall be
25 designated as a commissioner on examination. A
26 commissioner on examination need not be a member of
27 the ~~committee~~ *board* but shall be subject to the same rules
28 and regulations and shall be entitled to the same fee as if
29 he were a member of the ~~committee~~ *board*.

30 SEC. 17. Section 2614 of the Business and Professions
31 Code is amended to read:

32 2614. (a) The ~~committee~~ *board* shall hear all matters,
33 including but not limited to, any contested case or any
34 petition for reinstatement, restoration, or modification of
35 probation. Except as otherwise provided in this chapter,
36 all hearings shall be conducted in accordance with
37 Chapter 5 (commencing with Section 11500) of Part 1 of
38 Division 3 of Title 2 of the Government Code. If a
39 contested case is heard by the ~~committee~~ *board* the
40 hearing officer who presided at the hearing shall be



1 present during the ~~committee's~~ *board's* consideration of
2 the case and, if requested, shall assist and advise the
3 ~~committee~~ *board*.

4 (b) At the conclusion of the hearing, the ~~committee~~
5 *board* shall deny an application for, or suspend or revoke,
6 or impose probation conditions upon, a license or
7 approval.

8 SEC. 18. Section 2615 of the Business and Professions
9 Code is amended to read:

10 2615. The ~~committee~~ *board* shall from time to time
11 adopt regulations that may be necessary to effectuate this
12 chapter. In adopting regulations the ~~committee~~ *board*
13 shall comply with Chapter 4.5 (commencing with Section
14 11371) of Part 1 of Division 3 of Title 2 of the Government
15 Code.

16 SEC. 19. Section 2620.3 of the Business and
17 Professions Code is amended to read:

18 2620.3. A physical therapist licensed pursuant to this
19 chapter may apply topical medications as part of the
20 practice of physical therapy as defined in Section 2620 if
21 he or she complies with regulations duly adopted by the
22 ~~committee~~ *board* pursuant to this section and the
23 Administrative Procedure Act. The ~~committee~~ *board*
24 shall adopt regulations implementing this section after
25 meeting and conferring with the Medical Board of
26 California and the California State Board of Pharmacy
27 specifying those topical medications applicable to the
28 practice of physical therapy and protocols for their use.
29 Nothing in this section shall be construed to authorize a
30 physical therapist to prescribe medications.

31 SEC. 20. Section 2620.5 of the Business and
32 Professions Code is amended to read:

33 2620.5. A physical therapist may, upon specified
34 authorization of a physician and surgeon, perform tissue
35 penetration for the purpose of evaluating neuromuscular
36 performance as a part of the practice of physical therapy,
37 as defined in Section 2620, provided the physical therapist
38 is certified by the ~~committee~~ *board* to perform the tissue
39 penetration and evaluation, and provided the physical



1 therapist does not develop or make diagnostic or
2 prognostic interpretations of the data obtained.

3 The ~~committee~~ *board*, after meeting and conferring
4 with the Division of Licensing of the Medical Board of
5 California, shall:

6 (a) Adopt standards and procedures for tissue
7 penetration for the purpose of evaluating neuromuscular
8 performance by certified physical therapists.

9 (b) Establish standards for the certification of physical
10 therapists to perform tissue penetration for the purpose
11 of evaluating neuromuscular performance.

12 (c) Certify physical therapists meeting standards
13 established by the ~~committee~~ *board* pursuant to this
14 section.

15 SEC. 21. Section 2630 of the Business and Professions
16 Code is amended to read:

17 2630. It is unlawful for any person or persons to
18 practice, or offer to practice, physical therapy in this state
19 for compensation received or expected, or to hold himself
20 or herself out as a physical therapist, unless at the time of
21 so doing the person holds a valid, unexpired, and
22 unrevoked license issued under this chapter.

23 Nothing in this section shall restrict the activities
24 authorized by their licenses on the part of any persons
25 licensed under this code or any initiative act, or the
26 activities authorized to be performed pursuant to Article
27 4.5 (commencing with Section 2655) or Chapter 7.7
28 (commencing with Section 3500).

29 A physical therapist licensed pursuant to this chapter
30 may utilize the services of one aide engaged in
31 patient-related tasks to assist the physical therapist in his
32 or her practice of physical therapy. "Patient-related task"
33 means a physical therapy service rendered directly to the
34 patient by an aide, excluding non-patient-related tasks.
35 "Non-patient-related task" means a task related to
36 observation of the patient, transport of the patient,
37 physical support only during gait or transfer training,
38 housekeeping duties, clerical duties, and similar
39 functions. The aide shall at all times be under the orders,
40 direction, and immediate supervision of the physical



1 therapist. Nothing in this section shall authorize an aide
2 to independently perform physical therapy or any
3 physical therapy procedure. The ~~committee~~ board shall
4 adopt regulations that set forth the standards and
5 requirements for the orders, direction, and immediate
6 supervision of an aide by a physical therapist. The
7 physical therapist shall provide continuous and
8 immediate supervision of the aide. The physical therapist
9 shall be in the same facility as, and in proximity to, the
10 location where the aide is performing patient-related
11 tasks, and shall be readily available at all times to provide
12 advice or instruction to the aide. When patient-related
13 tasks are provided to a patient by an aide, the supervising
14 physical therapist shall, at some point during the
15 treatment day, provide direct service to the patient as
16 treatment for the patient's condition, or to further
17 evaluate and monitor the patient's progress, and shall
18 correspondingly document the patient's record.

19 The administration of massage, external baths, or
20 normal exercise not a part of a physical therapy treatment
21 shall not be prohibited by this section.

22 SEC. 22. Section 2632 of the Business and Professions
23 Code is amended to read:

24 2632. All licenses for the practice of physical therapy
25 in this state shall be issued by the ~~committee~~ board, and
26 all applications for the licenses shall be filed with the
27 ~~committee~~ board. Excepting as otherwise required by the
28 director pursuant to Section 164, the license issued by the
29 ~~committee~~ board shall describe the licensee as a "physical
30 therapist licensed by the Physical Therapy ~~Examining~~
31 ~~Committee~~ Board of California."

32 Each application shall be accompanied by the
33 application fee prescribed by Section 2688, shall be signed
34 by the applicant, and shall contain a statement under oath
35 of the facts entitling the applicant to receive a license
36 without examination or to take an examination.

37 SEC. 23. Section 2633 of the Business and Professions
38 Code is amended to read:

39 2633. A person holding a license as a physical therapist
40 issued by the ~~committee~~ board may use the title "physical



1 therapist” or the letters “P.T.” or any other words, letters
2 or figures which indicate that the person using same is a
3 licensed physical therapist. No other person shall be so
4 designated or shall use the term licensed or registered
5 physical therapist, licensed or registered physiotherapist,
6 licensed or registered physical therapy technician, or the
7 letters “L.P.T.,” “R.P.T.,” or “P.T.”. The license as a
8 physical therapist shall not authorize the use of the prefix
9 “Dr.,” the word “doctor,” or any suffix or affix indicating
10 or implying that the licensed person is a doctor or a
11 physician or surgeon.

12 Notwithstanding this section, a licentiate of this
13 chapter may use an initial or other suffix indicating
14 possession of a specific academic degree earned at, and
15 issued by, an institution accredited by the Western
16 Association of Schools and Colleges or any accrediting
17 agency recognized by the National Commission on
18 Accrediting or the United States Department of
19 Education which the board determines is equivalent,
20 except that the initials “M.D.” shall not be used unless the
21 licentiate is licensed as a physician and surgeon in this
22 state.

23 SEC. 24. Section 2634 of the Business and Professions
24 Code is amended to read:

25 2634. The ~~committee~~ *board* may investigate each and
26 every applicant for a license, before a license is issued, in
27 order to determine whether or not the applicant has in
28 fact the qualifications required by this chapter.

29 SEC. 25. Section 2636 of the Business and Professions
30 Code is amended to read:

31 2636. Except as otherwise provided in this chapter, no
32 person shall receive a license under this chapter without
33 first successfully passing an examination given under the
34 direction of the ~~committee~~ *board*. The examination shall
35 be in writing and shall be conducted by those persons and
36 in the manner and under regulations as shall be
37 prescribed by the ~~committee~~ *board* but shall be so
38 conducted that the identity of each applicant taking an
39 examination will be unknown to all of the examiners until
40 all of the papers have been graded.



1 Applicants for licensure as a physical therapist shall be
2 required to demonstrate knowledge of the laws and
3 regulations related to the practice of physical therapy in
4 California. The examination shall reasonably test the
5 applicant's knowledge of these laws and regulations.

6 SEC. 26. Section 2636.1 of the Business and
7 Professions Code is amended to read:

8 2636.1. Examinations for a license as a physical
9 therapist may be conducted by the ~~committee~~ *board*
10 under a uniform examination system, and for that
11 purpose the ~~committee~~ *board* may make such
12 arrangements with organizations furnishing examination
13 material as may in its discretion be desirable.

14 SEC. 27. Section 2636.5 of the Business and
15 Professions Code is amended to read:

16 2636.5. (a) An applicant may be issued a license
17 without a written examination if he or she meets all of the
18 following:

19 (1) He or she is at the time of application licensed or
20 registered as a physical therapist in a state, district, or
21 territory of the United States having, in the opinion of the
22 ~~committee~~ *board*, requirements for licensing or
23 registration equal to or higher than those in California,
24 and he or she has passed, to the satisfaction of the
25 ~~committee~~ *board*, an examination for licensing or
26 registration that is, in the opinion of the ~~committee~~ *board*,
27 comparable to the examination used in this state.

28 (2) He or she is a graduate of a physical therapist
29 education program approved by the ~~committee~~ *board*, or
30 has met the requirements of Section 2653.

31 (3) He or she files an application as provided in Section
32 2632 and meets the requirements prescribed by Sections
33 2635 and 2650.

34 (b) An applicant for licensure under subdivision (a),
35 whose application is based on a certificate issued by a
36 physical therapy licensing authority of another state may
37 be required to pass an oral examination given by the
38 ~~committee~~ *board* and file a statement of past work
39 activity.



1 (c) An applicant who has filed a physical therapy
2 application under this section with the ~~committee~~ *board*
3 may, between the date of receipt of notice that his or her
4 application is on file and the date of receipt of his or her
5 license, perform as a physical therapist under the direct
6 and immediate supervision of a physical therapist
7 licensed in this state.

8 During this period the applicant shall identify himself
9 or herself only as a “physical therapist license applicant.”

10 If the applicant under this section does not qualify and
11 receive a license as provided in this section and does not
12 qualify under Section 2639 all privileges under this
13 section shall terminate upon notice by certified mail,
14 return receipt requested.

15 SEC. 28. Section 2637 of the Business and Professions
16 Code is amended to read:

17 2637. Every applicant who is otherwise qualified as
18 provided in this chapter and who receives a passing grade
19 as established by the ~~committee~~ *board* on the
20 examination shall be granted a license.

21 SEC. 29. Section 2638 of the Business and Professions
22 Code is amended to read:

23 2638. Any applicant for licensure as a physical
24 therapist who fails to pass the examination required by
25 the ~~committee~~ *board* may take another examination and
26 shall pay the reexamination fee.

27 SEC. 30. Section 2639 of the Business and Professions
28 Code is amended to read:

29 2639. Every graduate of an approved physical
30 therapist education program who has filed a complete
31 application for licensure with the ~~committee~~ *board* may,
32 between the date of receipt of a letter of authorization to
33 perform as a “physical therapist license applicant” from
34 the ~~committee~~ *board* and the date of receipt of his or her
35 license, perform as a physical therapist under the direct
36 and immediate supervision of a physical therapist
37 licensed in this state. During this period the applicant
38 shall identify himself or herself only as a “physical
39 therapist license applicant.”



1 A person shall not be considered a graduate unless he
2 or she has successfully completed all the clinical training
3 and internships required for graduation from the
4 program.

5 If the applicant fails to take the next succeeding
6 examination without due cause or fails to pass the
7 examination or receive a license, all privileges under this
8 section shall terminate upon notice by certified mail,
9 return receipt requested.

10 SEC. 31. Section 2650 of the Business and Professions
11 Code is amended to read:

12 2650. (a) Except as otherwise provided in this
13 chapter, each applicant for a license as a physical
14 therapist shall be a graduate of a professional degree
15 program of an accredited postsecondary institution or
16 institutions approved by the ~~committee~~ *board*, and shall
17 have completed a professional education including
18 academic coursework and clinical internship in physical
19 therapy.

20 (b) As referenced in the evaluative criteria of the
21 Commission on Accreditation in Physical Therapy
22 Education of the American Physical Therapy Association,
23 the curriculum shall consist of a combination of didactic,
24 clinical, and research experiences in physical therapy
25 using critical thinking and weighing of evidence, and
26 shall include, at a minimum, all of the following:

27 (1) The sciences basic to physical therapy including
28 biomedical, physical, physiological, neurobiological,
29 anatomical, social and behavioral sciences.

30 (2) Clinical sciences including laboratory or other
31 practical experiences involving quantitative and
32 qualitative evaluation within the scope of physical
33 therapy practice including kinesiology, neuroscience,
34 pathology, human development, and gerontology.

35 (3) Treatment that constitutes the practice of physical
36 therapy.

37 (4) Learning experiences provided in the areas of
38 administration, education, and consultation.

39 (5) Research methods including the review and
40 critical analysis of research reports.



1 (6) Ethical, legal, and economical concepts of physical
2 therapy practice.

3 (c) Each applicant shall have at least 18 weeks of
4 full-time clinical experience with a variety of patients.

5 SEC. 32. Section 2650.1 of the Business and
6 Professions Code is amended to read:

7 2650.1. During the period of clinical practice referred
8 to in Section 2650 or in any similar period of observation
9 or related educational experience involving recipients of
10 physical therapy, a person so engaged shall be identified
11 only as a “physical therapy ~~student~~”, *student*,” or as a
12 “physical therapy intern” as authorized by the
13 ~~committee board~~ in its regulations.

14 SEC. 33. Section 2651 of the Business and Professions
15 Code is amended to read:

16 2651. The ~~committee board~~ may approve only those
17 physical therapist education programs that prove to the
18 satisfaction of the ~~committee board~~ that they comply with
19 the minimum physical therapy educational requirements
20 set forth in this chapter and adopted by the ~~committee~~
21 ~~board~~ pursuant to this chapter. Physical therapist
22 education programs that are recognized by the
23 Commission on Accreditation in Physical Therapy
24 Education of the American Physical Therapy Association
25 shall be deemed approved by the ~~committee board~~ unless
26 the ~~committee board~~ determines otherwise.

27 SEC. 34. Section 2652 of the Business and Professions
28 Code is amended to read:

29 2652. All physical therapist education programs,
30 whether situated in this state or not, furnishing courses of
31 study meeting the standards required by Sections 2650
32 and 2651 and the regulations of the ~~committee board~~
33 adopted pursuant to this chapter shall be approved by the
34 ~~committee board~~ and shall be entitled to compel this
35 approval, if it is denied, by action in the Superior Court
36 of the State of California, the procedure and power of the
37 court in which action shall be the same as provided in
38 Section 2087.

39 SEC. 35. Section 2653 of the Business and Professions
40 Code is amended to read:



1 2653. (a) An applicant for a license as a physical
2 therapist who was issued a diploma by a physical therapist
3 education program that is not an approved program and
4 is not located in the United States shall meet all of the
5 following requirements in order to be licensed as a
6 physical therapist:

7 (1) Furnish documentary evidence satisfactory to the
8 ~~committee board~~, that he or she has completed the
9 equivalent professional degree to that issued by a United
10 States accredited physical therapist education program in
11 a physical therapist education program that entitles the
12 applicant to practice as a physical therapist in the country
13 where the diploma was issued. The physical therapy
14 education received by the applicant shall meet the
15 criteria set forth in subdivisions (b) and (c) of Section
16 2650. The ~~committee board~~ may require an applicant to
17 submit documentation of his or her education to a
18 credentials evaluation service for review and a report to
19 the ~~committee board~~.

20 (2) Pass the written examination required by Section
21 2636. The requirements to pass the written examination
22 shall not apply to an applicant who at the time of
23 application has passed, to the satisfaction of the
24 ~~committee board~~, an examination for licensure in another
25 state, district, or territory of the United States, that is, in
26 the opinion of the ~~committee board~~, comparable to the
27 examination given in this state.

28 (3) Complete a period of clinical service under the
29 direct and immediate supervision of a physical therapist
30 licensed by the board which does not exceed nine months
31 in a location approved by the ~~committee board~~, in a
32 manner satisfactory to the ~~committee board~~. The
33 applicant shall have passed the written examination
34 required in subdivision (b) prior to commencing the
35 period of clinical service. The ~~committee board~~ shall
36 require the supervising physical therapist to evaluate the
37 applicant and report his or her findings to the ~~committee~~
38 ~~board~~. The ~~committee board~~ may in its discretion waive
39 all or part of the required clinical service pursuant to
40 guidelines set forth in its regulations. During the period



1 of clinical service until he or she is issued a license as a
2 physical therapist by the ~~committee~~ board, the applicant
3 shall be identified as a “physical therapist license
4 applicant.”

5 (4) An applicant for licensure under this subdivision,
6 whose application is based on a certificate issued by a
7 physical therapist licensing authority of another state,
8 may be required to pass an oral examination given by the
9 ~~committee~~ board, and to file a statement of past work
10 activity.

11 (b) Nothing contained in this section shall prohibit the
12 ~~committee~~ board from disapproving any foreign physical
13 therapist education program or from denying the
14 applicant if, in the opinion of the ~~committee~~ board, the
15 instruction received by the applicant or the courses were
16 not equivalent to that required by this chapter. If the
17 applicant does not qualify to take the physical therapist
18 examination, his or her education may be evaluated and
19 the applicant may be eligible to take the physical
20 therapist assistant examination.

21 SEC. 36. Section 2655 of the Business and Professions
22 Code is amended to read:

23 2655. As used in this article:

24 (a) “Physical therapist” means a physical therapist
25 licensed by the ~~committee~~ board.

26 (b) “Physical therapist assistant” means a person who
27 meets the qualifications stated in Section 2655.3 and who
28 is approved by the ~~committee~~ board to assist in the
29 provision of physical therapy under the supervision of a
30 physical therapist who shall be responsible for the extent,
31 kind, and quality of the services provided by the physical
32 therapist assistant.

33 (c) “Physical therapist assistant” and “physical
34 therapy assistant” shall be deemed identical and
35 interchangeable.

36 SEC. 37. Section 2655.1 of the Business and
37 Professions Code is amended to read:

38 2655.1. The ~~committee~~ board shall adopt regulations
39 that set forth standards and requirements for the
40 adequate supervision of physical therapist assistants.



1 SEC. 38. Section 2655.2 of the Business and
2 Professions Code is amended to read:

3 2655.2. A physical therapist shall not supervise more
4 physical therapist assistants at any one time than in the
5 opinion of the ~~committee board~~ can be adequately
6 supervised. Two physical therapist assistants shall be the
7 maximum number of physical therapist assistants
8 supervised by a physical therapist at any one time, but the
9 ~~examining-committee board~~ may permit the supervision
10 of a greater number by a physical therapist if, in the
11 opinion of the ~~examining-committee board~~, there would
12 be adequate supervision and the public's health and
13 safety would be served. In no case, however, shall the total
14 number of physical therapist assistants exceed twice the
15 number of physical therapists regularly employed by a
16 facility at any one time.

17 SEC. 39. Section 2655.3 of the Business and
18 Professions Code is amended to read:

19 2655.3. A person seeking approval as a physical
20 therapist assistant shall make application to the
21 ~~committee board~~ for that approval. Every person
22 applying for approval as a physical therapist assistant shall
23 have all of the following qualifications:

24 (a) Have graduated from a physical therapist assistant
25 education program approved by the ~~committee board~~
26 pursuant to Section 2655.9, or have training or experience
27 or a combination of training and experience which in the
28 opinion of the ~~committee board~~ is equivalent to that
29 obtained in an approved physical therapist assistant
30 education program.

31 (b) Successfully pass the examination required under
32 this article.

33 (c) Not be addicted to alcohol or any controlled
34 substance.

35 (d) Not have committed acts or crimes constituting
36 grounds for denial of approval under Section 480.

37 SEC. 40. Section 2655.4 of the Business and
38 Professions Code is amended to read:

39 2655.4. Except as otherwise provided in this chapter,
40 no person shall receive approval as a physical therapist



1 assistant without first successfully passing an examination
2 given under the direction of the ~~committee~~ board. The
3 examination shall be in writing and shall be conducted by
4 those persons and in the manner and under regulations
5 as shall be prescribed by the ~~committee~~ board, but shall
6 be so conducted that the identity of each applicant taking
7 an examination will be unknown to all of the examiners
8 until all of the papers have been graded.

9 SEC. 41. Section 2655.5 of the Business and
10 Professions Code is amended to read:

11 2655.5. Every applicant for approval as a physical
12 therapist assistant who is otherwise qualified as provided
13 in this chapter, and who receives a passing grade, as
14 established by the ~~committee~~ board, on the examination
15 shall be issued a certificate of approval.

16 SEC. 42. Section 2655.6 of the Business and
17 Professions Code is amended to read:

18 2655.6. Any applicant for approval as a physical
19 therapist assistant who fails to pass the examination given
20 by the ~~committee~~ board may take another examination
21 and shall pay the reexamination fee.

22 SEC. 43. Section 2655.7 of the Business and
23 Professions Code is amended to read:

24 2655.7. Notwithstanding Section 2630, a physical
25 therapist assistant may assist in the provision of physical
26 therapy service provided the assistance is rendered
27 under the supervision of a physical therapist licensed by
28 the ~~committee~~ board.

29 SEC. 44. Section 2655.71 of the Business and
30 Professions Code is amended to read:

31 2655.71. (a) An applicant may be issued an approval
32 as a physical therapist assistant without written
33 examination if he or she meets all of the following
34 requirements:

35 (1) He or she is at the time of application approved,
36 licensed, or registered as a physical therapist assistant in
37 a state, district, or territory of the United States having,
38 in the opinion of the ~~committee~~ board, requirements for
39 approval, licensing, or registration equal to or higher than
40 those in California, and he or she has passed, to the



1 satisfaction of the ~~committee~~ *board*, an examination for
2 that approval, licensing or registration that is, in the
3 opinion of the ~~committee~~ *board*, comparable to the
4 examination used in this state.

5 (2) He or she is a graduate of a physical therapist
6 assistant education program approved by the ~~committee~~
7 *board* or has graduated from a program determined by
8 the ~~committee~~ *board* to be equivalent, or as meeting the
9 evaluative criteria for accreditation by the Commission
10 on Accreditation in Physical Therapy Education of the
11 American Physical Therapy Association.

12 (3) He or she files an application as provided in Section
13 2655.3.

14 (b) An applicant who has filed a physical therapist
15 assistant application may assist in the provision of physical
16 therapy in accordance with Section 2655.91.

17 SEC. 45. Section 2655.8 of the Business and
18 Professions Code is amended to read:

19 2655.8. Any person, other than one who has been
20 approved by the ~~committee~~ *board*, who holds himself or
21 herself out as a “physical therapist assistant” or who uses
22 any other term indicating or implying that he or she is a
23 physical therapist assistant, is guilty of a misdemeanor.

24 SEC. 46. Section 2655.9 of the Business and
25 Professions Code is amended to read:

26 2655.9. (a) The ~~committee~~ *board* shall approve each
27 physical therapist assistant education program that
28 proves to the satisfaction of the ~~committee~~ *board* that it
29 complies with criteria for approval of those programs set
30 forth in this section and established by the ~~committee~~
31 *board*. These criteria may be based upon the standards
32 and curriculum guidelines for a physical therapist
33 assistant education program as promulgated by the
34 American Physical Therapy Association or an essentially
35 equivalent organization.

36 (b) Except as otherwise provided in this chapter, each
37 applicant for approval as a physical therapist assistant
38 shall be a graduate of an accredited postsecondary
39 institution or institutions and shall have completed both
40 the academic and clinical experience required by the



1 physical therapist assistant program, and have been
2 awarded the associate degree.

3 (c) The curriculum shall consist of a combination of
4 basic sciences, applied clinical sciences, and progressive
5 application through clinical experience. The curriculum
6 shall reflect education in the skills and judgment required
7 of the physical therapist assistant in the contemporary
8 performance of physical therapy through an organized
9 sequence of integrated learning experiences.

10 (1) The basic sciences shall include, at a minimum,
11 human anatomy and physiology, physical or health
12 sciences, and social or behavioral sciences.

13 (2) The applied clinical sciences shall include
14 neurology, normal and pathological kinesiology, normal
15 and abnormal growth and development, gerontology,
16 orthopedic disorders, and fundamentals of physical
17 therapy including the economic, legal, and ethical aspects
18 of practice. Clinical studies shall also provide laboratory
19 experiences in simulated patient treatment including the
20 observation, measurement, and reporting of a patient's
21 physiologic state and effectiveness of the treatment
22 relative to the goals established by the physical therapist's
23 evaluation.

24 (3) The clinical experience shall include physical
25 therapy treatments of patients of varying ages,
26 disabilities, and diseases. This experience shall occur in a
27 variety of practice settings allowing for interaction with
28 health care professionals. Clinical experience shall
29 include daily written and verbal communication with the
30 supervising physical therapist to report each patient's
31 treatment program relative to the treatment goals and to
32 discuss adjustments in the treatment program and
33 discharge plan.

34 SEC. 47. Section 2655.91 of the Business and
35 Professions Code is amended to read:

36 2655.91. Every graduate of an approved physical
37 therapist assistant education program who has filed a
38 complete physical therapist assistant application with the
39 ~~committee~~ *board* may, between the date of receipt of a
40 letter of authorization to perform as a "physical therapist



1 assistant applicant” from the ~~committee~~ *board* and the
2 date of receipt of approval, assist in the provision of
3 physical therapy under the direct and immediate
4 supervision of a licensed physical therapist.

5 During this period the applicant shall identify himself
6 or herself only as a “physical therapist assistant
7 applicant.”

8 If a person assisting in the provision of physical therapy
9 pursuant to this section fails to take the next succeeding
10 examination without due cause or fails to pass the
11 examination or receive approval, all privileges under this
12 section shall terminate upon notice by certified mail,
13 return receipt requested.

14 A student is not eligible to work as a physical therapist
15 assistant applicant until successful completion of the
16 clinical experience required for graduation from the
17 program.

18 SEC. 48. Section 2655.92 of the Business and
19 Professions Code is amended to read:

20 2655.92. The ~~committee~~ *board* may adopt regulations
21 as reasonably necessary to carry out the purposes of this
22 article. The ~~committee~~ *board* shall adopt a regulation
23 formulating a definition of the term “adequate
24 supervision” as used in this article.

25 SEC. 49. Section 2660 of the Business and Professions
26 Code is amended to read:

27 2660. The ~~committee~~ *board* may, after the conduct of
28 appropriate proceedings under the Administrative
29 Procedure Act, suspend for not more than 12 months, or
30 revoke, or impose probationary conditions upon, or issue
31 subject to terms and conditions any license, certificate, or
32 approval issued under this chapter for any of the
33 following causes:

- 34 (a) Advertising in violation of Section 17500.
- 35 (b) Fraud in the procurement of any license under this
36 chapter.
- 37 (c) Procuring or aiding or offering to procure or aid in
38 criminal abortion.
- 39 (d) Conviction of a crime which substantially relates
40 to the qualifications, functions, or duties of a physical



1 therapist. The record of conviction or a certified copy
2 thereof shall be conclusive evidence of that conviction.

3 (e) Impersonating or acting as a proxy for an applicant
4 in any examination given under this chapter.

5 (f) Habitual intemperance.

6 (g) Addiction to the excessive use of any habit-forming
7 drug.

8 (h) Gross negligence in his or her practice as a physical
9 therapist.

10 (i) Conviction of a violation of any of the provisions of
11 this chapter or of the State Medical Practice Act, or
12 violating, or attempting to violate, directly or indirectly,
13 or assisting in or abetting the violating of, or conspiring
14 to violate any provision or term of this chapter or of the
15 State Medical Practice Act.

16 (j) The aiding or abetting of any person to violate this
17 chapter or any regulations duly adopted under this
18 chapter.

19 (k) The aiding or abetting of any person to engage in
20 the unlawful practice of physical therapy.

21 (l) The commission of any fraudulent, dishonest, or
22 corrupt act which is substantially related to the
23 qualifications, functions, or duties of a physical therapist.

24 (m) Except for good cause, the knowing failure to
25 protect patients by failing to follow infection control
26 guidelines of the ~~committee~~ *board*, thereby risking
27 transmission of blood-borne infectious diseases from
28 licensee to patient, from patient to patient, and from
29 patient to licensee. In administering this subdivision, the
30 ~~committee~~ *board* shall consider referencing the
31 standards, regulations, and guidelines of the State
32 Department of Health Services developed pursuant to
33 Section 1250.11 of the Health and Safety Code and the
34 standards, regulations, and guidelines pursuant to the
35 California Occupational Safety and Health Act of 1973
36 (Part 1 (commencing with Section 6300) of Division 5 of
37 the Labor Code) for preventing the transmission of HIV,
38 Hepatitis B, and other blood-borne pathogens in health
39 care settings. As necessary, the ~~committee~~ *board* shall
40 consult with the Medical Board of California, the



1 California Board of Podiatric Medicine, the Board of
2 Dental Examiners of California, the Board of Registered
3 Nursing, and the Board of Vocational Nurse and
4 Psychiatric Technician Examiners of the State of
5 California, to encourage appropriate consistency in the
6 implementation of this subdivision.

7 The ~~committee~~ *board* shall seek to ensure that licensees
8 are informed of the responsibility of licensees and others
9 to follow infection control guidelines, and of the most
10 recent scientifically recognized safeguards for
11 minimizing the risk of transmission of blood-borne
12 infectious diseases.

13 SEC. 50. Section 2661 of the Business and Professions
14 Code is amended to read:

15 2661. A plea or verdict of guilty or a conviction
16 following a plea of nolo contendere made to a charge of
17 a felony or of any offense which substantially relates to the
18 qualifications, functions, or duties of a physical therapist
19 is deemed to be a conviction within the meaning of this
20 article. The ~~committee~~ *board* may order the license
21 suspended or revoked, or may decline to issue a license,
22 when the time for appeal has elapsed, or the judgment of
23 conviction has been affirmed on appeal or when an order
24 granting probation is made suspending the imposition of
25 sentence, irrespective of a subsequent order under
26 Section 1203.4 of the Penal Code allowing that person to
27 withdraw his or her plea of guilty and to enter a plea of
28 not guilty, or setting aside the verdict of guilty, or
29 dismissing the accusation, information, or indictment.

30 SEC. 51. Section 2661.5 of the Business and
31 Professions Code is amended to read:

32 2661.5. (a) In any order issued in resolution of a
33 disciplinary proceeding before the ~~committee~~ *board*, the
34 ~~committee~~ *board* may request the administrative law
35 judge to direct any licensee found guilty of unprofessional
36 conduct to pay to the ~~committee~~ *board* a sum not to
37 exceed the actual and reasonable costs of the
38 investigation and prosecution of the case.

39 (b) The costs to be assessed shall be fixed by the
40 administrative law judge and shall not in any event be



1 increased by the ~~committee~~ *board*. When the ~~committee~~
2 *board* does not adopt a proposed decision and remands
3 the case to an administrative law judge, the
4 administrative law judge shall not increase the amount of
5 the assessed costs specified in the proposed decision.

6 (c) When the payment directed in an order for
7 payment of costs is not made by the licensee, the
8 ~~committee~~ *board* may enforce the order of payment by
9 bringing an action in any appropriate court. This right of
10 enforcement shall be in addition to any other rights the
11 ~~committee~~ *board* may have as to any licensee directed to
12 pay costs.

13 (d) In any judicial action for the recovery of costs,
14 proof of the ~~committee's~~ *board's* decision shall be
15 conclusive proof of the validity of the order of payment
16 and the terms for payment.

17 (e) (1) Except as provided in paragraph (2), the
18 ~~committee~~ *board* shall not renew or reinstate the license
19 or approval of any person who has failed to pay all of the
20 costs ordered under this section.

21 (2) Notwithstanding paragraph (1), the ~~committee~~
22 *board* may, in its discretion, conditionally renew or
23 reinstate for a maximum of one year the license or
24 approval of any person who demonstrates financial
25 hardship and who enters into a formal agreement with
26 the ~~committee~~ *board* to reimburse the ~~committee~~ *board*
27 within that one year period for those unpaid costs.

28 (f) All costs recovered under this section shall be
29 deposited in the Physical Therapy Fund as a
30 reimbursement in either the fiscal year in which the costs
31 are actually recovered or the previous fiscal year, as the
32 ~~committee~~ *board* may direct.

33 SEC. 52. Section 2662 of the Business and Professions
34 Code is amended to read:

35 2662. It is the intent of the Legislature that the
36 ~~committee~~ *board* shall seek ways and means to identify
37 and rehabilitate physical therapists and physical therapist
38 assistants whose competency is impaired due to abuse of
39 dangerous drugs or alcohol so that they may be treated
40 and returned to the practice of physical therapy in a



1 manner which will not endanger the public health and
2 safety.

3 SEC. 53. Section 2663 of the Business and Professions
4 Code is amended to read:

5 2663. ~~(a)~~The ~~committee board~~ shall establish and
6 administer a diversion program for the rehabilitation of
7 physical therapists and physical therapist assistants whose
8 competency is impaired due to the abuse of drugs or
9 alcohol. The ~~committee board~~ may contract with any
10 other state agency or a private organization to perform
11 its duties under this article. The ~~committee board~~ may
12 establish one or more diversion evaluation committees to
13 assist it in carrying out its duties under this article.

14 SEC. 54. Section 2664 of the Business and Professions
15 Code is amended to read:

16 2664. (a) Any diversion evaluation committee
17 established by the ~~committee board~~ shall have at least
18 three members. In making appointments to a diversion
19 evaluation committee, the ~~committee board~~ shall
20 consider the appointment of persons who are either
21 recovering from substance abuse and have been free
22 from substance abuse for at least three years immediately
23 prior to their appointment or who are knowledgeable in
24 the treatment and recovery of substance abuse. The
25 ~~committee board~~ also shall consider the appointment of
26 a physician and surgeon who is board certified in
27 psychiatry.

28 (b) Appointments to a diversion evaluation
29 committee shall be by the affirmative vote of a majority
30 of members appointed to the ~~committee board~~. Each
31 appointment shall be at the pleasure of the ~~committee board~~
32 ~~board~~ for a term not to exceed four years. In its discretion,
33 the ~~committee board~~ may stagger the terms of the initial
34 members so appointed.

35 (c) A majority of the members of a diversion
36 evaluation committee shall constitute a quorum for the
37 transaction of business. Any action requires an
38 affirmative vote of a majority of those members present
39 at a meeting constituting at least a quorum. Each
40 diversion evaluation committee shall elect from its



1 membership a chairperson and a vice chairperson.
2 Notwithstanding the Bagley-Keene Open Meeting Act
3 (Article 9 (commencing with Section 11120) of Chapter
4 1 of Part 1 of Division 3 of Title 2 of the Government
5 Code), relating to public meetings, a diversion evaluation
6 committee may convene in closed session to consider
7 matters relating to any physical therapist or physical
8 therapist assistant applying for or participating in a
9 diversion program, and a meeting which will be
10 convened entirely in closed session need not comply with
11 Section 11125 of the Government Code. A diversion
12 evaluation committee shall only convene in closed session
13 to the extent it is necessary to protect the privacy of an
14 applicant or participant. Each member of a diversion
15 evaluation committee shall receive a per diem and shall
16 be reimbursed for expenses as provided in Section 103.

17 SEC. 55. Section 2665 of the Business and Professions
18 Code is amended to read:

19 2665. Each diversion evaluation committee has the
20 following duties and responsibilities:

21 (a) The evaluation of physical therapists and physical
22 therapist assistants who request participation in the
23 program and the consideration of any recommendations
24 from professional consultants on the admission of
25 applicants to the diversion program.

26 (b) The review and designation of treatment facilities
27 to which physical therapists and physical therapist
28 assistants in the diversion program may be referred.

29 (c) The receipt and review of information concerning
30 physical therapists and physical therapist assistants
31 participating in the program.

32 (d) Calling meetings as necessary to consider the
33 requests of physical therapists and physical therapist
34 assistants to participate in the diversion program, to
35 consider reports regarding participants in the program,
36 and to consider any other matters referred to it by the
37 ~~committee~~ board.

38 (e) The consideration of whether each participant in
39 the diversion program may with safety continue or
40 resume the practice of physical therapy.



1 (f) Setting forth in writing a treatment program for
2 each participant in the diversion program with
3 requirements for supervision and surveillance.

4 (g) Holding a general meeting at least twice a year,
5 which shall be open and public, to evaluate the diversion
6 program's progress, to prepare reports to be submitted to
7 the committee, and to suggest proposals for changes in
8 the diversion program.

9 (h) For the purposes of Division 3.6 (commencing
10 with Section 810) of Title 1 of the Government Code, any
11 member of a diversion evaluation committee shall be
12 considered a public employee. No ~~committee board~~ or
13 diversion evaluation committee member, contractor, or
14 agent thereof, shall be liable for any civil damage because
15 of acts or omissions which may occur while acting in good
16 faith in a program established pursuant to this article.

17 SEC. 56. Section 2666 of the Business and Professions
18 Code is amended to read:

19 2666. (a) Criteria for acceptance into the diversion
20 program shall include all of the following:

21 (1) The applicant shall be licensed as a physical
22 therapist or approved as a physical therapist assistant by
23 the ~~committee board~~ and shall be a resident of California.

24 (2) The applicant shall be found to abuse dangerous
25 drugs or alcoholic beverages in a manner which may
26 affect his or her ability to practice physical therapy safely
27 or competently.

28 (3) The applicant shall have voluntarily requested
29 admission to the program or shall be accepted into the
30 program in accordance with terms and conditions
31 resulting from a disciplinary action.

32 (4) The applicant shall agree to undertake any
33 medical or psychiatric examination ordered to evaluate
34 the applicant for participation in the program.

35 (5) The applicant shall cooperate with the program by
36 providing medical information, disclosure authorizations,
37 and releases of liability as may be necessary for
38 participation in the program.



1 (6) The applicant shall agree in writing to cooperate
 2 with all elements of the treatment program designed for
 3 him or her.

4 Any applicant may be denied participation in the
 5 program if the ~~committee~~ *board* its designee, or a
 6 diversion evaluation committee, as the case may be,
 7 determines that the applicant will not substantially
 8 benefit from participation in the program or that the
 9 applicant's participation in the program creates too great
 10 a risk to the public health, safety, or welfare.

11 (b) A participant may be terminated from the
 12 program for any of the following reasons:

13 (1) The participant has successfully completed the
 14 treatment program.

15 (2) The participant has failed to comply with the
 16 treatment program designated for him or her.

17 (3) The participant fails to meet any of the criteria set
 18 forth in subdivision (a) or (c).

19 (4) It is determined that the participant has not
 20 substantially benefited from participation in the program
 21 or that his or her continued participation in the program
 22 creates too great a risk to the public health, safety, or
 23 welfare. Whenever an applicant is denied participation in
 24 the program or a participant is terminated from the
 25 program for any reason other than the successful
 26 completion of the program, and it is determined that the
 27 continued practice of physical therapy by that individual
 28 creates too great a risk to the public health, safety, and
 29 welfare, that fact shall be reported to the executive officer
 30 of the ~~committee~~ *board* and all documents and
 31 information pertaining to and supporting that conclusion
 32 shall be provided to the executive officer. The matter
 33 may be referred for investigation and disciplinary action
 34 by the ~~committee~~ *board*. Each physical therapist or
 35 physical therapy assistant who requests participation in a
 36 diversion program shall agree to cooperate with the
 37 recovery program designed for him or her. Any failure to
 38 comply with that program may result in termination of
 39 participation in the program.



1 The diversion evaluation committee shall inform each
2 participant in the program of the procedures followed in
3 the program, of the rights and responsibilities of a
4 physical therapist or physical therapist assistant in the
5 program, and the possible results of noncompliance with
6 the program.

7 (c) In addition to the criteria and causes set forth in
8 subdivision (a), the ~~committee~~ *board* may set forth in its
9 regulations additional criteria for admission to the
10 program or causes for termination from the program.

11 SEC. 57. Section 2667 of the Business and Professions
12 Code is amended to read:

13 2667. All ~~committee~~ *board* and diversion evaluation
14 committee records and records of proceedings and
15 participation of a physical therapist or physical therapist
16 assistant in a program shall be confidential and are not
17 subject to discovery or subpoena.

18 SEC. 58. Section 2668 of the Business and Professions
19 Code is amended to read:

20 2668. (a) A fee not to exceed one hundred dollars
21 (\$100) may be charged for participation in the program.

22 (b) If the ~~committee~~ *board* contracts with any other
23 entity to carry out this section, the executive officer of the
24 ~~committee~~ *board*, or his or her designee, shall review the
25 activities and performance of the contractor on a biennial
26 basis. As part of this review, the ~~committee~~ *board* shall
27 review files of participants in the program. However, the
28 names of participants who entered the program
29 voluntarily shall remain confidential, except when the
30 review reveals misdiagnosis, case mismanagement, or
31 noncompliance by the participant.

32 SEC. 59. Section 2669 of the Business and Professions
33 Code is amended to read:

34 2669. Participation in a diversion program shall not be
35 a defense to any disciplinary action which may be taken
36 by the ~~committee~~ *board*. This section does not preclude
37 the ~~committee~~ *board* from commencing disciplinary
38 action against a physical therapist or physical therapist
39 assistant who is terminated unsuccessfully from the



1 program under this section. That disciplinary action may
2 not include as evidence any confidential information.

3 SEC. 60. Section 2672 of the Business and Professions
4 Code is amended to read:

5 2672. Whenever any person has engaged or is about
6 to engage in any acts or practices which constitute or will
7 constitute an offense against this chapter, the superior
8 court of any county, on application of the Medical Board
9 of California, the ~~committee~~ *board*, or 10 or more persons
10 holding physical therapist licenses issued under this
11 chapter, may issue an injunction or other appropriate
12 order restraining the conduct. Proceedings under this
13 section shall be governed by Chapter 3 (commencing
14 with Section 525) of Title 7 of Part 2 of the Code of Civil
15 Procedure.

16 SEC. 61. Section 2680 of the Business and Professions
17 Code is amended to read:

18 2680. The ~~committee~~ *board* shall keep a record of its
19 proceedings under this chapter, and a register of all
20 persons licensed under it. The register shall show the
21 name of every living licensee, his or her last known place
22 of residence, and the date and number of his or her
23 license as a physical therapist. The ~~committee~~ *board* shall
24 compile a list of physical therapists authorized to practice
25 physical therapy in the state. Any interested person is
26 entitled to obtain a copy of that list upon application to
27 the ~~committee~~ *board* and payment of such amount as may
28 be fixed by the ~~committee~~ *board* which amount shall not
29 exceed the cost of the list so furnished.

30 SEC. 62. Section 2682 of the Business and Professions
31 Code is amended to read:

32 2682. There is in the State Treasury the Physical
33 Therapy Fund. All collections from persons licensed or
34 approved or seeking to be licensed or approved shall be
35 paid by the ~~committee~~ *board* into the fund after reporting
36 to the Controller at the beginning of each month the
37 amount and source of the collections. All money in the
38 Physical Therapy Fund is appropriated to carry out the
39 purposes of this chapter.



1 SEC. 63. Section 2684 of the Business and Professions
2 Code is amended to read:

3 2684. (a) Notwithstanding Section 2422, any license
4 or approval for the practice of physical therapy shall
5 expire at 12 midnight on the last day of the birth month
6 of the licensee or holder of an approval during the second
7 year of a two-year term, if not renewed.

8 (b) To renew an unexpired license or approval, the
9 licensee or the holder of an approval shall, on or before
10 the dates on which it would otherwise expire, apply for
11 renewal on a form prescribed by the ~~committee~~ *board*
12 and pay the prescribed renewal fee.

13 SEC. 64. Section 2685 of the Business and Professions
14 Code is amended to read:

15 2685. At least 60 days before the expiration of any
16 license or approval, the ~~committee~~ *board* shall mail to
17 each licensee under this chapter, at the latest address
18 furnished by the licensee to the executive officer, a notice
19 stating the amount of the renewal fee and the date on
20 which it is due, and that failure to pay it on or before the
21 due date will result in expiration of the license.

22 SEC. 65. Section 2687 of the Business and Professions
23 Code is amended to read:

24 2687. All fees earned by the ~~committee~~ *board* and all
25 fines and forfeitures of bail to which the board is entitled
26 shall be reported at the beginning of each month, for the
27 month preceding, to the State Controller. At the same
28 time, the entire amount of these collections shall be paid
29 into the State Treasury and shall be credited to the
30 Physical Therapy Fund.

31 This fund shall be for the uses of the ~~committee~~ *board*
32 and is continuously appropriated to the ~~committee~~ *board*
33 to pay all salaries and all other expenses necessarily
34 incurred in carrying into effect the provisions of this
35 chapter.

36 SEC. 66. Section 2688 of the Business and Professions
37 Code is amended to read:

38 2688. The amount of fees provided in connection with
39 licenses or approvals for the practice of physical therapy
40 is as follows:



1 (a) The application fee for a physical therapist's
2 license shall be established by the ~~committee~~ *board* at not
3 more than fifty dollars (\$50). The application fee for an
4 applicant under Section 2653 shall be established by the
5 ~~committee~~ *board* at not more than one hundred dollars
6 (\$100).

7 (b) The examination and reexamination fees for the
8 physical therapist examination and the physical therapist
9 assistant examination shall be the actual cost to the
10 ~~committee~~ *board* of the purchase and grading of each
11 written examination, plus the actual cost to the
12 ~~committee~~ *board* of administering each examination.

13 (c) The initial license fee for a physical therapist
14 license shall be eighty dollars (\$80), unless a lower fee is
15 established by the ~~committee~~ *board*.

16 (d) The renewal fee for a physical therapist license
17 shall be eighty dollars (\$80), unless a lower fee is
18 established by the ~~committee~~ *board*.

19 (e) A fee to be set by the ~~committee~~ *board* of not more
20 than fifty dollars (\$50) shall be charged for each
21 application for approval as a physical therapist assistant.

22 (f) A fee of eighty dollars (\$80) shall be charged for the
23 issuance of and for the renewal of each approval as a
24 physical therapist assistant, unless a lower fee is
25 established by the ~~committee~~ *board*.

26 (g) Notwithstanding Section 163.5, the delinquency
27 fee shall be 50 percent of the renewal fee in effect.

28 (h) The duplicate wall certificate fee shall not exceed
29 twenty dollars (\$20). The duplicate renewal receipt fee
30 shall not exceed twenty dollars (\$20).

31 (i) The endorsement or letter of good standing fee is
32 thirty dollars (\$30).

33 SEC. 67. Section 2688.5 of the Business and
34 Professions Code is amended to read:

35 2688.5. The ~~committee~~ *board* shall submit a report to
36 the fiscal and appropriate policy committees of the
37 legislature whenever the ~~committee~~ *board* increases any
38 fee. The report shall specify the justification for the
39 increase and the percentage of the fee increase to be used
40 for enforcement purposes.



1 SEC. 68. Section 2689 of the Business and Professions
2 Code is amended to read:

3 2689. (a) The ~~committee~~ *board* may establish by
4 regulation suitable application and renewal fees of not
5 more than two hundred dollars (\$200), for persons
6 certified to perform electromyographical testing
7 pursuant to Section 2620.5, based upon the cost of
8 operating the certification program. The application fee
9 shall be paid by the applicant at the time the application
10 is filed and the renewal fee shall be paid as provided in
11 Section 2683.

12 (b) The ~~committee~~ *board* shall charge an examination
13 and reexamination fee of five hundred dollars (\$500) to
14 applicants who are examined and who have been found
15 to otherwise meet the ~~committee's board's~~ standards for
16 certification.

17 SEC. 69. Section 2690 of the Business and Professions
18 Code is amended to read:

19 2690. A physical therapy corporation is a corporation
20 which is authorized to render professional services, as
21 defined in Section 13401 of the Corporations Code, so long
22 as that corporation and its shareholders, officers,
23 directors, and employees rendering professional services
24 who are physical therapists are in compliance with the
25 Moscone-Knox Professional Corporation Act, this article
26 and all other statutes and regulations now or hereafter
27 enacted or adopted pertaining to such corporation and
28 the conduct of its affairs.

29 With respect to a physical therapy corporation, the
30 governmental agency referred to in the Moscone-Knox
31 Professional Corporation Act is the Physical Therapy
32 ~~Examining Committee~~ *Board* of California.

33 SEC. 70. Section 2696 of the Business and Professions
34 Code is amended to read:

35 2696. The ~~committee~~ *board* may adopt and enforce
36 regulations to carry out the purposes and objectives of this
37 article, including regulations requiring (a) that the
38 bylaws of a physical therapy corporation shall include a
39 provision whereby the capital stock of such corporation
40 owned by a disqualified person (as defined in Section



1 13401 of the Corporations Code), or a deceased person,
2 shall be sold to the corporation or to the remaining
3 shareholders of such corporation within such time as such
4 regulations may provide, and (b) that a physical therapy
5 corporation shall provide adequate security by insurance
6 or otherwise for claims against it by its patients arising out
7 of the rendering of professional services.

8 SEC. 71. Section 2987.5 of the Business and
9 Professions Code is amended to read:

10 2987.5. Every person licensed under this chapter is
11 exempt from the payment of the renewal fee in any one
12 of the following instances:

13 While engaged in full-time active service in the Army,
14 Navy, Air Force or Marines, or in the United States Public
15 Health Service, or while a volunteer in the Peace Corps
16 or Vista.

17 Every person exempted from the payment of the
18 renewal fee by this section shall not engage in any private
19 practice and shall become liable for such fee for the
20 current renewal period upon the completion of his or her
21 period of full-time active service and shall have a period
22 of 60 days after becoming liable within which to pay the
23 fee before the delinquency fee becomes applicable. Any
24 person who completes his or her period of full-time active
25 service within 60 days of the end of a renewal period is
26 exempt from the payment of the renewal fee for that
27 period.

28 The time spent in such full-time active service or
29 full-time training and active service shall not be included
30 in the computation of the ~~five-year~~ *three-year* period for
31 renewal of a license provided in Section ~~2944(d)~~ 2986.

32 The exemption provided by this section shall not be
33 applicable if the person engages in any practice for
34 compensation other than full-time service in the Army,
35 Navy, Air Force or Marines or in the United States Public
36 Health Service or the Peace Corps or Vista.

37 SEC. 72. Section 3356 of the Business and Professions
38 Code is amended to read:

39 3356. An applicant who has fulfilled the requirements
40 of Section 3352 and has made application therefor, may



1 have a temporary license issued to him or her upon
2 satisfactory proof to the committee that the applicant
3 holds a hearing aid dispenser's license in another state,
4 that the licensee has not been subject to formal
5 disciplinary action by another licensing authority, and
6 that the applicant has been engaged in the fitting and sale
7 of hearing aids for the two years prior to application. An
8 individual licensed under this section shall take the ~~first~~
9 *written* license examination ~~which is administered after~~
10 ~~the temporary license has been held for 90 days within 90~~
11 ~~days after the date on which the temporary license was~~
12 ~~issued.~~ If the temporary licensee does not take either
13 examination or fails either examination, then he or she
14 shall renew the temporary license under the provisions of
15 Section 3357, subject to the requirements of that section.

16 SEC. 73. Section 3360 of the Business and Professions
17 Code is amended to read:

18 3360. ~~Examinations~~ *Practical examinations* shall be
19 held by the committee at least twice a year. The time and
20 place of any *practical* examination shall be fixed by the
21 committee at least 45 days prior to the date it is to be held.

22 SEC. 74. Section 3401 of the Business and Professions
23 Code is amended to read:

24 3401. The committee may deny, issue subject to terms
25 and conditions, suspend, or revoke a license, or impose
26 conditions of probation upon a licensee, for any of the
27 following causes:

28 (a) Gross incompetency which includes, but is not
29 limited to, the improper or unnecessary fitting of a
30 hearing aid.

31 (b) Gross negligence.

32 (c) Repeated negligent acts.

33 (d) Conviction of any crime substantially related to
34 the qualifications, functions and duties of a hearing aid
35 dispenser.

36 (e) Obtaining a license by fraud or deceit.

37 (f) Use of the term "doctor" or "physician" or "clinic"
38 or "audiologist," or any derivation thereof, unless
39 authorized by law.



1 (g) Fraud or misrepresentation in the fitting or selling
2 of a hearing aid.

3 (h) The employment, to perform any act covered by
4 the provisions of this chapter, of any person whose license
5 has been suspended, revoked, or who does not possess a
6 valid license issued under this chapter.

7 (i) The use or causing the use, of any advertising or
8 promotional literature in such manner as to have the
9 capacity or tendency to mislead or deceive purchasers or
10 prospective purchasers.

11 (j) Habitual intemperance in the use of alcohol or any
12 controlled substance.

13 (k) The licensee's permitting another to use his or her
14 license for any purpose.

15 (l) Violation of any provision of this chapter *or of any*
16 *regulation adopted pursuant to this chapter.*

17 (m) Any cause which would be grounds for denial of
18 an application for a license.

19 SEC. 75. Section 3427.5 of the Business and
20 Professions Code is amended to read:

21 3427.5. It is unlawful for a licensed hearing aid
22 dispenser to fit or sell a hearing aid unless he or she ~~has~~
23 first ~~(a) complied~~ *does all of the following:*

24 (a) *Complies* with all provisions of state laws and
25 regulations relating to the fitting or selling of hearing aids;
26 ~~(b) conducted.~~

27 (b) *Conducts* a direct observation of the purchaser's
28 ear canals, ~~and (c) informed.~~

29 (c) *Informs* the purchaser of the address and office
30 hours at which the licensee shall be available for fitting or
31 postfitting adjustments and servicing of the hearing aid
32 or aids sold.

33 SEC. 76. Section 3901 of the Business and Professions
34 Code is amended to read:

35 3901. This chapter may be known and cited as the
36 "Nursing Home Administrator's ~~Licensing~~ Act."

37 SEC. 77. Section 3902 of the Business and Professions
38 Code is amended to read:

39 3902. "Nursing home" means any institution, facility,
40 place, building or agency, or portion thereof, ~~defined and~~



1 licensed as a skilled nursing facility ~~or~~ *nursing facility*,
 2 intermediate care facility, ~~except an~~ *intermediate care*
 3 *facility/developmentally disabled*, intermediate care
 4 facility/developmentally disabled habilitative ~~or an~~,
 5 intermediate care facility/developmentally
 6 disabled—*nursing, or congregate living health facility, as*
 7 *defined* in Chapter 2 (commencing with Section 1250) of
 8 Division 2 of the Health and Safety Code.

9 SEC. 78. Section 3924 of the Business and Professions
 10 Code is amended to read:

11 3924. (a) Every holder of a nursing home
 12 administrator's license shall ~~reregister~~ *renew the license*
 13 biennially, on dates specified by the board, by ~~making~~
 14 ~~application for reregistration~~ *submitting a renewal form*
 15 *and the appropriate renewal fee*. In the event that the
 16 license of an individual is not ~~reregistered~~ *renewed*
 17 within three years from the date of expiration, and all
 18 accrued and unpaid renewal fees and ~~penalty fees~~
 19 *delinquent penalties* required by this chapter are not
 20 paid, the license shall ~~lapse~~ *be cancelled* and that
 21 individual shall again apply for ~~licensing~~ *licensure* and
 22 meet all requirements of this chapter as ~~for~~ *if* a new
 23 applicant.

24 (b) *The renewal form shall include a statement under*
 25 *penalty of perjury whether the licensee was convicted of*
 26 *a crime during the preceding renewal period.*

27 (c) A condition of ~~reregistration~~ *licensure renewal*
 28 shall be the presentation of proof by the licensee that he
 29 or she has attended the number of classroom hours of
 30 approved continuing educational programs, classes,
 31 seminars, or proceedings required by the regulations
 32 promulgated by the board, at least 25 percent of which
 33 shall be in the area of aging and patient care. The board,
 34 at its discretion, may exempt from continuing education
 35 requirements, the licensees who for reasons of health,
 36 military service, or other good cause cannot meet those
 37 requirements. Each ~~such~~ *waiver* granted shall be for the
 38 current ~~reregistration~~ *licensure* period only.

39 ~~(e)~~



1 (d) A licensee may ~~reregister~~ *renew his or her license*
2 pursuant to this chapter, although he or she may not
3 currently be actively engaged in nursing home
4 administration.

5 SEC. 79. Section 3924.5 of the Business and
6 Professions Code is repealed.

7 ~~3924.5. The board shall conduct a study of the current~~
8 ~~approval process for continuing education courses and~~
9 ~~the administrator training programs.~~

10 ~~The board shall report to the Legislature on or before~~
11 ~~December 1, 1988, on the progress of the study.~~

12 SEC. 80. Section 3930.1 of the Business and
13 Professions Code is repealed.

14 ~~3930.1. The board shall report to the Legislature by~~
15 ~~March 1, 1989, on all of the following:~~

16 (a) ~~The number of reports received from the State~~
17 ~~Department of Health Services pursuant to Section~~
18 ~~1429.5 of the Health and Safety Code.~~

19 (b) ~~The number of reports which warranted remedial~~
20 ~~or disciplinary action and actions initiated by the board.~~

21 (c) ~~The policies and procedures developed by the~~
22 ~~board pursuant to Section 3928.~~

23 (d) ~~The impact of the new responsibilities under the~~
24 ~~provisions of this chapter on the board's workload and~~
25 ~~resources.~~

26 (e) ~~Any recommendations and justification for~~
27 ~~additional revenues to the board based on the~~
28 ~~responsibilities of the board under this chapter.~~

29 SEC. 81. Section 3930.5 of the Business and
30 Professions Code is amended to read:

31 3930.5. Any nursing home administrator whose
32 license has been suspended shall not be employed as an
33 administrator of a ~~long-term health care facility~~ *nursing*
34 *home*, or engage in ~~the any~~ activities for which a license
35 is issued by the board, during the period of suspension.

36 SEC. 82. Section 4940.1 of the Business and
37 Professions Code is repealed.

38 ~~4940.1. The committee shall contract with a qualified,~~
39 ~~independent consultant with expertise in the professional~~
40 ~~licensure field, to conduct an evaluation of acupuncture~~



1 ~~tutorial programs. The independent consultant shall~~
2 ~~evaluate the tutorial programs and upon completion of~~
3 ~~the evaluation, make recommendations to the committee~~
4 ~~which shall include, but need not be limited to, the~~
5 ~~organization, administration, and monitoring of the~~
6 ~~tutorial programs, the necessary qualifications of the~~
7 ~~supervising acupuncturists acting as tutors, and the~~
8 ~~educational requirements needed to ensure that trainees~~
9 ~~who are enrolled in the tutorial programs receive training~~
10 ~~which is substantially equivalent to the training standards~~
11 ~~of acupunctuere schools and colleges.~~

12 ~~The committee shall develop formal regulations which~~
13 ~~will govern the operation of the tutorial programs.~~

14 ~~SEC. 83. Section 4940.2 of the Business and~~
15 ~~Professions Code is repealed.~~

16 ~~4940.2. The committee shall contract with a qualified,~~
17 ~~independent consultant with expertise in the professional~~
18 ~~licensure field, to conduct an evaluation of the~~
19 ~~requirements which must be met by foreign-trained and~~
20 ~~out-of-state applicants, and the process for determining~~
21 ~~compliance with the requirements. Upon completion of~~
22 ~~the evaluation, the independent consultant shall make~~
23 ~~recommendations to the committee as to the nature and~~
24 ~~extent of the requirements needed to ensure that~~
25 ~~foreign-trained and out-of-state applicants have~~
26 ~~completed education and training which is substantially~~
27 ~~equivalent to that which is required of applicants trained~~
28 ~~in this state. The recommendations shall include~~
29 ~~proposals for a system to document and verify the~~
30 ~~training received by the applicant. The~~
31 ~~recommendations shall discuss whether the committee~~
32 ~~should adopt a requirement for foreign-trained or~~
33 ~~out-of-state applicants to complete a clinical training~~
34 ~~program in this state prior to taking the examination.~~

35 ~~The committee shall develop formal regulations which~~
36 ~~will specify the requirements which must be met by~~
37 ~~foreign-trained applicants.~~

38 ~~SEC. 84. Section 4940.3 of the Business and~~
39 ~~Professions Code is repealed.~~



1 ~~4940.3. To assist in the development of reasonable~~
2 ~~standards for the tutorial program and the requirements~~
3 ~~of foreign-trained and out-of-state applicants, the~~
4 ~~committee shall authorize a qualified, independent~~
5 ~~consultant with expertise in the professional licensure~~
6 ~~field to conduct an analysis of the extent and nature of the~~
7 ~~educational and clinical training necessary to obtain a~~
8 ~~reasonable level of competency in the practice of~~
9 ~~acupuncture. The findings of this analysis shall be~~
10 ~~reported to the committee.~~

11 SEC. 85. Section 4980.03 of the Business and
12 Professions Code is amended to read:

13 4980.03. (a) "Board," as used in this chapter, means
14 the Board of Behavioral Science Examiners *Sciences*.

15 (b) "Intern," as used in this chapter, means an
16 unlicensed person who has earned his or her master's or
17 doctor's degree qualifying him or her for licensure and is
18 registered with the board.

19 (c) "Trainee," as used in this chapter, means an
20 unlicensed person who is currently enrolled in a master's
21 or doctor's degree program, as specified in Section
22 4980.40, that is designed to qualify him or her for licensure
23 under this chapter, and who has completed no less than
24 12 semester units or 18 quarter units of coursework in any
25 qualifying degree program.

26 (d) "Advertise," as used in this chapter, includes, but
27 is not limited to, the issuance of any card, sign, or device
28 to any person, or the causing, permitting, or allowing of
29 any sign or marking on, or in, any building or structure,
30 or in any newspaper or magazine or in any directory, or
31 any printed matter whatsoever, with or without any
32 limiting qualification. It also includes business
33 solicitations communicated by radio or television
34 broadcasting. Signs within church buildings or notices in
35 church bulletins mailed to a congregation shall not be
36 construed as advertising within the meaning of this
37 chapter.

38 SEC. 86. Section 4980.40 of the Business and
39 Professions Code, as amended by Section 6.5 of Chapter
40 758 of the Statutes of 1995, is amended to read:



1 4980.40. To qualify for a license an applicant shall
2 have all the following qualifications:

3 (a) Applicants applying for licensure on or after
4 January 1, 1988, shall possess a doctor's or master's degree
5 in marriage, family, and child counseling, marital and
6 family therapy, psychology, clinical psychology,
7 counseling psychology, counseling with an emphasis in
8 marriage, family, and child counseling, or social work
9 with an emphasis in clinical social work, obtained from a
10 school, college, or university accredited by the Western
11 Association of Schools and Colleges, the Northwest
12 Association of Secondary and Higher Schools, or an
13 essentially equivalent accrediting agency, as determined
14 by the board, or approved by the Council for Private
15 Postsecondary and Vocational Education, pursuant to any
16 of Sections 94770 to 94774, inclusive, of the Education
17 Code. For purposes of this chapter, the term "approved
18 by the Council for Private Postsecondary and Vocational
19 Education" shall not include temporary, conditional, or
20 any other type of interim approval. In order to qualify for
21 licensure pursuant to this subdivision, any doctor's or
22 master's degree program shall contain no less than 48
23 semester or 72 quarter units of instruction. The
24 instruction shall include no less than 12 semester units or
25 18 quarter units of coursework in the areas of marriage,
26 family, and child counseling, and marital and family
27 systems approaches to treatment.

28 The coursework shall include all of the following areas:

29 (1) The salient theories of a variety of
30 psychotherapeutic orientations directly related to
31 marriage, family, and child counseling, and marital and
32 family systems approaches to treatment.

33 (2) Theories of marriage and family therapy and how
34 they can be utilized in order to intervene therapeutically
35 with couples, families, adults, children, and groups.

36 (3) Developmental issues and life events from infancy
37 to old age and their effect upon individuals, couples, and
38 family relationships. This may include coursework that
39 focuses on specific family life events and the
40 psychological, psychotherapeutic, and health

1 implications that arise within couples and families,
2 including, but not limited to, childbirth, child rearing,
3 childhood, adolescence, adulthood, marriage, divorce,
4 blended families, stepparenting, and geropsychology.

5 (4) A variety of approaches to the treatment of
6 children.

7 The board may, by regulation, further define the
8 content requirements of required courses specified in this
9 subdivision.

10 (b) (1) In addition to the 12 semester or 18 quarter
11 units of coursework specified above, the doctor's or
12 master's degree program shall contain not less than six
13 semester or nine quarter units of supervised practicum in
14 applied psychotherapeutic techniques, assessment,
15 diagnosis, prognosis, and treatment of premarital, couple,
16 family, and child relationships, including dysfunctions,
17 healthy functioning, health promotion, and illness
18 prevention, in a supervised clinical placement that
19 provides supervised fieldwork experience within the
20 scope of practice of a marriage, family, and child
21 counselor.

22 (2) On and after January 1, 1995, the practicum shall
23 include a minimum of 150 hours of face-to-face
24 experience counseling individuals, couples, families, or
25 groups.

26 (3) (A) Supervised practicum hours, as specified in
27 this subdivision, shall be evaluated, accepted, and
28 credited as hours for trainee experience by the board.

29 (B) The practicum hours shall be considered as part of
30 the 48 semester or 72 quarter unit requirement.

31 (c) As an alternative to meeting the qualifications
32 specified in subdivision (a), the board shall accept as
33 equivalent degrees, those master's or doctor's degrees
34 granted by educational institutions whose degree
35 program is approved by the Commission on
36 Accreditation for Marriage and Family Therapy
37 Education.

38 (d) All applicants shall, in addition, complete the
39 coursework or training specified in Section 4980.41.

40 (e) All applicants shall be at least 18 years of age.



1 (f) All applicants shall have at least two years'
2 experience that meets the requirements of this chapter
3 in interpersonal relationships, marriage, family, and child
4 counseling and psychotherapy under the supervision of
5 a licensed marriage, family, and child counselor, licensed
6 clinical social worker, licensed psychologist, or a licensed
7 physician certified in psychiatry by the American Board
8 of Psychiatry and Neurology. Experience shall not be
9 gained under the supervision of an individual who has
10 provided therapeutic services to that applicant. For those
11 supervisory relationships in effect on or before
12 December 31, 1988, and which remain in continuous
13 effect thereafter, experience may be gained under the
14 supervision of a licensed physician who has completed a
15 residency in psychiatry. Any person supervising another
16 person pursuant to this subdivision shall have been
17 licensed or certified for at least two years prior to acting
18 as a supervisor, shall have a current and valid license that
19 is not under suspension or probation, and shall meet the
20 requirements established by regulations.

21 (g) The applicant shall pass a written examination and
22 an oral examination conducted by the board or its
23 designees.

24 (h) The applicant shall not have committed acts or
25 crimes constituting grounds for denial of licensure under
26 Section 480. The board shall not issue a registration or
27 license to any person who has been convicted of any
28 crime in the United States that involves sexual abuse of
29 children or who has been ordered to register as a mentally
30 disordered sex offender or the equivalent in another state
31 or territory.

32 (i) Applicants applying for licensure on or before
33 December 31, 1987, shall possess all of the qualifications
34 specified in subdivisions (e) to (h), inclusive, and shall
35 possess a doctor's or master's degree in marriage, family,
36 and child counseling, social work, clinical psychology,
37 counseling, counseling psychology, child development
38 and family studies, or a degree determined by the board
39 to be equivalent, obtained from a school, college, or
40 university accredited by the Western Association of



1 Schools and Colleges, the Northwest Association of
2 Secondary and Higher Schools, or an essentially
3 equivalent accrediting agency as determined by the
4 board.

5 (j) For applicants applying for a license pursuant to
6 subdivision (i), the board may make a determination that
7 an applicant's master's or doctor's degree is an equivalent
8 degree if it finds that the degree was issued upon
9 completion of a course of academic study primarily
10 designed to train persons as a marriage, family, and child
11 counselor. The course of study completed by the
12 applicant shall contain not less than 30 semester or 45
13 quarter units of coursework as follows: (1) human
14 biological, psychological, and social development, (2)
15 human sexuality, (3) psychopathology, (4) cross-cultural
16 mores and values, (5) theories of marriage, family, and
17 child counseling, (6) professional ethics and law, (7)
18 human communication, (8) research methodology, (9)
19 theories and applications of psychological testing, and
20 (10) not less than six semester or nine quarter units of
21 supervised practicum in applied psychotherapeutic
22 techniques, assessment, diagnosis, prognosis, and
23 treatment of premarital, family, and child relationship
24 dysfunctions. The applicant shall submit to the board
25 satisfactory written verification by the chief academic
26 officer of the accredited or approved school, or by an
27 authorized designee, that the applicant has successfully
28 completed courses, including the practicum required by
29 the board. The verification shall include, but need not be
30 limited to, descriptions of the completed courses. The
31 board may request further written verification of course
32 content and academic experience to determine that the
33 applicant's training and experience is equivalent to the
34 course of instruction required by this section.

35 (k) (1) An applicant applying for intern registration
36 who, prior to December 31, 1987, met the qualifications
37 for registration, but who failed to apply or qualify for
38 intern registration may be granted an intern registration
39 if the applicant meets all of the following criteria:



1 (A) The applicant possesses a doctor's or master's
2 degree in marriage, family, and child counseling, marital
3 and family therapy, psychology, clinical psychology,
4 counseling psychology, counseling with an emphasis in
5 marriage, family, and child counseling, or social work
6 with an emphasis in clinical social work obtained from a
7 school, college, or university currently conferring that
8 degree that, at the time the degree was conferred, was
9 accredited by the Western Association of Schools and
10 Colleges, and where the degree conferred was, at the
11 time it was conferred, specifically intended to satisfy the
12 educational requirements for licensure by the Board of
13 Behavioral ~~Science Examiners~~ *Sciences*.

14 (B) The applicant's degree and the course content of
15 the instruction underlying that degree have been
16 evaluated by the chief academic officer of a school,
17 college, or university accredited by the Western
18 Association of Schools and Colleges to determine the
19 extent to which the applicant's degree program satisfies
20 the current educational requirements for licensure, and
21 the chief academic officer certifies to the board the
22 amount and type of instruction needed to meet the
23 current requirements.

24 (C) The applicant completes a plan of instruction that
25 has been approved by the board at a school, college, or
26 university accredited by the Western Association of
27 Schools and Colleges that the chief academic officer of the
28 educational institution has, pursuant to subparagraph
29 (B), certified will meet the current educational
30 requirements when considered in conjunction with the
31 original degree.

32 (2) A person applying under this subdivision shall be
33 considered a trainee, as that term is defined in Section
34 4980.03, once he or she is enrolled to complete the
35 additional coursework necessary to meet the current
36 educational requirements for licensure.

37 (l) This section shall become operative on January 1,
38 1997.

39 SEC. 87. Section 4984.5 of the Business and
40 Professions Code is amended to read:

1 4984.5. The board shall report each month to the
2 Controller the amount and source of all revenue received
3 pursuant to this chapter and at the same time pay the
4 entire amount thereof into the State Treasury for credit
5 to the Behavioral ~~Science-Examiners~~ *Sciences* Fund.

6 SEC. 88. Section 4984.6 of the Business and
7 Professions Code is amended to read:

8 4984.6. (a) The Behavioral ~~Science—Examiners~~
9 *Sciences* Fund is continuously appropriated, without
10 regard to fiscal years, to the Board of Behavioral ~~Science~~
11 ~~Examiners~~ *Sciences* for carrying out and enforcing the
12 provisions of this chapter.

13 (b) The board shall keep such records as will
14 reasonably ensure that funds expended in the
15 administration of each licensing or registration category
16 shall bear a reasonable relation to the revenue derived
17 from each category, and shall so notify the department no
18 later than May 31 of each year.

19 (c) Surpluses, if any, may be used in such a way so as
20 to bear a reasonable relation to the revenue derived from
21 each category, and may include, but not be limited to,
22 expenditures for education and research related to each
23 of the licensing or registration categories.

24 SEC. 89. Section 4987.5 of the Business and
25 Professions Code is amended to read:

26 4987.5. A marriage, family, and child counseling
27 corporation is a corporation which is registered with the
28 Board of Behavioral ~~Science-Examiners—~~ *Sciences* and has
29 a currently effective certificate of registration from the
30 board pursuant to the Moscone-Knox Professional
31 Corporation Act, as contained in Part 4 (commencing
32 with Section 13400) of Division 3 of Title 1 of the
33 Corporations Code, and this article. Subject to all
34 applicable statutes, rules and regulations, such marriage,
35 family, and child counseling corporation is entitled to
36 practice marriage, family, and child counseling. With
37 respect to a marriage, family, and child counseling
38 corporation, the governmental agency referred to in the
39 Moscone-Knox Professional Corporation Act is the Board
40 of Behavioral ~~Science-Examiners~~ *Sciences*.



1 SEC. 90. Section 4990.1 of the Business and
2 Professions Code is amended to read:

3 4990.1. There is in the Department of Consumer
4 Affairs a Board of Behavioral ~~Science Examiners~~ *Sciences*
5 which consists of 11 members.

6 This section shall become inoperative on July 1, 1999,
7 and, as of January 1, 2000, is repealed, unless a later
8 enacted statute, which becomes effective on or before
9 January 1, 2000, deletes or extends the dates on which it
10 becomes inoperative and is repealed.

11 SEC. 91. Section 4990.2 of the Business and
12 Professions Code is amended to read:

13 4990.2. Wherever “Board of Social Work Examiners of
14 the State of California” or “Social Worker and Marriage
15 Counselor Qualifications Board of the State of California”
16 is used in any law or regulations of this state it shall mean
17 the Board of Behavioral ~~Science Examiners~~ *Sciences*.

18 SEC. 92. Section 4990.15 of the Business and
19 Professions Code is amended to read:

20 4990.15. The board shall have and use a seal bearing
21 the words “The Board of Behavioral ~~Science Examiners~~
22 *Sciences*,” and shall otherwise conform to Section 107.5.

23 SEC. 93. Section 4990.17 of the Business and
24 Professions Code is repealed.

25 ~~4990.17. (a) In any order issued in resolution of a
26 disciplinary proceeding before the board, the board may
27 request the administrative law judge to direct any
28 registrant or licensee found to have violated or be in
29 violation of Section 4982, 4986.70, or 4992.3, to pay to the
30 board a sum not to exceed the actual and reasonable costs
31 of the investigation and prosecution of the case.~~

32 ~~(b) The costs to be assessed shall be fixed only by the
33 administrative law judge and shall not be fixed or
34 increased by the board. A certification by the board’s
35 executive officer of the costs incurred for investigation
36 and prosecution of the case shall be conclusive proof of
37 those costs. If the board does not adopt a proposed
38 decision the board shall not increase the amount of any
39 assessed costs specified in the proposed decision.~~



1 ~~(c) Nothing in subdivision (a) or (b) shall preclude~~
2 ~~the board from seeking recovery of costs in an order made~~
3 ~~pursuant to an agreement entered into between the~~
4 ~~board and the registrant or licensee.~~

5 ~~(d) Where an order for recovery of costs is made and~~
6 ~~timely payment is not made as directed in the board's~~
7 ~~decision, the board may enforce the order for payment in~~
8 ~~any appropriate court. This right of enforcement shall be~~
9 ~~in addition to any other rights the board may have as to~~
10 ~~any registrant or licensee directed to pay costs.~~

11 ~~(e) In any action for recovery of costs, proof of the~~
12 ~~board's decision shall be conclusive proof of the validity~~
13 ~~of the order of payment and the terms for payment.~~

14 ~~(f) (1) Except as provided in paragraph (2), the~~
15 ~~board shall not renew or reinstate the license or~~
16 ~~registration of, nor shall the board accept any petition for~~
17 ~~reinstatement or modification of probation from, any~~
18 ~~licensee or registrant who has failed to pay all of the costs~~
19 ~~ordered under this section.~~

20 ~~(2) Notwithstanding paragraph (1), the board may, in~~
21 ~~its discretion, conditionally renew or reinstate for a~~
22 ~~maximum of two years the registration or license of any~~
23 ~~registrant or licensee who demonstrates financial~~
24 ~~hardship and who enters into a formal agreement with~~
25 ~~the board to reimburse the board within that one-year~~
26 ~~period for those unpaid costs.~~

27 ~~(g) All costs recovered under this section shall be~~
28 ~~deposited into the Behavioral Science Examiners Fund.~~

29 SEC. 94. Section 4994 of the Business and Professions
30 Code is amended to read:

31 4994. Notwithstanding Section 13340 of the
32 Government Code and except as provided in Section
33 4984.6, all moneys in the Behavioral Science Examiners
34 Sciences Fund are continuously appropriated to the
35 board, to be expended by it for the purposes of the
36 programs under its jurisdiction.

37 SEC. 95. Section 4996.3 of the Business and
38 Professions Code is amended to read:

39 4996.3. (a) Each application for examination
40 received on or after January 1, 1996, shall be accompanied



1 by an application fee of one hundred dollars (\$100) and
2 a fee of up to one hundred fifty dollars (\$150), including
3 the examination fee and related administrative costs for
4 the written examination and two hundred dollars (\$200)
5 for the oral examination, that shall be deposited by the
6 board into the State Treasury to the credit of the
7 Behavioral ~~Science-Examiners~~ *Sciences* Fund.

8 (b) The fee for rescoring a written examination shall
9 be twenty dollars (\$20). The fee for an appeal of an oral
10 examination shall be one hundred dollars (\$100).

11 (c) The fee for issuance of the initial license shall be a
12 maximum of one hundred fifty-five dollars (\$155).

13 SEC. 96. Section 4996.6 of the Business and
14 Professions Code is amended to read:

15 4996.6. (a) The renewal fee for licenses that expire
16 on or after January 1, 1996, shall be a maximum of one
17 hundred fifty-five dollars (\$155) and shall be collected on
18 a biennial basis by the board in accordance with Section
19 152.6. The fees shall be deposited in the State Treasury to
20 the credit of the Behavioral ~~Science-Examiners~~ *Sciences*
21 Fund.

22 (b) If the license is renewed more than 30 days after
23 its expiration, the licensee shall, as a condition precedent
24 to renewal, also pay a delinquency fee of seventy-five
25 dollars (\$75).

26 Any person who permits his or her license to become
27 delinquent may have it restored only upon the payment
28 of all fees that he or she would have paid if the license had
29 not become delinquent, plus the payment of any and all
30 delinquency fees.

31 (c) The fee for issuance of any replacement
32 registration, license, or certificate shall be twenty dollars
33 (\$20).

34 (d) The fee for issuance of a certificate or letter of good
35 standing shall be twenty-five dollars (\$25).

36 SEC. 97. Section 4998 of the Business and Professions
37 Code is amended to read:

38 4998. "Licensed clinical social workers corporation" is
39 a corporation ~~which~~ *that* is registered with the Board of
40 Behavioral ~~Science-Examiners~~ *Sciences* and has a



1 currently effective certificate of registration from the
2 board pursuant to the Moscone-Knox Professional
3 Corporation Act and this article. Subject to all applicable
4 statutes, rules, and regulations, the licensed clinical social
5 workers corporation is entitled to practice clinical social
6 work. With respect to a licensed clinical social workers
7 corporation, the governmental agency referred to in the
8 Moscone-Knox Professional Corporation Act is the Board
9 of Behavioral ~~Science Examiners~~ *Sciences*.

10 SEC. 98. Section 8516 of the Business and Professions
11 Code is amended to read:

12 8516. (a) This section, and Section 8519, apply only to
13 wood destroying pests or organisms, but do not apply to
14 work conducted pursuant to Section 8516.1.

15 (b) No registered company or licensee shall
16 commence work on a contract, or sign, issue, or deliver
17 any documents expressing an opinion or statement
18 relating to the absence or presence of wood destroying
19 pests or organisms until an inspection has been made by
20 a licensed Branch 3 field representative or operator. The
21 registered company shall retain for three years all field
22 reports from which a verbal or written estimate of or
23 solutions for work are made. A written inspection report
24 conforming to this section and on a form prescribed by
25 the board shall be prepared and delivered to the person
26 requesting the inspection or to the person's designated
27 agent. A copy of each report shall be filed with the board
28 at the time the report is delivered or not later than 10
29 working days after the date the inspection is commenced,
30 except an inspection report prepared for use by an
31 attorney for litigation is not required to be filed with the
32 board. The report shall be delivered to the person
33 requesting the inspection, or to the person's designated
34 agent, before work is commenced. The following shall be
35 set forth in the report:

36 (1) The date of the inspection and the name of the
37 licensee making the inspection.

38 (2) The name and address of the person or firm
39 ordering the report.



1 (3) The name and address of any person who is a party
2 in interest.

3 (4) The address or location of the property.

4 (5) A general description of the building or premises
5 inspected.

6 (6) A foundation diagram or sketch of the structure or
7 structures or portions of the structure or structures
8 inspected, indicating thereon the approximate location of
9 any infested or infected areas evident, and the parts of the
10 structure where conditions which would ordinarily
11 subject those parts to attack by wood destroying pests or
12 organisms exist.

13 (7) Information regarding the substructure,
14 foundation walls and footings, porches, patios and steps,
15 air vents, abutments, attic spaces, roof framing that
16 includes the eaves, rafters, fascias, exposed timbers,
17 exposed sheathing, ceiling joists, and attic walls, or other
18 parts subject to attack by wood destroying pests or
19 organisms. Conditions usually deemed likely to lead to
20 infestation or infection, such as earth wood contacts,
21 excessive cellulose debris, faulty grade levels, excessive
22 moisture conditions, evidence of roof leaks, and
23 insufficient ventilation are to be reported.

24 (8) One of the following statements, as appropriate,
25 printed in bold type:

26 (A) The exterior surface of the roof was not inspected.
27 If you want the water tightness of the roof determined,
28 you should contact a roofing contractor who is licensed by
29 the Contractors' State License Board.

30 (B) The exterior surface of the roof was inspected to
31 determine whether or not wood destroying pests or
32 organisms are present.

33 (9) Indication or description of any areas that are
34 inaccessible or not inspected with recommendation for
35 further inspection if practicable. If, after the report has
36 been made in compliance with this section, authority is
37 given later to open inaccessible areas, a supplemental
38 report on conditions in these areas shall be made.

39 (10) Recommendations for corrective measures.



1 (11) Information regarding the pesticide or pesticides
2 to be used for their control as set forth in subdivision (a)
3 of Section 8538.

4 (12) The inspection report shall clearly disclose that if
5 requested by the person ordering the original report, a
6 reinspection of the structure will be performed if an
7 estimate or bid for making repairs was given with the
8 original inspection report, or thereafter.

9 (13) The inspection report shall contain the following
10 statement, printed in boldface type:

11 “NOTICE: The Structural Pest Control Board
12 encourages competitive business practices among
13 registered companies. Reports on this structure prepared
14 by various registered companies should list the same
15 findings (i.e. termite infestations, termite damage,
16 fungus damage, etc.). However, recommendations to
17 correct these findings may vary from company to
18 company. Therefore, you may wish to seek a second
19 opinion since there may be alternative methods of
20 correcting the findings listed on this report that may be
21 less costly.”

22 An estimate or bid for repairs shall be given separately
23 allocating the costs to perform each and every
24 recommendation for corrective measures as specified in
25 subdivision (c) with the original inspection report if the
26 person who ordered the original inspection report so
27 requests, and if the registered company is regularly in the
28 business of performing corrective measures.

29 If no estimate or bid was given with the original
30 inspection report, or thereafter, then the registered
31 company shall not be required to perform a reinspection.

32 A reinspection shall be an inspection of those items
33 previously listed on an original report to determine if the
34 recommendations have been completed. Each
35 reinspection shall be reported on an original inspection
36 report form and shall be labeled “Reinspection” in capital
37 letters by rubber stamp or typewritten. Each
38 reinspection shall also identify the original report by date
39 and stamp numbers.



1 After four months from an original inspection, all
2 inspections shall be original inspections and not
3 reinspections.

4 Any reinspection shall be performed for not more than
5 the price of the registered company's original inspection
6 price and shall be completed within 10 working days after
7 a reinspection has been ordered.

8 (c) At the time a report is ordered, the registered
9 company or licensee shall inform the person or entity
10 ordering the report, that a separated report is available
11 pursuant to this subdivision. If a separated report is
12 requested at the time the inspection report is ordered,
13 the registered company or licensee shall separately
14 identify on the report each recommendation for
15 corrective measures as follows:

16 (1) The infestation or infection that is evident.

17 (2) The conditions that are present that are deemed
18 likely to lead to infestation or infection.

19 If a registered company or licensee fails to inform as
20 required by this subdivision and a dispute arises, or if any
21 other dispute arises as to whether this subdivision has
22 been complied with, a separated report shall be provided
23 within 24 hours of the request but, in no event, later than
24 the next business day, and at no additional cost.

25 (d) When a corrective condition is identified, either as
26 paragraph (1) or (2) of subdivision (c), and the
27 responsible party, as negotiated between the buyer and
28 the seller, chooses not to correct those conditions, the
29 registered company or licensee shall not be liable for
30 damages resulting from a failure to correct those
31 conditions or subject to any disciplinary action by the
32 board. Nothing in this subdivision, however, shall relieve
33 a registered company or a licensee of any liability
34 resulting from negligence, fraud, dishonest dealing, other
35 violations pursuant to this chapter, or contractual
36 obligations between the registered company or licensee
37 and the responsible parties.

38 (e) The inspection report form prescribed by the
39 board shall separately identify the infestation or infection
40 that is evident and the conditions that are present that are



1 deemed likely to lead to infestation or infection. If a
2 separated form is requested, the form shall explain the
3 infestation or infection that is evident and the conditions
4 that are present that are deemed likely to lead to
5 infestation or infection and the difference between those
6 conditions. In no event, however, shall conditions
7 deemed likely to lead to infestation or infection be
8 characterized as actual “defects” or as actual “active”
9 infestations or infections or in need of correction as a
10 precondition to issuing a certification pursuant to Section
11 8519.

12 (f) The report and any contract entered into shall also
13 state specifically when any guarantee for the work is
14 made, and if so, the specific terms of the guarantee and
15 the period of time for which the guarantee shall be in
16 effect.

17 (g) Control service is defined as the regular
18 reinspection of a property after a report has been made
19 in compliance with this section and such corrections as
20 have been agreed upon have been completed. Under a
21 control service agreement a registered company shall
22 refer to the original report and contract in a manner as
23 to identify them clearly, and the report shall be assumed
24 to be a true report of conditions as originally issued,
25 except it may be modified after a control service
26 inspection. A registered company is not required to issue
27 a report as outlined in paragraphs (1) to ~~(9)~~ (11),
28 inclusive, of subdivision (b) after each control service
29 inspection. If after control service inspection, no
30 modification of the original report is made in writing,
31 then it will be assumed that conditions are as originally
32 reported. A control service contract shall state
33 specifically the particular wood destroying pests or
34 organisms and the portions of the buildings or structures
35 covered by the contract.

36 (h) A registered company or licensee may enter into
37 and maintain a control service agreement provided the
38 following requirements are met:



1 (1) The control service agreement shall be in writing,
2 signed by both parties, and shall specifically include the
3 following:

4 (A) The wood destroying pests and organisms that
5 could infest and infect the structure.

6 (B) The wood destroying pests and organisms covered
7 by the control service agreement. Any wood destroying
8 pest or organism that is not covered must be specifically
9 listed.

10 (C) The type and manner of treatment to be used to
11 correct the infestations or infections.

12 (D) The structures or buildings, or portions thereof,
13 covered by the agreement, including a statement
14 specifying whether the coverage for purposes of periodic
15 inspections is limited or full. Any exclusions from those
16 described in the original report must be specifically listed.

17 (E) A reference to the original inspection report and
18 agreement.

19 (F) The frequency of the inspections to be provided,
20 the fee to be charged for each renewal, and the duration
21 of the agreement.

22 (G) Whether the fee includes structural repairs.

23 (H) If the services provided are guaranteed, and, if so,
24 the terms of the guarantee.

25 (I) A statement that all corrections of infestations or
26 infections covered by the control service agreement shall
27 be completed within six months of discovery, unless
28 otherwise agreed to in writing by both parties.

29 (2) Inspections made pursuant to a control service
30 agreement shall be conducted by a Branch 3 licensee.
31 Section 8506.1 does not modify this provision.

32 (3) A full inspection of the property covered by the
33 control service agreement shall be conducted and a
34 report filed pursuant to subdivision (b) at least once
35 every three years from the date that the agreement was
36 entered into, unless the consumer cancels the contract
37 within three years from the date the agreement was
38 entered into.



1 (4) A written report shall be required for the
2 correction of any infestation or infection unless all of the
3 following conditions are met:

4 (A) The infestation or infection has been previously
5 reported.

6 (B) The infestation or infection is covered by the
7 control service agreement.

8 (C) There is no additional charge for correcting the
9 infestation or infection.

10 (D) Correction of the infestation or infection takes
11 place within 45 days of its discovery.

12 (E) Correction of the infestation or infection does not
13 include fumigation.

14 (5) All notice requirements pursuant to Section 8538
15 shall apply to all pesticide treatments conducted under
16 control service agreements.

17 (6) For purposes of this section, “control service
18 agreement” means any agreement, including extended
19 warranties, to have a licensee conduct over a period of
20 time regular inspections and other activities related to
21 the control or eradication of wood destroying pests and
22 organisms.

23 (i) All work recommended by a registered company,
24 where an estimate or bid for making repairs was given
25 with the original inspection report, or thereafter, shall be
26 recorded on this report or a separate work agreement and
27 shall specify a price for each recommendation. This
28 information shall be provided to the person requesting
29 the inspection, and shall be retained by the registered
30 company with the inspection report copy for three years.

31 SEC. 99. Section 8522 of the Business and Professions
32 Code is amended to read:

33 8522. Members of the board shall be appointed for a
34 term of four years, subject to removal by the appointing
35 power at his or her pleasure.

36 Vacancies shall be filled by the appointing power for
37 the unexpired term.

38 Each member shall hold office until the appointment
39 and qualification of his *or her* successor or until one year
40 shall have elapsed since the expiration of the term for



1 which he *or she* was appointed, whichever first occurs. No
2 person shall serve as a member of the board for more than
3 two consecutive terms.

4 Each appointment shall be for a four-year term
5 expiring June 1 of the fourth year following the year in
6 which the previous term expires.

7 The Governor shall appoint two of the public members
8 and the two licensed members qualified as provided in
9 Section 8521. The Senate Rules Committee and the
10 Speaker of the Assembly shall each appoint a public
11 member, and their initial appointment shall be made to
12 fill, respectively, the first and second public member
13 vacancies which occur on or after January 1, 1983.

14 The Governor shall appoint the member who is a
15 licentiate of the board provided at the 1983 portion of the
16 1983–84 Regular Session of the Legislature on or before
17 January 15, 1984, and that member’s term shall expire on
18 January 15, 1988. Each appointment thereafter shall be
19 for a four-year term expiring on January 15th.

20 SEC. 100. Section 8550 of the Business and Professions
21 Code is amended to read:

22 8550. (a) It is unlawful for any individual to engage
23 or offer to engage in the business of, act in the capacity
24 of, or advertise himself or herself as, or assume to act as,
25 an operator or a field representative *or an applicator*, or
26 to engage or offer to engage in the practice of structural
27 pest control, unless he or she is licensed under this
28 chapter. For purposes of this subdivision, “engage in the
29 practice of structural pest control” shall not include price
30 quotations given by unlicensed employees of a registered
31 company in response to a request for that information.

32 (b) It is unlawful for any firm, partnership,
33 corporation, association, or other organization or
34 combination thereof to engage or offer to engage in the
35 practice of structural pest control, unless registered in
36 accordance with Article 6 (commencing with Section
37 8610).

38 SEC. 101. Section 8564.5 of the Business and
39 Professions Code is amended to read:



1 8564.5. (a) Any individual 18 years of age or older
2 may apply for a license as applicator.

3 (b) The board shall ascertain by written examination
4 that an applicant for a license as applicator in Branch 2 or
5 Branch 3 has sufficient knowledge in pesticide
6 equipment, pesticide mixing and formulation, pesticide
7 application procedures and pesticide label directions.

8 (c) The board shall ascertain by written examination
9 that an applicant for a license as applicator in wood roof
10 cleaning and treatment has sufficient knowledge of wood
11 preservative application equipment, wood preservative
12 application procedures, mixing and formulation and
13 wood preservative label directions.

14 (d) Passage of the written examination authorizes an
15 individual to apply any chemical substance in Branch 2 or
16 Branch 3 or any wood preservative as part of a roof
17 restoration process ~~for a period not to exceed three years~~
18 ~~at which time he or she shall again apply for renewal of~~
19 ~~his or her license and successfully pass the written~~
20 ~~examination.~~

21 (e) The board may charge a fee for any examination
22 required by this section in an amount sufficient to cover
23 the cost of administering the examination, provided,
24 however, that the fee shall not exceed fifteen dollars
25 (\$15).

26 (f) Nothing in this chapter shall prohibit an applicator,
27 authorized to apply any chemical substance in Branch 2
28 or Branch 3 or wood preservative as part of a roof
29 restoration process before January 1, 1995, from acting as
30 an applicator pursuant to that authorization. Upon
31 expiration of the authorization, an applicator's license
32 shall be required.

33 SEC. 102. Section 8614 of the Business and Professions
34 Code is amended to read:

35 8614. Any person, whether or not a party to a real
36 property transaction, has a right to request and, upon
37 payment of the required fee, to obtain directly from the
38 board a certified copy of all inspection reports and
39 completion notices prepared and filed by any structural
40 pest control ~~operator~~ *registered company* on a particular



1 property during the preceding two years. Notice of this
2 right shall be prominently disclosed on every inspection
3 report and work completion notice.

4 SEC. 103. Section 8617 of the Business and Professions
5 Code is amended to read:

6 8617. (a) The board or county agricultural
7 commissioners, when acting pursuant to Section 8616.4,
8 may suspend the right of a structural pest control licensee
9 or registered company to work in a county for up to three
10 working days or, for a licensee, registered company, or an
11 unlicensed individual acting as a licensee, may levy a fine
12 up to one thousand dollars (\$1,000) for each violation of
13 this chapter, or any regulations adopted pursuant to this
14 chapter, or Chapter 2 (commencing with Section 12751),
15 Chapter 3 (commencing with Section 14001), Chapter 3.5
16 (commencing with Section 14101), or Chapter 7
17 (commencing with Section 15201) of Division 7 of the
18 Food and Agricultural Code, or any regulations adopted
19 pursuant to those chapters, relating to economic poisons.
20 Fines collected shall be paid to the Education and
21 Enforcement Account in the Structural Pest Control
22 Education and Enforcement Fund. Suspension may
23 include all or part of the registered company's business
24 within the county based on the nature of the violation, but
25 shall, whenever possible, be restricted to that portion of
26 a registered company's business in a county that was in
27 violation.

28 (b) Before a suspension action is taken or a fine levied,
29 the person charged with the violation shall receive notice
30 of the nature of the violation and shall be given an
31 opportunity to be heard, including, the right to review
32 the commissioner's evidence and a right to present
33 evidence on his or her own behalf.

34 (c) The person may appeal a fine or suspension to the
35 Disciplinary Review Committee and shall be subject to
36 the procedures in Section 8662.

37 (d) If a suspension or fine is ordered, it may not take
38 effect until 20 days after the date of the decision if no
39 appeal is filed. If an appeal pursuant to Section 8662 is



1 filed, the order shall be stayed until 20 days after the
2 committee has ruled on the appeal.

3 (e) *Failure of a licensee or registered company to pay*
4 *a fine within 30 days of the date of assessment or to comply*
5 *with the order of suspension, unless the citation is being*
6 *appealed, may result in disciplinary action being taken by*
7 *the board.*

8 *Where a citation containing a fine is issued to a licensee*
9 *and it is not contested or the time to appeal the citation*
10 *has expired and the fine is not paid, the full amount of the*
11 *assessed fine shall be added to the fee for renewal of that*
12 *license. A license shall not be renewed without payment*
13 *of the renewal fee and fine.*

14 *Where a citation containing a fine is issued to a*
15 *registered company and it is not contested or the time to*
16 *appeal the citation has expired and the fine is not paid, the*
17 *board shall not sell to the registered company any*
18 *inspection stamps, notice of completion stamps, or*
19 *pesticide use stamps until the assessed fine has been paid.*

20 (f) Once final action pursuant to this section is taken,
21 no other administrative or civil action may be taken by
22 any state governmental agency for the same violation.
23 However, action taken pursuant to this section may be
24 used by the board as evidence of prior discipline, and
25 multiple local actions may be the basis for statewide
26 disciplinary action by the board pursuant to Section 8620.
27 A certified copy of the order of suspension or fine issued
28 pursuant to this section or Section 8662 shall constitute
29 conclusive evidence of the occurrence of the violation.

30 SEC. 104. Section 8622 of the Business and Professions
31 Code is amended to read:

32 8622. When a complaint is accepted for investigation
33 of a registered company, the board, through an
34 authorized representative, may inspect any or all
35 properties on which a report has been issued pursuant to
36 Section 8516 or a notice of completion has been issued
37 pursuant to Section 8518 by such registered company to
38 determine compliance with the provisions of this chapter
39 and the rules and regulations issued thereunder. If the
40 board determines the property or properties are not in



1 compliance, a notice shall be sent to the registered
2 company so stating. The registered company shall have
3 30 days from the receipt of the notice to bring such
4 property into compliance, and it shall submit a new
5 original report or completion notice or both and an
6 inspection fee of not more than one hundred twenty-five
7 dollars (\$125) for each property inspected. If a
8 subsequent reinspection is necessary, pursuant to the
9 board's review of the ~~corrected~~ *new original* report or
10 notice or both, a commensurate reinspection fee shall also
11 be charged. If the board's authorized representative
12 makes no determination or determines the property is in
13 compliance, no inspection fee shall be charged.

14 The notice sent to the registered company shall inform
15 the registered company that if it desires a hearing to
16 contest such finding of noncompliance, the hearing shall
17 be requested by written notice to the board within 20
18 days of receipt of the notice of noncompliance from the
19 board. Where a hearing is not requested pursuant to this
20 section, payment of any assessment shall not constitute an
21 admission of any noncompliance charged.

22 SEC. 105. Section 8656 is added to the Business and
23 Professions Code, to read:

24 8656. In addition to the remedies provided for in
25 Section 125.9, when the licensee who is a registered
26 company has failed to pay the fine assessed pursuant to a
27 citation within 30 days of the date of assessment, unless
28 the citation is being appealed, the board shall not sell to
29 the registered company any inspection stamps, notice of
30 completion stamps, or pesticide use stamps until the
31 assessed fine has been paid.

32 SEC. 106. Section 8675 of the Business and Professions
33 Code is amended to read:

34 8675. The fee *delinquent penalty* for a renewal of any
35 license issued under this chapter applied for after the
36 expiration date of the license shall be 50 percent of the fee
37 required for the renewal of the license applied for before
38 the expiration date but not more than one hundred
39 dollars (\$100).



1 SEC. 107. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because the only costs that may be incurred
4 by a local agency or school district will be incurred
5 because this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section
8 17556 of the Government Code, or changes the definition
9 of a crime within the meaning of Section 6 of Article
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

