

AMENDED IN SENATE APRIL 21, 1998

SENATE BILL

No. 2239

**Introduced by Committee on Business and Professions
(Senators Polanco (Chair), Ayala, Craven, Greene, Kelley,
Lee, O'Connell, and Rosenthal)**

March 9, 1998

An act to amend Sections 125.7, *1621.1*, 1632, 1633.5, 1763, 2067, 2101, 2102, 2103, 2135, 2239, ~~2836.2~~, 2242, 2350, 2355, 2836.2, 4008, 4202, 4301, 4322, 5053, 5055, 5056, 5060, 5070.6, 5071, 5072, 5073, 5081.1, 5084, ~~and 5153~~ 5153, 7622.3, 7651, 8741, 8742, 8773.2, and 13660 of, to add Sections 2225.6, 4301.5 and 5058.1 to, to repeal Sections *1621.2*, 5059, 5074, 5075, and 5076 of, and to repeal and add Section 5082.3 of, the Business and Professions Code, to amend ~~Section~~ *Sections 11371 and 11529* of the Government Code, and to *amend Section 11166 of, and to* repeal and add Section 11167 of the Health and Safety Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 2239, as amended, Committee on Business and Professions. Professions and vocations.

(1) *Existing law provides for an examining committee of the Board of Dental Examiners, to consist of 100 members.*

This bill would provide for a board with an unspecified number of members.

(2) Existing law regulating physician licensure permits an applicant for a physician's and surgeon's certificate who is found by the Division of Licensing to be deficient in required education and clinical instruction to engage in the practice of

medicine in this state in any setting approved by the Division of Licensing for the period of time prescribed by the Division of Licensing.

This bill would include in those provisions applicants for a physician's and surgeon's certificate who are required to complete additional medical instruction due to the failure to pass the oral or any part of the written examination after 2 attempts.

(2)

(3) Existing law requires certain applicants for licensure as a physician and surgeon who received professional instruction outside the United States or Canada to meet certain requirements.

This bill would provide that the Division of Licensing is not required to evaluate for equivalency any coursework at disapproved medical schools.

(3)

(4) Existing law provides that a licensee of the Medical Board of California or a health facility that fails or refuses to comply with a request for medical records when the request is accompanied by the patient's written authorization is liable for a civil penalty.

This bill would also provide that this failure or refusal to comply with a request for medical records is also a misdemeanor, punishable as specified.

(5) Existing law regulating the adjudication of disputes brought against licentiates of the Medical Board of California permits an administrative judge to issue an interim order suspending a license, or imposing other license restrictions, if the affidavits in support of the petition show that the licensee engaged in, or is about to engage in, certain acts or omissions.

This bill would additionally permit an administrative judge to issue an interim order suspending a license, or imposing other license restrictions, if the affidavits in support of the petition show that a licensee is unable to practice safely due to a mental or physical condition.

(4)

(6) Existing law also provides that if a licensee requests a hearing on an accusation relating to licentiate discipline, the board is required to provide a licensee with a hearing within



30 days and to reach a decision within 15 days of the date that matter is submitted to an administrative law judge.

This bill would require that the board reach a decision within 15 days of the date that the decision is received from the administrative law judge.

This bill would make additional conforming changes.

~~(5)~~

(7) Existing law regulating nurse practitioners permits nurse practitioners to furnish drugs or devices when specified conditions are met. The furnishing of drugs and devices is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure.

This bill would specify that the act of making a pharmaceutical agent or agents available to the patient does not include an order for medication which is dispensed for immediate administration to the ultimate user.

~~(6)~~

(8) Existing law regulating dentistry prohibits the practice of dentistry unless a person has a valid, unexpired license or special permit from the Board of Dental Examiners of California. Licensure requires passage of an examination administered by the board, which requires demonstration of an applicant's skill in dentistry, prosthetic dentistry, diagnosis and treatment of periodontics, and judgment in diagnosis-treatment planning.

This bill would require that each applicant give a clinical demonstration of the required skills, and give a written demonstrations of his or her judgment in dental diagnosis and treatment planning, prosthetic dentistry, and endodontics.

~~(7)~~

(9) Existing law permits the Board of Dental Examiners to require each applicant for examination to successfully complete the National Board of Dental Examiners' written examination.

This bill would require that each applicant for examination successfully complete the National Board of Dental Examiners' written examination and provides that successful passage of this examination may satisfy the board's



requirement for a written demonstration of judgment in dental diagnosis and treatment planning.

(8)

(10) Existing law requires any dentist who employs licensed dental auxiliaries, as specified, to satisfy requirements of continuing education in management and utilization of auxiliaries.

This bill would delete that requirement.

(9)

(11) Existing law provides for a diversion program for physicians and surgeons with impairment due to abuse of drugs or alcohol or mental or physical illness. Existing law provides that records of a physician and surgeon who has completed the program shall be purged and provides that all records pertaining to the treatment of a physician and surgeon in a program shall be confidential, as specified.

This bill would require each physician and surgeon to sign an agreement that diversion records may be used in disciplinary or criminal proceedings in certain circumstances, would permit the retention of records if specified by regulation, and would make related changes.

(12) Existing law provides for the regulation of pharmacy by the State Board of Pharmacy. Existing law authorizes the board to employ inspectors of pharmacy.

This bill would provide that the salary of inspectors of pharmacy who are pharmacists shall be within 5% parity of pharmacists employed by the University of California.

(13) Existing law requires an applicant for registration as a pharmacy technician to be issued a certificate of registration if he or she meets any one of certain requirements.

This bill would require the applicant to be a high school graduate or possess a General Education Development (GED) equivalent, in addition to meeting any one of the existing requirements.

(10)

(14) Existing law requires the California State Board of Pharmacy to take action against any holder of a license to practice pharmacy who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.



This bill would provide that unprofessional conduct includes the cash compromise of certain controlled substances violations, as specified. It would specify that the record of compromise is conclusive evidence of unprofessional conduct.

This bill would provide that if a pharmacist possesses a license or is otherwise authorized to practice in another state or by an agency of the federal government, and the license is suspended or revoked, as specified, the pharmacist's license in this state shall automatically be suspended for the duration of the suspension or revocation, as specified.

~~(11)~~

(15) Existing law provides that any person who attempts to secure or secures licensure as a pharmacist by making or causing to be made false representations, or who fraudulently represents himself or herself to be registered, is guilty of a misdemeanor, and upon conviction is punishable by a fine not exceeding \$400, or by imprisonment not exceeding 50 days, or by both the fine and imprisonment.

This bill would increase the maximum amount of the fine to \$5,000.

~~(12) Existing law provides that in the event of an epidemic, accident, or calamity, any controlled substance classified in Schedule II may be dispensed upon an oral or electronically transmitted prescription if failure to issue a prescription might result in loss of life or intense suffering, as specified.~~

~~This bill would provide that notwithstanding the general prohibition of another provision, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a Schedule II controlled substance may be dispensed on an oral, written, or electronic order, subject to specified conditions.~~

~~(13)~~

(16) Existing law requires that any person who has received from the State Board of Accountancy a certificate of certified public accountant or a certificate of public accountant and holds a valid permit to practice be styled and known as a "certified public accountant" or "public accountant," respectively. Existing law prohibits any other person, except a partnership of registered certified public accountants or a partnership of public accountants to assume



or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant or public accountant, respectively.

This bill would except a registered accountancy corporation from the above prohibition. The bill would also prohibit a person or firm from using any title or designation in connection with the designation “certified public accountant” or “public accountant” that is false or misleading or that is likely to lead to public confusion concerning either the source of the title or designation or the training, education, or experience required to earn, obtain, or use the title or designation. The bill would also make various revisions regarding the use of names in an accountancy firm or accountancy corporation and the registration requirements for accountancy partnerships.

Violation of certain provisions relating to accountancy constitute a crime. Because a violation of the above provisions pertaining to the use of the designation “certified public accountant” or “public accountant” would create a new crime, this bill would impose a state-mandated local program.

(14)

(17) Existing law provides that an expired permit to practice public accountancy may be renewed at any time within 5 years after its expiration on filing of an application for renewal on a form prescribed by the State Board of Accountancy, payment of all accrued and unpaid renewal fees, and giving evidence to the board of compliance with the continuing education provisions. Existing law further provides that if the permit is renewed more than 30 days after its expiration, its holder, as a condition precedent to renewal, shall also pay a prescribed delinquency fee.

This bill would delete the 30-day grace period for the renewal of a permit.

(15)

(18) Under existing law, an applicant for admission to the examination for a certified public accountant certificate is required to comply with various requirements, including presenting satisfactory evidence that he or she has a



baccalaureate degree from a university, college, or other 4-year institution of learning accredited as specified.

This bill would provide that the applicant may also present satisfactory evidence of a degree or degrees from a college, university, or other institution of learning located outside the United States that is approved by the board as the equivalent of the aforementioned baccalaureate degree.

~~(16)~~

(19) Existing law provides that a Canadian Chartered Accountant in good standing shall be deemed to have met the examination requirements for a license as a certified public accountant in this state, as specified.

This bill would repeal this provision and instead provide that an applicant for a license may be deemed by the board to have met the examination requirements if the applicant is licensed or has comparable authority under the laws of any country to engage in the practice of public accountancy, as specified, and has passed the International Uniform Certified Public Accountant Examination.

~~(17) 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.~~

(20) Existing law requires the funeral directors and embalmers program to adopt regulations requiring continuing education for funeral directors and embalmers.

This bill would require funeral directors and embalmers to certify completion on or before December 31, 2000, and December 31 of each even-numbered year thereafter as a condition of license renewal.

(21) Existing law regulating surveyors permits the State Board of Registration for Professional Engineers and Land Surveyors to prescribe by regulation up to two years of reasonable educational or experience requirements for candidates for the first division of the examination for a license as a land surveyor.

This bill would require candidates to complete either 2 years of postsecondary education in land surveying or 2 years



of experience in land surveying before admission to the first division of the examination.

Existing law requires that candidates for the 2nd division of the examination have graduated from a 4-year postsecondary curriculum, as specified, and completed at least 2 years of actual experience in land surveying, including one year of responsible field training and one year of responsible office training, or completed actual experience in land surveying for at least 6 years, including one year of responsible field training and one year of responsible office training, or registered as a civil engineer with 2 years of actual experience in land surveying.

This bill would require that for all 3 methods of complying with these requirements, the actual experience required be broad based and progressive, and would specify that all experience and training be satisfactory to the board.

Existing law allows the board at its discretion to give candidates up to 2 years of credit for experience in land surveying if they have successfully passed the first division of the examination.

This bill would delete that provision.

(22) Existing law provides for the submission of surveying records known as corner records, requires every corner record submitted to the county surveyor or engineer to be examined or endorsed. Existing law provides that if the matters appearing on the corner record cannot be agreed upon by the licensed land surveyor or the registered civil engineer and the county surveyor, an explanation of the differences shall be noted on the corner record and it shall be submitted to and filed by the county surveyor.

This bill would provide that when the county surveyor places an explanatory note on a corner record, the county surveyor shall transmit a copy of the filed corner record within 10 working days of the filing to the licensed land surveyor or registered civil engineer who submitted the corner record. By imposing new requirements on the county surveyor, the bill would impose a state-mandated local program.

(23) Existing law establishes a Medical Quality Hearing Panel within the Office of Administrative Hearings. Under



existing law, those provisions will be repealed on January 1, 1999.

This bill would delay the repeal until January 1, 2003.

(24) Existing law provides that no person shall fill a prescription for a controlled substance classified in Schedule II which is tendered to him after the 7th day following the date of issue.

This bill would instead provide that those prescriptions shall not be filled 14 or more days after the date written on the prescription by the prescriber.

(25) Existing law provides that in the event of an epidemic, accident, or calamity, any controlled substance classified in Schedule II may be dispensed upon an oral or electronically transmitted prescription if failure to issue a prescription might result in loss of life or intense suffering, as specified.

This bill would provide that notwithstanding the general prohibition of another provision, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a Schedule II controlled substance may be dispensed on an oral, written, or electronic data transmission order, subject to specified conditions.

(26) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 125.7 of the Business and
2 Professions Code is amended to read:

3 125.7. In addition to the remedy provided for in
4 Section 125.5, the superior court for the county in which
5 any licensee licensed under Division 2 (commencing
6 with Section 500), or any initiative act referred to in that
7 division, has engaged or is about to engage in any act that
8 constitutes a violation of a chapter of this code
9 administered or enforced by a board referred to in
10 Division 2 (commencing with Section 500), may, upon a
11 petition filed by the board and accompanied by an
12 affidavit or affidavits in support thereof and a
13 memorandum of points and authorities, issue a
14 temporary restraining order or other appropriate order
15 restraining the licensee from engaging in the business or
16 profession for which the person is licensed or from any
17 part thereof, in accordance with this section.

18 (a) If the affidavits in support of the petition show that
19 the licensee has engaged or is about to engage in acts or
20 omissions constituting a violation of a chapter of this code
21 and if the court is satisfied that permitting the licensee to
22 continue to engage in the business or profession for which
23 the license was issued will endanger the public health,
24 safety, or welfare, the court may issue an order
25 temporarily restraining the licensee from engaging in the
26 profession for which he or she is licensed.

27 (b) The order may not be issued without notice to the
28 licensee unless it appears from facts shown by the
29 affidavits that serious injury would result to the public
30 before the matter can be heard on notice.

31 (c) Except as otherwise specifically provided by this
32 section, proceedings under this section shall be governed
33 by Chapter 3 (commencing with Section 525) of Title 7
34 of Part 2 of the Code of Civil Procedure.

35 (d) When a restraining order is issued pursuant to this
36 section, or within a time to be allowed by the superior
37 court, but in any case not more than 30 days after the
38 restraining order is issued, an accusation shall be filed



1 with the board pursuant to Section 11503 of the
2 Government Code or, in the case of a licensee of the State
3 Department of Health Services, with that department
4 pursuant to Section 100171 of the Health and Safety Code.
5 The accusation shall be served upon the licensee as
6 provided by Section 11505 of the Government Code. The
7 licensee shall have all of the rights and privileges available
8 as specified in Chapter 5 (commencing with Section
9 11500) of Part 1 of Division 3 of Title 2 of the Government
10 Code. However, if the licensee requests a hearing on the
11 accusation, the board shall provide the licensee with a
12 hearing within 30 days of the request and a decision
13 within 15 days of the date the decision is received from
14 the administrative law judge, or the court may nullify the
15 restraining order previously issued. Any restraining order
16 issued pursuant to this section shall be dissolved by
17 operation of law at the time the board's decision is subject
18 to judicial review pursuant to Section 1094.5 of the Code
19 of Civil Procedure.

20 (e) The remedy provided for in this section shall be in
21 addition to, and not a limitation upon, the authority
22 provided by any other provision of this code.

23 SEC. 2. *Section 1621.1 of the Business and Professions*
24 *Code is amended to read:*

25 1621.1. (a) The examining committee shall consist of
26 ~~100~~ members appointed by the board. ~~The board shall~~
27 ~~appoint the examining committee members from lists~~
28 ~~submitted by the dental and dental hygienists~~
29 ~~associations, if such lists are submitted.~~

30 (b) *Each member of the examining committee shall*
31 *meet either of the following requirements:*

32 (1) *Possess a valid license to practice dentistry in this*
33 *state, and have engaged in the practice of dentistry in this*
34 *state for at least five years preceding his or her*
35 *appointment.*

36 (2) *Possess a valid license to practice dental hygiene in*
37 *this state, and have engaged in the practice of dental*
38 *hygiene for at least five years preceding his or her*
39 *appointment.*



1 (c) A member of the examining committee shall not
2 be an officer or faculty member of any college, school, or
3 institution engaged in dental instruction.

4 *SEC. 3.* Section 1621.2 of the Business and Professions
5 Code is repealed.

6 ~~1621.2. Members of the examining committee shall~~
7 ~~possess all of the following qualifications:~~

8 (a) ~~Seventy-five shall have a valid license to practice~~
9 ~~dentistry in this state and shall have engaged in the~~
10 ~~practice of dentistry in this state for at least five years next~~
11 ~~preceding his appointment.~~

12 (b) ~~Twenty-five shall have a valid license to practice~~
13 ~~dental hygiene in this state and shall have practiced~~
14 ~~dental hygiene in this state for at least five years next~~
15 ~~preceding his appointment.~~

16 (c) ~~Shall not be an officer or faculty member of any~~
17 ~~college, school or institution engaged in dental~~
18 ~~instruction.~~

19 *SEC. 4.* Section 1632 of the Business and Professions
20 Code is amended to read:

21 1632. Each applicant shall give clinical
22 demonstrations of his or her skill in operative dentistry,
23 prosthetic dentistry, and diagnosis and treatment in
24 periodontics. The applicant shall also give written
25 demonstrations of his or her judgment in
26 diagnosis-treatment planning, prosthetic dentistry, and
27 endodontics. The examination may include an
28 examination in California law and ethics.

29 ~~*SEC. 3.*~~

30 *SEC. 5.* Section 1633.5 of the Business and Professions
31 Code is amended to read:

32 1633.5. Notwithstanding any other provision of this
33 chapter, the board shall require each applicant to
34 successfully complete the National Board of Dental
35 Examiners' written examination. Successful passage of
36 the National Board of Dental Examiners' written
37 examination shall satisfy the Section 1632 requirement for
38 a written demonstration of judgment in dental diagnosis
39 and treatment planning.

40 ~~*SEC. 4.*~~



1 *SEC. 6.* Section 1763 of the Business and Professions
2 Code is amended to read:

3 1763. A licensed dentist may utilize in his or her
4 practice no more than two dental auxiliaries in extended
5 functions licensed pursuant to Sections 1756 and 1761.

6 ~~SEC. 5.~~

7 *SEC. 7.* Section 2067 of the Business and Professions
8 Code is amended to read:

9 2067. An applicant for a physician's and surgeon's
10 certificate who is found by the Division of Licensing to be
11 deficient in the education and clinical instruction
12 required by Sections 2089 and 2089.5 or who is required
13 pursuant to Section 2185 to complete additional medical
14 instruction may engage in the practice of medicine in this
15 state in any setting approved by the Division of Licensing
16 for the period of time prescribed by the Division of
17 Licensing.

18 ~~SEC. 6.~~

19 *SEC. 8.* Section 2101 of the Business and Professions
20 Code is amended to read:

21 2101. Any applicant who is not a citizen of the United
22 States or otherwise does not qualify for licensure as a
23 physician and surgeon under Section 2102 whose
24 professional instruction was acquired in a country other
25 than the United States or Canada shall provide evidence
26 satisfactory to the Division of Licensing of compliance
27 with the following requirements in order to be issued a
28 physician and surgeon's certificate:

29 (a) Completion in a medical school or schools a
30 resident course of professional instruction equivalent to
31 that required by Section 2089 and issuance to the
32 applicant of a document acceptable to the division which
33 shows final and successful completion of the course.
34 However, nothing in this section shall be construed to
35 require the division to evaluate for equivalency any
36 coursework obtained at a medical school disapproved by
37 the division pursuant to this section.

38 (b) Admission or licensure to practice medicine and
39 surgery in a country or other state of the United States



1 wherein licensure requirements are satisfactory to the
2 division.

3 (c) Certification by the Educational Commission for
4 Foreign Medical Graduates, or its equivalent, as
5 determined by the division. This subdivision shall apply
6 to all applicants who are subject to this section and who
7 have not taken and passed the written examination
8 specified in subdivision (e) prior to June 1, 1986.

9 (d) Satisfactory completion of the postgraduate
10 training required under Section 2096. An applicant shall
11 be required to have substantially completed the
12 professional instruction required in subdivision (a) and
13 shall be required to make application to the division and
14 have passed steps 1 and 2 of the written examination
15 relating to biomedical and clinical sciences prior to
16 commencing any postgraduate training in this state. In its
17 discretion, the division may authorize an applicant who
18 is deficient in any education or clinical instruction
19 required by Sections 2089 and 2089.5 to make up any
20 deficiencies as a part of his or her postgraduate training
21 program, but any such remedial training shall be in
22 addition to the postgraduate training required for
23 licensure.

24 (e) Pass the written examination as provided under
25 Article 9 (commencing with Section 2170) and an oral
26 examination. An applicant shall be required to meet the
27 requirements specified in subdivision (c) prior to being
28 admitted to the written examination required by this
29 subdivision.

30 Nothing in this section prohibits the division from
31 disapproving any foreign medical school or from denying
32 an application if, in the opinion of the division, the
33 professional instruction provided by the medical school
34 or the instruction received by the applicant is not
35 equivalent to that required in Article 4 (commencing
36 with Section 2080).

37 ~~SEC. 7.~~

38 *SEC. 9.* Section 2102 of the Business and Professions
39 Code is amended to read:



1 2102. Any applicant who either (1) is a United States
2 citizen or (2) has filed a declaration of intention to
3 become a United States citizen, a petition for
4 naturalization, or a comparable document, whose
5 professional instruction was acquired in a country other
6 than the United States or Canada shall provide evidence
7 satisfactory to the Division of Licensing of compliance
8 with the following requirements to be issued a physician
9 and surgeon's certificate:

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

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

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



1 (d) Pass the written examination as provided under
2 Article 9 (commencing with Section 2170) and an oral
3 examination. An applicant shall be required to meet the
4 requirements specified in subdivision (b) prior to being
5 admitted to the written examination required by this
6 subdivision.

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

14 ~~SEC. 8.~~

15 *SEC. 10.* Section 2103 of the Business and Professions
16 Code is amended to read:

17 2103. An applicant who is a citizen of the United
18 States shall be eligible for a physician's and surgeon's
19 certificate if he or she has completed the following
20 requirements:

21 (a) Official transcripts or other official evidence
22 satisfactory to the Division of Licensing of compliance
23 with Section 2088.

24 (b) Official evidence satisfactory to the division of
25 completion of a resident course or professional
26 instruction equivalent to that required in Section 2089 in
27 a medical school located outside the United States or
28 Canada. However, nothing in this section shall be
29 construed to require the division to evaluate for
30 equivalency any coursework obtained at a medical school
31 disapproved by the division pursuant to Article 4
32 (commencing with Section 2080).

33 (c) Official evidence satisfactory to the division of
34 completion of all formal requirements of the medical
35 school for graduation, except the applicant shall not be
36 required to have completed an internship or social
37 service or be admitted or licensed to practice medicine
38 in the country in which the professional instruction was
39 completed.



1 (d) Attained a score satisfactory to an approved
2 medical school on a qualifying examination acceptable to
3 the division.

4 (e) Successful completion of one academic year of
5 supervised clinical training in a program approved by the
6 division pursuant to Section 2104. The division shall also
7 recognize as compliance with this subdivision the
8 successful completion of a one-year supervised clinical
9 medical internship operated by a medical school
10 pursuant to Chapter 85 of the Statutes of 1972 and as
11 amended by Chapter 888 of the Statutes of 1973 as the
12 equivalent of the year of supervised clinical training
13 required by this section.

14 (1) Training received in the academic year of
15 supervised clinical training approved pursuant to Section
16 2104 shall be considered as part of the total academic
17 curriculum for purposes of meeting the requirements of
18 Sections 2089 and 2089.5.

19 (2) An applicant who has passed the basic science and
20 English language examinations required for certification
21 by the Educational Commission for Foreign Medical
22 Graduates may present evidence of those passing scores
23 along with a certificate of completion of one academic
24 year of supervised clinical training in a program
25 approved by the division pursuant to Section 2104 in
26 satisfaction of the formal certification requirements of
27 subdivision (c) of Section 2101 or subdivision (b) of
28 Section 2102.

29 (f) Satisfactory completion of the postgraduate
30 training required under Section 2096.

31 (g) Passed the written examination required for
32 certification as a physician and surgeon in this chapter.

33 ~~SEC. 9.~~

34 *SEC. 11.* Section 2135 of the Business and Professions
35 Code is amended to read:

36 2135. The Division of Licensing shall issue a physician
37 and surgeon's certificate to an applicant who meets all of
38 the following requirements:

39 (a) The applicant holds an unlimited license as a
40 physician and surgeon in another state or states, or in a



1 Canadian province or Canadian provinces, which was
2 issued upon:

3 (1) Successful completion of a resident course of
4 professional instruction equivalent to that specified in
5 Section 2089. However, nothing in this section shall be
6 construed to require the division to evaluate for
7 equivalency any coursework obtained at a medical school
8 disapproved by the division pursuant to Article 4
9 (commencing with Section 2080).

10 (2) Taking and passing a written examination that is
11 recognized by the division to be equivalent in content to
12 that administered in California.

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

22 (c) The division determines that no disciplinary action
23 has been taken against the applicant by any medical
24 licensing authority and that the applicant has not been
25 the subject of adverse judgments or settlements resulting
26 from the practice of medicine which the division
27 determines constitutes evidence of a pattern of
28 negligence or incompetence.

29 (d) The applicant takes and passes the clinical
30 competency written examination administered by the
31 division or takes and passes in another state,
32 commonwealth, or territory of the United States, an
33 examination which is recognized by the division to be
34 equivalent to that administered in this state. However,
35 this subdivision shall not apply to a graduate of a medical
36 school approved by the division.

37 (e) The applicant takes and passes an oral examination
38 administered by the division.

39 (f) The applicant has not committed any acts or crimes
40 constituting grounds for denial of a certificate under



1 Division 1.5 (commencing with Section 475) or Article 12
2 (commencing with Section 2220).

3 (g) Any application received from an applicant who
4 has held an unrestricted license to practice medicine, in
5 a state or states, or Canadian province or Canadian
6 provinces, or as a member of the active military, United
7 States Public Health Services, or other federal program
8 for four or more years shall be reviewed and processed
9 pursuant to this section. Any time spent by the applicant
10 in an approved postgraduate training program or clinical
11 fellowship acceptable to the division shall not be included
12 in the calculation of this four-year period. This subdivision
13 does not apply to applications which may be reviewed
14 and processed pursuant to Section 2151.

15 ~~SEC. 10.~~

16 *SEC. 12. Section 2225.6 is added to the Business and
17 Professions Code, to read:*

18 *2225.6. (a) Notwithstanding any other provision of
19 law, any person, including, but not limited to, a licensee
20 or health care facility, who fails or refuses to comply with
21 a request for the medical records of a patient when that
22 request is accompanied by that patient's written
23 authorization for release of records to the board, within
24 15 days of receiving the request and authorization
25 pursuant to Section 2225.5, is guilty of a misdemeanor
26 punishable by a fine not to exceed five thousand dollars
27 (\$5,000).*

28 *(b) Multiple acts in violation of subdivision (a) shall be
29 punishable by imprisonment in a county jail for not more
30 than six months, or a fine not to exceed five thousand
31 dollars (\$5,000), or by both that imprisonment and fine.*

32 *(c) A violation of this section by a licensee constitutes
33 unprofessional conduct and is grounds for suspension or
34 revocation of his or her license.*

35 *(d) For purposes of this section, a "health care facility"
36 means a clinic or health facility licensed or exempt from
37 licensure pursuant to Division 2 (commencing with
38 Section 1200) of the Health and Safety Code.*

39 *SEC. 13. Section 2239 of the Business and Professions
40 Code is amended to read:*



1 2239. (a) The use or prescribing for or administering
2 to himself or herself, of any controlled substance; or the
3 use of any of the dangerous drugs specified in Section
4 4022, or of alcoholic beverages, to the extent, or in such
5 a manner as to be dangerous or injurious to the licensee,
6 or to any other person or to the public, or to the extent
7 that such use impairs the ability of the licensee to practice
8 medicine safely or more than one misdemeanor or any
9 felony involving the use, consumption, or
10 self-administration of any of the substances referred to in
11 this section, or any combination thereof, constitutes
12 unprofessional conduct. The record of the conviction is
13 conclusive evidence of such unprofessional conduct.

14 (b) A plea or verdict of guilty or a conviction following
15 a plea of nolo contendere is deemed to be a conviction
16 within the meaning of this section. The Division of
17 Medical Quality may order discipline of the licensee in
18 accordance with Section 2227 or the Division of Licensing
19 may order the denial of the license when the time for
20 appeal has elapsed or the judgment of conviction has
21 been affirmed on appeal or when an order granting
22 probation is made suspending imposition of sentence,
23 irrespective of a subsequent order under the provisions
24 of Section 1203.4 of the Penal Code allowing such person
25 to withdraw his or her plea of guilty and to enter a plea
26 of not guilty, or setting aside the verdict of guilty, or
27 dismissing the accusation, complaint, information, or
28 indictment.

29 ~~SEC. 11.~~

30 *SEC. 14. Section 2242 of the Business and Professions*
31 *Code is amended to read:*

32 2242. (a) Prescribing, dispensing, or furnishing
33 dangerous drugs as defined in Section ~~4211~~ 4022 without
34 a good faith prior examination and medical indication
35 therefor, constitutes unprofessional conduct.

36 (b) No licensee shall be found to have committed
37 unprofessional conduct within the meaning of this section
38 if, at the time the drugs were prescribed, dispensed, or
39 furnished, any of the following applies:



1 (1) The licensee was a designated physician and
2 surgeon or podiatrist serving in the absence of the
3 patient's physician and surgeon or podiatrist, as the case
4 may be, provided such drugs were prescribed, dispensed,
5 or furnished only as necessary to maintain the patient
6 until the return of his or her practitioner, but in any case
7 no longer than 72 hours.

8 (2) The licensee transmitted the order for such drugs
9 to a registered nurse or to a licensed vocational nurse in
10 an inpatient facility (A) if such practitioner had consulted
11 with such registered nurse or licensed vocational nurse
12 who had reviewed the patient's records and (B) if such
13 practitioner was designated as the practitioner to serve in
14 the absence of the patient's physician and surgeon or
15 podiatrist, as the case may be.

16 (3) The licensee was a designated practitioner serving
17 in the absence of the patient's physician and surgeon or
18 podiatrist, as the case may be, and was in possession of or
19 had utilized the patient's records and ordered the
20 renewal of a medically indicated prescription for an
21 amount not exceeding the original prescription in
22 strength or amount or for more than one refilling.

23 *SEC. 15. Section 2350 of the Business and Professions*
24 *Code is amended to read:*

25 2350. (a) The division shall establish criteria for the
26 acceptance, denial, or termination of physicians and
27 surgeons in a diversion program. Only those physicians
28 and surgeons who have voluntarily requested diversion
29 treatment and supervision by a committee shall
30 participate in a program.

31 (b) A physician and surgeon under current
32 investigation by the division may request entry into the
33 diversion program by contacting the Chief or Deputy
34 Chief of Enforcement of the Medical Board of California.
35 The Chief or Deputy Chief of Enforcement of the
36 Medical Board of California shall refer the physician and
37 surgeon who requests participation in the diversion
38 program to a committee for evaluation of eligibility, even
39 if the physician and surgeon is currently under
40 investigation by the division, as long as the investigation



1 is based primarily on the self-administration of drugs or
2 alcohol under Section 2239, or the illegal possession,
3 prescription, or nonviolent procurement of drugs for
4 self-administration, and does not involve actual harm to
5 the public or his or her patients. Prior to referring a
6 physician and surgeon to the diversion program, the
7 division may require any physician and surgeon who
8 requests participation under those circumstances, or
9 where there are other violations, to execute a statement
10 of understanding wherein the physician and surgeon
11 agrees that violations of this chapter, or other statutes that
12 would otherwise be the basis for discipline, may
13 nevertheless be prosecuted should the physician and
14 surgeon be terminated from the program for failure to
15 comply with program requirements.

16 (c) Neither acceptance into nor participation in the
17 diversion program shall preclude the division from
18 investigating or continuing to investigate any physician
19 and surgeon for any unprofessional conduct committed
20 before, during, or after participation in the diversion
21 program.

22 (d) Neither acceptance into nor participation in the
23 diversion program shall preclude the division from taking
24 disciplinary action or continuing to take disciplinary
25 action against any physician and surgeon for any
26 unprofessional conduct committed before, during, or
27 after participation in the diversion program, except for
28 that conduct which resulted in the physician and
29 surgeon's referral to the diversion program.

30 (e) Any physician and surgeon terminated from the
31 diversion program for failure to comply with program
32 requirements is subject to disciplinary action by the
33 division for acts committed before, during, and after
34 participation in the diversion program. The division shall
35 not be precluded from taking disciplinary action for
36 violations identified in the statement of understanding
37 described in subdivision (b) if a physician and surgeon is
38 terminated from the diversion program for failure to
39 comply with program requirements. The termination of
40 a physician and surgeon who has been referred to the



1 diversion program pursuant to subdivision (b) shall be
2 reported by the committee to the division.

3 (f) Nothing in this section shall preclude a physician
4 and surgeon who is not the subject of a current
5 investigation from self-referring to the diversion program
6 on a confidential basis. Subdivision (b) shall not apply to
7 a physician and surgeon who applies for the diversion
8 program in accordance with this subdivision.

9 (g) Any physician and surgeon who successfully
10 completes the diversion program shall not be subject to
11 any disciplinary actions by the board for any alleged
12 violation that resulted in referral to the diversion
13 program. Successful completion shall be determined by
14 the committee but shall include, at a minimum, two years
15 during which the physician and surgeon has remained
16 free from the use of drugs or alcohol and adopted a
17 life-style to maintain a state of sobriety.

18 (h) The division shall establish criteria for the
19 selection of administrative physicians and surgeons who
20 shall examine physicians and surgeons requesting
21 diversion under a program. Any reports made under this
22 article by the administrative physician and surgeon shall
23 constitute an exception to Section 2263 and to Sections
24 994 and 995 of the Evidence Code.

25 (i) The division shall require biannual reports from
26 each committee which shall include, but not be limited
27 to, information concerning the number of cases accepted,
28 denied, or terminated with compliance or
29 noncompliance, and a cost analysis of the program. The
30 Bureau of Medical Statistics may assist the committees in
31 the preparation of the reports.

32 (j) *Each physician and surgeon shall sign an*
33 *agreement that diversion records may be used in*
34 *disciplinary or criminal proceedings if the physician and*
35 *surgeon is terminated from the diversion program and*
36 *one of the following conditions exists:*

37 (1) *His or her participation in the diversion program*
38 *is a condition of probation.*



1 (2) *He or she has disciplinary action pending or was*
2 *under investigation at the time of entering the diversion*
3 *program.*

4 (3) *A diversion evaluation committee determines that*
5 *he or she presents a threat to the public health or safety.*

6 *This agreement shall also authorize the diversion*
7 *program to exchange information about the physician*
8 *and surgeon's recovery with a hospital well-being*
9 *committee or monitor and with the board's licensing*
10 *program, where appropriate, and to acknowledge, with*
11 *the physician and surgeon's approval, that he or she is*
12 *participating in the diversion program. Nothing in this*
13 *section shall be construed to allow release of alcohol or*
14 *drug treatment records in violation of federal or state law.*

15 *SEC. 16. Section 2355 of the Business and Professions*
16 *Code is amended to read:*

17 2355. (a) *After a committee in its discretion has*
18 *determined that a physician and surgeon has been*
19 *rehabilitated and the diversion program is completed,*
20 *the committee shall purge and destroy all treatment*
21 *records pertaining to the physician's and surgeon's*
22 *participation in a diversion program, except as otherwise*
23 *provided in this section. Notwithstanding Section 156.1,*
24 *the board shall retain any other information and records*
25 *that it specifies by regulation.*

26 (b) ~~All~~ *Except as otherwise provided by Section 2350,*
27 *all board and committee records and records of*
28 *proceedings pertaining to the treatment of a physician*
29 *and surgeon in a program shall be kept confidential and*
30 *are not subject to discovery or subpoena.*

31 *SEC. 17. Section 2836.2 of the Business and*
32 *Professions Code is amended to read:*

33 2836.2. *Furnishing of drugs or devices by nurse*
34 *practitioners is defined to mean the act of making a*
35 *pharmaceutical agent or agents available to the patient in*
36 *strict accordance with a standardized procedure.*

37 *The act of making a pharmaceutical agent or agents*
38 *available to the patient includes a written order for*
39 *medication which is dispensed to or for an ultimate user,*
40 *but does not include an order for medication which is*



1 dispensed for immediate administration to the ultimate
2 user.

3 ~~SEC. 12.~~

4 *SEC. 18. Section 4008 of the Business and Professions*
5 *Code is amended to read:*

6 4008. (a) Except as provided by Section 159.5, the
7 board may employ inspectors of pharmacy. The
8 inspectors, whether the inspectors are employed by the
9 board or the department's Division of Investigation, may
10 inspect during business hours all pharmacies, medical
11 device retailers, dispensaries, stores, or places in which
12 drugs or devices are compounded, prepared, furnished,
13 dispensed, or stored. Any board inspector of pharmacy
14 whose principal duties include either (1) the inspection
15 and investigation of pharmacies or pharmacists for
16 alleged violations of this act, or (2) the supervision of
17 other inspectors of pharmacy, shall be a pharmacist. For
18 purposes of inspecting or investigating nonpharmacies or
19 nonpharmacists pursuant to this chapter, a board
20 inspector of pharmacy is not required to be a pharmacist.

21 *The salary of inspectors of pharmacy who are*
22 *pharmacists shall be within 5 percent parity of*
23 *pharmacists employed by the University of California.*

24 (b) Notwithstanding subdivision (a), a pharmacy
25 inspector may inspect or examine a physician's office or
26 clinic that does not have a permit under Section 4180 or
27 4190 only to the extent necessary to determine
28 compliance with and to enforce either Section 4080 or
29 4081.

30 (c) (1) Any pharmacy inspector employed by the
31 board or in the department's Division of Investigation
32 shall have the authority, as a public officer, to arrest,
33 without warrant, any person whenever the officer has
34 reasonable cause to believe that the person to be arrested
35 has, in his or her presence, violated any provision of this
36 chapter or of Division 10 (commencing with Section
37 11000) of the Health and Safety Code. If the violation is
38 a felony, or if the arresting officer has reasonable cause to
39 believe that the person to be arrested has violated any
40 provision that is declared to be a felony, although no



1 felony has in fact been committed, he or she may make
2 an arrest although the violation or suspected violation did
3 not occur in his or her presence.

4 (2) In any case in which an arrest authorized by this
5 subdivision is made for an offense declared to be a
6 misdemeanor, and the person arrested does not demand
7 to be taken before a magistrate, the arresting inspector
8 may, instead of taking the person before a magistrate,
9 follow the procedure prescribed by Chapter 5C
10 (commencing with Section 853.5) of Title 3 of Part 2 of
11 the Penal Code. That chapter shall thereafter apply with
12 reference to any proceeding based upon the issuance of
13 a citation pursuant to this authority.

14 (d) There shall be no civil liability on the part of, and
15 no cause of action shall arise against, any person, acting
16 pursuant to subdivision (a) and within the scope of his or
17 her authority, for false arrest or false imprisonment
18 arising out of any arrest that is lawful, or that the arresting
19 officer, at the time of the arrest, had reasonable cause to
20 believe was lawful. No inspector shall be deemed an
21 aggressor or lose his or her right to self-defense by the use
22 of reasonable force to effect the arrest or to prevent
23 escape or to overcome resistance.

24 (e) Any inspector may serve all processes and notices
25 throughout the state.

26 *SEC. 19.* Section 4202 of the Business and Professions
27 Code is amended to read:

28 4202. (a) An applicant for registration as a pharmacy
29 technician shall be issued a certificate of registration if he
30 or she is a high school graduate or possesses a General
31 Education Development (GED) equivalent, and meets
32 any one of the following additional requirements:

33 (1) Has obtained an associate of arts degree in a field
34 of study directly related to the duties performed by a
35 pharmacy technician.

36 (2) Has completed a course of training specified by the
37 board.

38 (3) Is eligible to take the board's pharmacist licensure
39 examination, but has not been licensed by the board as a
40 pharmacist. Once licensed as a pharmacist, the pharmacy



1 technician registration is no longer valid and the
2 pharmacy technician certificate of registration must be
3 returned to the board within 15 days.

4 (4) Has provided satisfactory proof to the board of one
5 year's experience performing the tasks specified in
6 subdivision (a) of Section 4115 while employed or utilized
7 as a pharmacy technician to assist in the filling of
8 prescriptions for an inpatient of a hospital, for an inmate
9 of a correctional facility, or experience deemed
10 equivalent by the board.

11 (b) The board shall adopt regulations pursuant to this
12 section for the registration of pharmacy technicians and
13 for the specification of training courses as set out in
14 paragraph (2) of subdivision (a). Proof of the
15 qualifications of any applicant for registration as a
16 pharmacy technician shall be made to the satisfaction of
17 the board and shall be substantiated by any evidence as
18 may be required by the board.

19 (c) The board shall conduct a criminal background
20 check of the applicant to determine if an applicant has
21 committed acts that would constitute grounds for denial
22 of registration, pursuant to this chapter or Chapter 2
23 (commencing with Section 480) of Division 1.5.

24 (d) The board may suspend or revoke any registration
25 issued pursuant to this section on any ground specified in
26 Section 4301.

27 ~~SEC. 13.~~

28 *SEC. 20.* Section 4301 of the Business and Professions
29 Code is amended to read:

30 4301. The board shall take action against any holder of
31 a license who is guilty of unprofessional conduct or whose
32 license has been procured by fraud or misrepresentation
33 or issued by mistake. Unprofessional conduct shall
34 include, but is not limited to, any of the following:

35 (a) Gross immorality.

36 (b) Incompetence.

37 (c) Gross negligence.

38 (d) The clearly excessive furnishing of controlled
39 substances in violation of subdivision (a) of Section 11153
40 of the Health and Safety Code.



1 (e) The clearly excessive furnishing of controlled
2 substances in violation of subdivision (a) of Section
3 11153.5 of the Health and Safety Code. Factors to be
4 considered in determining whether the furnishing of
5 controlled substances is clearly excessive shall include,
6 but not be limited to, the amount of controlled substances
7 furnished, the previous ordering pattern of the customer
8 (including size and frequency of orders), the type and
9 size of the customer, and where and to whom the
10 customer distributes its product.

11 (f) The commission of any act involving moral
12 turpitude, dishonesty, fraud, deceit, or corruption,
13 whether the act is committed in the course of relations as
14 a licensee or otherwise, and whether the act is a felony or
15 misdemeanor or not.

16 (g) Knowingly making or signing any certificate or
17 other document that falsely represents the existence or
18 nonexistence of a state of facts.

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

27 (i) Except as otherwise authorized by law, knowingly
28 selling, furnishing, giving away, or administering or
29 offering to sell, furnish, give away, or administer any
30 controlled substance to an addict.

31 (j) The violation of any of the statutes of this state or
32 of the United States regulating controlled substances and
33 dangerous drugs.

34 (k) The conviction of more than one misdemeanor or
35 any felony involving the use, consumption, or
36 self-administration of any dangerous drug or alcoholic
37 beverage, or any combination of those substances.

38 (l) The conviction of a crime substantially related to
39 the qualifications, functions, and duties of a licensee
40 under this chapter. The record of conviction of a violation



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

26 (m) The cash compromise of a charge of violation of
27 Chapter 13 (commencing with Section 801) of Title 21 of
28 the United States Code regulating controlled substances.
29 The record of the compromise is conclusive evidence of
30 unprofessional conduct.

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

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



1 (p) Actions or conduct that would have warranted
2 denial of a license.

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

5 ~~SEC. 14.~~

6 *SEC. 21.* Section 4301.5 is added to the Business and
7 Professions Code, to read:

8 4301.5. (a) If a pharmacist possesses a license or is
9 otherwise authorized to practice pharmacy in any other
10 state or by an agency of the federal government, and that
11 license or authority is suspended or revoked ~~and is~~
12 ~~reported to the National Association of Boards of~~
13 ~~Pharmacy,~~ the pharmacist's license shall be suspended
14 automatically for the duration of the suspension or
15 revocation, unless terminated or rescinded as provided in
16 subdivision (c). The board shall notify the pharmacist of
17 the license suspension and of his or her right to have the
18 issue of penalty heard as provided in this section.

19 (b) Upon its own motion or for good cause shown, the
20 board may decline to impose or may set aside the
21 suspension when it appears to be in the interest of justice
22 to do so, with due regard to maintaining the integrity of
23 and confidence in the pharmacy profession.

24 (c) The issue of penalty shall be heard by an
25 administrative law judge sitting alone, by a committee of
26 the board sitting with an administrative law judge, or by
27 the board sitting with an administrative law judge, at the
28 board's discretion. A pharmacist may request a hearing
29 on the penalty and that hearing shall be held within 90
30 days from the date of the request. If the order suspending
31 or revoking the pharmacist's license or authority to
32 practice pharmacy is overturned on appeal, any
33 discipline ordered pursuant to this section shall
34 automatically cease. Upon the showing to the
35 administrative law judge, board, or committee of the
36 board by the pharmacist that the out-of-state action is not
37 a basis for discipline in California, the suspension shall be
38 rescinded.



1 If an accusation for permanent discipline is not filed
2 within 90 days of the suspension imposed pursuant to this
3 section, the suspension shall automatically terminate.

4 (d) The record of the proceedings that resulted in the
5 suspension or revocation of the pharmacist's license or
6 authority to practice pharmacy, including a transcript of
7 the testimony therein, may be received in evidence.

8 ~~(e) This section shall not apply to a pharmacist who
9 maintains his or her primary practice in this state as
10 evidenced by having maintained a practice in this state
11 for not less than one year immediately preceding the date
12 of the suspension or revocation. Nothing in this section
13 shall preclude a pharmacist's license from being
14 suspended pursuant to any other provision of law.~~

15 ~~(f) This section shall not apply to a suspension or
16 revocation imposed by a state that is based solely on the
17 prior discipline of the pharmacist by another state.~~

18 ~~(g)~~

19 (e) If a summary suspension has been issued pursuant
20 to this section, the pharmacist may request that the
21 hearing on the penalty conducted pursuant to subdivision
22 (c) be held at the same time as a hearing on the
23 accusation.

24 ~~SEC. 15.~~

25 *SEC. 22.* Section 4322 of the Business and Professions
26 Code is amended to read:

27 4322. Any person who attempts to secure or secures
28 licensure for himself or herself or any other person under
29 this chapter by making or causing to be made any false
30 representations, or who fraudulently represents himself
31 or herself to be registered, is guilty of a misdemeanor, and
32 upon conviction thereof shall be punished by a fine not
33 exceeding five thousand dollars (\$5,000), or by
34 imprisonment not exceeding 50 days, or by both that fine
35 and imprisonment.

36 ~~SEC. 16.~~

37 *SEC. 23.* Section 5053 of the Business and Professions
38 Code is amended to read:

39 5053. Nothing contained in this chapter precludes a
40 person who is not a certified public accountant or public



1 accountant from serving as an employee of, or an assistant
2 to, a certified public accountant or public accountant or
3 partnership or a corporation composed of certified public
4 accountants or public accountants holding a permit to
5 practice pursuant to this chapter if the employee or
6 assistant works under the control and supervision of a
7 certified public accountant, or a public accountant
8 authorized to practice public accountancy pursuant to
9 this chapter and if the employee or assistant does not issue
10 any statement over his or her name.

11 This section does not apply to an attorney at law in
12 connection with his or her practice of law.

13 ~~SEC. 17.~~

14 *SEC. 24.* Section 5055 of the Business and Professions
15 Code is amended to read:

16 5055. Any person who has received from the board a
17 certificate of certified public accountant and holds a valid
18 permit to practice under this chapter shall be styled and
19 known as a “certified public accountant” and may also use
20 the abbreviation “C.P.A.” No other person, except a
21 partnership of certified public accountants registered
22 under Sections 5072 and 5073, or an accountancy
23 corporation registered under Section 5150, shall assume
24 or use that title, designation, or abbreviation or any other
25 title, designation, sign, card, or device tending to indicate
26 that the person using it is a certified public accountant.

27 ~~SEC. 18.~~

28 *SEC. 25.* Section 5056 of the Business and Professions
29 Code is amended to read:

30 5056. Any person who has received from the board a
31 certificate of public accountant and holds a valid permit
32 to practice under this chapter shall be styled and known
33 as a “public accountant” and may also use the
34 abbreviation “P.A.” No other person, except a
35 partnership of public accountants registered under
36 Sections 5072 and 5073, or an accountancy corporation
37 registered under Section 5150, shall assume or use that
38 title, designation, or abbreviation or any other title,
39 designation, sign, card, or device tending to indicate that
40 the person using it is a public accountant.



1 ~~SEC. 19.~~

2 *SEC. 26.* Section 5058.1 is added to the Business and
3 Professions Code, to read:

4 5058.1. (a) A person or firm may not use any title or
5 designation in connection with the designation “certified
6 public accountant” or “public accountant” that is either
7 of the following:

8 (1) False or misleading.

9 (2) Likely to lead to public confusion concerning
10 either of the following:

11 (A) The source of the title or designation, such as a
12 governmental agency, educational institution, or private
13 organization.

14 (B) The training, education, or experience required to
15 earn, obtain, or use the title or designation.

16 (b) The board may adopt regulations covering the use
17 of name styles, titles, or designations including, but not
18 limited to, those related to specialized training,
19 qualifications, or areas of specialized practice.

20 ~~SEC. 20.~~

21 *SEC. 27.* Section 5059 of the Business and Professions
22 Code is repealed.

23 ~~SEC. 21.~~

24 *SEC. 28.* Section 5060 of the Business and Professions
25 Code is amended to read:

26 5060. (a) The name or names under which a firm
27 may render professional services shall contain, and may
28 be restricted to, the name, last name, or initials of one or
29 more partners, shareholders, or owners of the firm who
30 are either licensed to practice under this chapter,
31 applicants for licensure under Sections 5087 and 5088, or
32 licensed to practice in another state or foreign country
33 where the firm is engaged in the practice of public
34 accountancy or its functional equivalent, if the firm name
35 does not include the name of any person whose license to
36 practice public accountancy is revoked by the board.

37 (b) Notwithstanding subdivision (a), the name of a
38 partnership or accountancy corporation may continue to
39 include, or may be limited to, the name, last name, or
40 initials of one or more former partners, shareholders, or



1 owners of the firm or a predecessor firm, if the firm name
2 does not include the name of any person whose license to
3 practice public accountancy is revoked by the board.

4 (c) Nothing in this chapter shall prohibit the right to
5 the continuous use of a firm name registered with the
6 board on or before December 31, 1997.

7 ~~SEC. 22.~~

8 *SEC. 29.* Section 5070.6 of the Business and
9 Professions Code is amended to read:

10 5070.6. Except as otherwise provided in this chapter,
11 an expired permit may be renewed at any time within
12 five years after its expiration on filing of application for
13 renewal on a form prescribed by the board, payment of
14 all accrued and unpaid renewal fees and on and after
15 December 31, 1974, giving evidence to the board of
16 compliance with the continuing education provisions of
17 this chapter. If the permit is renewed after its expiration,
18 its holder, as a condition precedent to renewal, shall also
19 pay the delinquency fee prescribed by this chapter.
20 Renewal under this section shall be effective on the date
21 on which the application is filed, on the date on which the
22 accrued renewal fees are paid, or on the date on which
23 the delinquency fee, if any, is paid, whichever last occurs.
24 If so renewed, the permit shall continue in effect through
25 the date provided in Section 5070.5 that next occurs after
26 the effective date of the renewal, when it shall expire if
27 it is not again renewed.

28 ~~SEC. 23.~~

29 *SEC. 30.* Section 5071 of the Business and Professions
30 Code is amended to read:

31 5071. No persons shall engage in the practice of
32 accountancy as a partnership unless the partnership is
33 registered by the board under Sections 5072 and 5073.

34 ~~SEC. 24.~~

35 *SEC. 31.* Section 5072 of the Business and Professions
36 Code is amended to read:

37 5072. A partnership of certified public accountants or
38 public accountants, other than a limited partnership, may
39 be registered by the board provided it meets the
40 following requirements:



1 (a) At least one general partner shall be a certified
2 public accountant or public accountant of this state in
3 good standing or shall have applied for a certificate as a
4 certified public accountant under Sections 5087 and 5088.

5 (b) Each partner personally engaged within this state
6 in the practice of public accountancy shall be a licensee
7 in good standing of this state or shall have applied for a
8 certificate as a certified public accountant under Sections
9 5087 and 5088.

10 (c) Each partner not personally engaged within this
11 state shall be a certified public accountant in good
12 standing of some state.

13 (d) Each resident manager in charge of an office of the
14 firm in this state shall be a licensee in good standing of this
15 state, or shall have applied for a certificate as a certified
16 public accountant under Sections 5087 and 5088.

17 ~~SEC. 25.~~

18 *SEC. 32.* Section 5073 of the Business and Professions
19 Code is amended to read:

20 5073. Application for registration of a partnership
21 shall be made upon the affidavit of a general partner of
22 the partnership who holds a valid permit in this state to
23 practice as a certified public accountant or public
24 accountant, or shall have applied for a certificate as a
25 certified public accountant under Sections 5087 and 5088.
26 The affidavit shall set forth any information that may be
27 prescribed by the rules of the board. The board shall in
28 each case determine whether the applicant is eligible for
29 registration. A partnership that is so registered and that
30 holds a valid permit issued under this article and that has
31 at least one general partner who is licensed to practice
32 using the designation “certified public accountant” or the
33 abbreviation “C.P.A.” may use the words “certified
34 public accountants” or the abbreviation “C.P.A.s” in
35 connection with its partnership name. Notification shall
36 be given to the board within one month after the
37 admission to, or withdrawal of, a partner from any
38 partnership so registered.

39 Any registration of a partnership under this section
40 granted in reliance upon Sections 5087 and 5088 shall



1 terminate forthwith if the board rejects the application
2 under Sections 5087 and 5088 of the general partner who
3 signed the application for registration as a partnership, or
4 any partner personally engaged in the practice of public
5 accountancy in this state, or any resident manager of a
6 partnership in charge of an office in this state.

7 ~~SEC. 26.~~

8 *SEC. 33.* Section 5074 of the Business and Professions
9 Code is repealed.

10 ~~SEC. 27.~~

11 *SEC. 34.* Section 5075 of the Business and Professions
12 Code is repealed.

13 ~~SEC. 28.~~

14 *SEC. 35.* Section 5076 of the Business and Professions
15 Code is repealed.

16 ~~SEC. 29.~~

17 *SEC. 36.* Section 5081.1 of the Business and
18 Professions Code is amended to read:

19 5081.1. An applicant for admission to the examination
20 for a certified public accountant certificate shall comply
21 with one of the following:

22 (a) He or she shall present satisfactory evidence that
23 he or she has either of the following:

24 (1) A baccalaureate degree from a university, college,
25 or other four-year institution of learning accredited by a
26 regional or national accrediting agency or association
27 included in a list of these agencies or associations
28 published by the United States Commissioner of
29 Education under the requirements of Section 253 of the
30 Veterans' Readjustment Assistance Act of 1952, known as
31 Public Law 550 of the 82nd Congress, as amended, with
32 a major in accounting or related subjects requiring a
33 minimum of 45 semester units of instruction in these
34 subjects. If the applicant has received a baccalaureate
35 degree in a nonaccounting major, the applicant shall
36 present satisfactory evidence of study substantially the
37 equivalent of an accounting major, including courses in
38 related business administration.

39 (2) A degree or degrees from a college, university, or
40 other institution of learning located outside the United



1 States that is approved by the board as the equivalent of
2 the baccalaureate degree described in paragraph (1).
3 The board may require an applicant to submit
4 documentation of his or her education to a credentials
5 evaluation service for review and to report the results of
6 this review to the board.

7 (b) He or she shall present satisfactory evidence that
8 he or she has successfully completed a two-year course of
9 study at college grade or received an associate in arts
10 degree from a junior college, either institution accredited
11 by a regional or national accrediting agency or association
12 that is included in a list published by the United States
13 Commissioner of Education under the provisions of
14 federal law specified in paragraph (1) of subdivision (a),
15 and that he or she has studied accounting, commercial
16 law, economics, finance, and related business
17 administration subjects for a period of at least four years.

18 (c) The applicant shall show to the satisfaction of the
19 board that he or she has had the equivalent of the
20 educational qualifications required by subdivision (b), or
21 shall pass a preliminary written examination approved
22 and administered by an agency approved by the State
23 Department of Education and shall have completed a
24 minimum of 10 semester units or the equivalent in
25 accounting subjects. The 10 semester units in accounting
26 subjects shall be completed at a college, university, or
27 other institution of higher learning accredited at the
28 college level by an agency or association that is included
29 in a list published by the United States Commissioner of
30 Education under the provisions of federal law specified in
31 paragraph (1) of subdivision (a).

32 (d) He or she shall be a public accountant registered
33 under this chapter.

34 ~~SEC. 30.~~

35 *SEC. 37.* Section 5082.3 of the Business and
36 Professions Code is repealed.

37 ~~SEC. 31.~~

38 *SEC. 38.* Section 5082.3 is added to the Business and
39 Professions Code, to read:



1 5082.3. An applicant for a license as a certified public
2 accountant may be deemed by the board to have met the
3 examination requirements of Section 5082 if the applicant
4 satisfies all of the following requirements:

5 (a) The applicant is licensed or has comparable
6 authority under the laws of any country to engage in the
7 practice of public accountancy.

8 (b) The United States International Qualifications
9 Appraisal Board has determined that the standards under
10 which the applicant was licensed or under which the
11 applicant secured comparable authority meets the
12 standards for admission to the International Uniform
13 Certified Public Accountant Qualification Examination.

14 (c) The applicant successfully passes the International
15 Uniform Certified Public Accountant Qualification
16 Examination.

17 ~~SEC. 32.~~

18 *SEC. 39.* Section 5084 of the Business and Professions
19 Code is amended to read:

20 5084. The board shall grant one year's credit toward
21 fulfillment of its public accounting experience
22 requirement to a graduate of a college who has
23 completed a four-year course with 45 or more semester
24 units or the equivalent thereof in the study of accounting,
25 commercial law, economics, and finance, of which at least
26 20 semester units or the equivalent thereof shall be in the
27 study of accounting.

28 The members of the board shall prescribe rules
29 establishing the character and variety of experience
30 necessary to fulfill the experience requirements set forth
31 in this section.

32 ~~SEC. 33.~~

33 *SEC. 40.* Section 5153 of the Business and Professions
34 Code is amended to read:

35 5153. An accountancy corporation may not render
36 professional services under a name unless the name
37 complies with this chapter, including Article 3
38 (commencing with Section 5050) and Article 3.5
39 (commencing with Section 5060) and applicable



1 regulations adopted by the board, and has been approved
2 by the board as being neither false nor misleading.

3 ~~SEC. 34.~~

4 *SEC. 41. Section 7622.3 of the Business and*
5 *Professions Code is amended to read:*

6 7622.3. The ~~board~~ program shall adopt regulations
7 requiring continuing education of 14 hours every two
8 years for licensed funeral directors. *As a condition of*
9 *renewal, every funeral director shall certify to the*
10 *program that he or she has successfully completed 14*
11 *hours of continuing education on or before December 31,*
12 *2000, and shall certify to the program that he or she has*
13 *successfully completed 14 hours of continuing education*
14 *on or after December 31 of every even-numbered year*
15 *thereafter.*

16 *SEC. 42. Section 7651 of the Business and Professions*
17 *Code is amended to read:*

18 7651. The ~~board~~ program shall adopt regulations
19 requiring continuing education of 14 hours every two
20 years for licensed embalmers. *As a condition of renewal,*
21 *every embalmer shall certify to the program that he or*
22 *she has successfully completed 14 hours of continuing*
23 *education on or before December 31, 2000, and shall*
24 *certify to the program that he or she has successfully*
25 *completed 14 hours of continuing education on or after*
26 *December 31 of every even-numbered year thereafter.*

27 *SEC. 43. Section 8741 of the Business and Professions*
28 *Code is amended to read:*

29 8741. (a) The first division of the examination shall
30 test the applicant's fundamental knowledge of surveying,
31 mathematics, and basic science. The board ~~may prescribe~~
32 ~~by regulation reasonable educational or experience~~
33 ~~requirements but not to exceed shall require~~ two years of
34 postsecondary education in land surveying or two years
35 of experience in land surveying for admission to the first
36 division of the examination. Applicants who have passed
37 the engineer-in-training examination, or who hold
38 professional engineer registration, are exempt from this
39 division of the examination.



1 (b) The second division of the examination shall test
2 the applicant's ability to apply his or her knowledge and
3 experience and to assume responsible charge in
4 professional practice of land surveying.

5 ~~(b) The~~

6 *The* applicant for the second division examination shall
7 have successfully passed the first division examination, or
8 shall be exempt therefrom. The applicant shall be
9 thoroughly familiar with (1) the procedure and rules
10 governing the survey of public lands as set forth in
11 "Manual of Surveying Instructions," published by the
12 Bureau of Land Management, Department of the
13 Interior, Washington, D.C. and (2) the principles of real
14 property relating to boundaries and conveyancing.

15 (c) The board may by rule provide for a waiver of the
16 first division of the examination for applicants whose
17 education and experience qualifications substantially
18 exceed the requirements of Section 8742.

19 (d) The board may by rule provide for a waiver of the
20 second division of the examination and the assignment to
21 a special examination for those applicants whose
22 educational qualifications are equal to, and whose
23 experience qualifications substantially exceed, those
24 qualifications established under subdivision (c). The
25 special examination may be either written or oral, or a
26 combination of both.

27 *SEC. 44. Section 8742 of the Business and Professions*
28 *Code is amended to read:*

29 8742. (a) The educational qualifications and
30 experience in land surveying, which an applicant for the
31 second division examination shall possess, shall ~~be not~~ *not*
32 *be* less than *one of* the following prescribed ~~minima~~
33 *criteria*:

34 (1) Graduation from a four-year curriculum with an
35 emphasis in land surveying approved by the board or
36 accredited by a national or regional accrediting agency
37 recognized by the United States Office of Education at a
38 postsecondary educational institution and two years of
39 actual *broad based progressive* experience in land
40 surveying, including one year of responsible field training



1 and one year of responsible office training; ~~or~~ *satisfactory*
2 *to the board.*

3 (2) Actual *broad based progressive* experience in land
4 surveying for at least six years, including one year of
5 responsible field training and one year of responsible
6 office training; ~~or~~ *satisfactory to the board.*

7 (3) Registration as a civil engineer with two years of
8 actual *broad based progressive* experience in land
9 surveying *satisfactory to the board.*

10 (b) With respect to applicants for license as a land
11 surveyor, the board:

12 ~~(1) Shall~~ *shall* count one year of postsecondary
13 education in land surveying as one year of experience in
14 land surveying up to a maximum of four years, provided
15 the applicant has graduated from the course in land
16 surveying and the curriculum in land surveying is
17 approved by the board or is accredited by a regional or
18 national accrediting agency recognized for the purpose
19 by the United States Office of Education. Each year of
20 study in an approved or an accredited course in land
21 surveying without graduation shall be counted the same
22 as one-half year of experience.

23 Each applicant claiming equivalent credit for
24 education may be required to produce a complete
25 transcript of all college level courses completed.

26 ~~(2) May at its discretion give credit as experience in~~
27 ~~land surveying, not in excess of two years, for successfully~~
28 ~~passing the first division of the examination prescribed in~~
29 ~~Section 8741.~~

30 *SEC. 45. Section 8773.2 of the Business and*
31 *Professions Code is amended to read:*

32 8773.2. (a) A “corner record” submitted to the
33 county surveyor or engineer shall be examined by him or
34 her for compliance with subdivision (d) of Section 8765
35 and Sections 8773, 8773.1, and 8773.4, endorsed with a
36 statement of his or her examination, and filed with the
37 county surveyor or returned to the filing party within 20
38 working days after receipt.

39 (b) In the event the submitted “corner record” fails to
40 comply with the examination criteria of subdivision (a),



1 the county surveyor or engineer shall return it to the
2 person who presented it together with a written
3 statement of the changes necessary to make it conform to
4 the requirements of subdivision (a). The licensed land
5 surveyor or registered civil engineer submitting the
6 corner record may then make the changes in compliance
7 with subdivision (a) and resubmit the corner record for
8 filing. The county surveyor or engineer shall file the
9 corner record within 10 working days after receipt of the
10 resubmission.

11 (c) If the matters appearing on the corner record
12 cannot be agreed upon by the licensed land surveyor or
13 the registered civil engineer and the county surveyor
14 within 10 working days after the licensed land surveyor
15 or registered civil engineer resubmits and requests the
16 corner record be filed without further change, an
17 explanation of the differences shall be noted on the
18 corner record and it shall be submitted to and filed by the
19 county surveyor. *When the county surveyor places an*
20 *explanatory note on a corner record, the county surveyor*
21 *shall transmit a copy of the filed corner record within 10*
22 *working days of the filing to the licensed land surveyor or*
23 *registered civil engineer who submitted the corner*
24 *record.*

25 (d) The corner record filed with the county surveyor
26 of any county shall be securely fastened by him or her into
27 a suitable book provided for that purpose.

28 (e) A charge for examining, indexing, and filing the
29 corner record may be collected by the county surveyor,
30 not to exceed the amount required for the recording of
31 a deed.

32 *SEC. 46. Section 13660 of the Business and Professions*
33 *Code is amended to read:*

34 13660. (a) Every person, firm, partnership,
35 association, trustee, or corporation that operates a service
36 station shall provide, upon request, refueling service to a
37 disabled driver of a vehicle that displays a disabled
38 person's plate or placard, or a disabled veteran's plate,
39 issued by the Department of Motor Vehicles. The price
40 charged for the motor vehicle fuel shall be no greater



1 than that which the station otherwise would charge the
2 public generally to purchase motor vehicle fuel without
3 refueling service.

4 (b) Any person or entity specified in subdivision (a)
5 that operates a service station shall be exempt from this
6 section during hours when:

7 (1) Only one employee is on duty.

8 (2) Only two employees are on duty, one of whom is
9 assigned exclusively to the preparation of food.

10 As used in this subdivision, the term “employee” does
11 not include a person employed by an unrelated business
12 that is not owned or operated by the entity offering motor
13 vehicle fuel for sale to the general public.

14 (c) (1) Every person, firm, partnership, association,
15 trustee, or corporation required to provide refueling
16 service for persons with disabilities pursuant to this
17 section shall post the following notice in a manner and
18 single location that is conspicuous to a driver seeking
19 refueling service:

20

21

“Service to Disabled Persons

22

23 Disabled individuals properly displaying a disabled
24 person’s plate or placard, or a disabled ~~person’s~~ *veteran’s*
25 plate, issued by the Department of Motor Vehicles, are
26 entitled to request and receive refueling service at this
27 service station for which they may not be charged more
28 than the self-service price. For information regarding
29 enforcement of laws providing for access to refueling
30 services for persons with disabilities, you may call the
31 California Assistive Technology System at (800)
32 390-2699.”

33

34 (2) If refueling service is limited to certain hours
35 pursuant to an exemption set forth in subdivision (b), the
36 notice required by paragraph (1) shall also specify the
37 hours during which refueling service for persons with
38 disabilities is available.

39 (3) Every person, firm, partnership, association,
40 trustee, or corporation that, consistent with subdivision



1 (b), does not provide refueling service for persons with
2 disabilities during any hours of operation shall post the
3 following notice in a manner and single location that is
4 conspicuous to a driver seeking refueling service:

5

6

“No Service for Disabled Persons

7

8 This service station does not provide refueling service
9 for disabled individuals. For information regarding
10 enforcement of laws providing for access to refueling
11 services for persons with disabilities, you may call the
12 California Assistive Technology System at (800)
13 390-2699.”

14

15 (d) During the county sealer’s normal petroleum
16 product inspection of a service station, the sealer shall
17 verify that a sign has been posted in accordance with
18 subdivision (c). If a sign has not been posted, the sealer
19 shall issue a notice of violation to the owner or agent. The
20 sealer shall be reimbursed, as prescribed by the
21 department, from funds provided under Chapter 14. If
22 substantial, repeated violations of subdivision (c) are
23 noted at the same service station, the sealer shall refer the
24 matter to the appropriate local law enforcement agency.

25 (e) The local law enforcement agency shall, upon the
26 verified complaint of any person or public agency,
27 investigate the actions of any person, firm, partnership,
28 association, trustee, or corporation alleged to have
29 violated this section. If the local law enforcement agency
30 determines that there has been a denial of service in
31 violation of this section, or a substantial or repeated
32 failure to comply with subdivision (c), the agency shall
33 levy the fine prescribed in subdivision (f).

34 (f) Any person who, as a responsible managing
35 individual setting service policy of a service station, or as
36 an employee acting independently against the set service
37 policy, acts in violation of this section is guilty of an
38 infraction punishable by a fine of one hundred dollars
39 (\$100) for the first offense, two hundred dollars (\$200) for



1 the second offense, and five hundred dollars (\$500) for
2 each subsequent offense.

3 (g) In addition to those matters referred pursuant to
4 subdivision (e), the city attorney, the district attorney, or
5 the Attorney General, upon his or her own motion, may
6 investigate and prosecute alleged violations of this
7 section. Any person or public agency may also file a
8 verified complaint alleging violation of this section with
9 the city attorney, district attorney, or Attorney General.

10 (h) Enforcement of this section may be initiated by
11 any intended beneficiary of the provisions of this section,
12 his or her representatives, or any public agency that
13 exercises oversight over the service station, and the
14 action shall be governed by Section 1021.5 of the Code of
15 Civil Procedure.

16 (i) An annual notice setting forth the provisions of this
17 section shall be provided by the Board of Equalization to
18 every person, firm, partnership, association, trustee, or
19 corporation that operates a service station.

20 (j) A notice setting forth the provisions of this section
21 shall be printed on each disabled person's placard issued
22 by the Department of Motor Vehicles on and after
23 January 1, 1999. A notice setting forth the provisions of
24 this section shall be provided to each person issued a
25 disabled person's or disabled veteran's plate on and after
26 January 1, 1998.

27 (k) For the purposes of this action "refueling service"
28 means the service of pumping motor vehicle fuel into the
29 fuel tank of a motor vehicle.

30 *SEC. 47. Section 11371 of the Government Code is*
31 *amended to read:*

32 11371. (a) There is within the Office of
33 Administrative Hearings a Medical Quality Hearing
34 Panel, consisting of no fewer than five full-time
35 administrative law judges. The administrative law judges
36 shall have medical training as recommended by the
37 Division of Medical Quality of the Medical Board of
38 California and approved by the Director of the Office of
39 Administrative Hearings.



1 (b) The director shall determine the qualifications of
2 panel members, supervise their training, and coordinate
3 the publication of a reporter of decisions pursuant to this
4 section. The panel shall include only those persons
5 specifically qualified and shall at no time constitute more
6 than 25 percent of the total number of administrative law
7 judges within the Office of Administrative Hearings. If
8 the members of the panel do not have a full workload,
9 they may be assigned work by the Director of the Office
10 of Administrative Hearings. When the medically related
11 case workload exceeds the capacity of the members of the
12 panel, additional judges shall be requested to be added to
13 the panels as appropriate. When this workload overflow
14 occurs on a temporary basis, the Director of the Office of
15 Administrative Hearings shall supply judges from the
16 Office of Administrative Hearings to adjudicate the cases.

17 (c) The decisions of the administrative law judges of
18 the panel, together with any court decisions reviewing
19 those decisions, shall be published in a quarterly “Medical
20 Discipline Report,” to be funded from the Contingent
21 Fund of the Medical Board of California.

22 (d) The administrative law judges of the panel shall
23 have panels of experts available. The panels of experts
24 shall be appointed by the Director of the Office of
25 Administrative Hearings, with the advice of the Medical
26 Board of California. These panels of experts may be called
27 as witnesses by the administrative law judges of the panel
28 to testify on the record about any matter relevant to a
29 proceeding and subject to cross-examination by all
30 parties, and Section 11430.30 does not apply in a
31 proceeding under this section. The administrative law
32 judge may award reasonable expert witness fees to any
33 person or persons serving on a panel of experts, which
34 shall be paid from the Contingent Fund of the Medical
35 Board of California.

36 ~~(e) On or before April 1, 1997, the Medical Board of~~
37 ~~California shall prepare, in consultation with the Office of~~
38 ~~Administrative Hearings, an analysis and report that~~
39 ~~evaluates the effectiveness of the Medical Quality~~
40 ~~Hearing Panel since its creation. Among other things, the~~



1 ~~report shall analyze whether administrative~~
2 ~~adjudications against physicians have been expedited, the~~
3 ~~aging of cases at the office, whether administrative~~
4 ~~decisions and penalties ordered in the discipline of~~
5 ~~physicians have become more consistent, and whether~~
6 ~~the panels of the Division of Medical Quality have~~
7 ~~adopted more proposed decisions than prior to the~~
8 ~~creation of the panel. The board shall send a copy of its~~
9 ~~report to the Chairpersons of the Senate Committee on~~
10 ~~Business and Professions and the Assembly Committee on~~
11 ~~Health, to the Office of Administrative Hearings, and to~~
12 ~~the Director of Consumer Affairs.~~

13 ~~(f)~~ This section shall remain in effect only until
14 January 1, ~~1999~~ 2003, and as of that date is repealed, unless
15 a later enacted statute, which is enacted before January
16 1, ~~1999~~ 2003, deletes or extends that date.

17 *SEC. 48.* Section 11529 of the Government Code is
18 amended to read:

19 11529. (a) The administrative law judge of the
20 Medical Quality Hearing Panel established pursuant to
21 Section 11371 may issue an interim order suspending a
22 license, or imposing drug testing, continuing education,
23 supervision of procedures, or other license restrictions.
24 Interim orders may be issued only if the affidavits in
25 support of the petition show that the licensee has engaged
26 in, or is about to engage in, acts or omissions constituting
27 a violation of the Medical Practice Act or the appropriate
28 practice act governing each allied health profession, or is
29 unable to practice safely due to a mental or physical
30 condition, and that permitting the licensee to continue to
31 engage in the profession for which the license was issued
32 will endanger the public health, safety, or welfare.

33 (b) All orders authorized by this section shall be issued
34 only after a hearing conducted pursuant to subdivision
35 (d), unless it appears from the facts shown by affidavit
36 that serious injury would result to the public before the
37 matter can be heard on notice. Except as provided in
38 subdivision (c), the licensee shall receive at least 15 days'
39 prior notice of the hearing, which notice shall include



1 affidavits and all other information in support of the
2 order.

3 (c) If an interim order is issued without notice, the
4 administrative law judge who issued the order without
5 notice shall cause the licensee to be notified of the order,
6 including affidavits and all other information in support
7 of the order by a 24-hour delivery service. That notice
8 shall also include the date of the hearing on the order,
9 which shall be conducted in accordance with the
10 requirement of subdivision (d), not later than 20 days
11 from the date of issuance. The order shall be dissolved
12 unless the requirements of subdivision (a) are satisfied.

13 (d) For the purposes of the hearing conducted
14 pursuant to this section, the licentiate shall, at a
15 minimum, have the following rights:

16 (1) To be represented by counsel.

17 (2) To have a record made of the proceedings, copies
18 of which may be obtained by the licentiate upon payment
19 of any reasonable charges associated with the record.

20 (3) To present written evidence in the form of
21 relevant declarations, affidavits, and documents.

22 The discretion of the administrative law judge to
23 permit testimony at the hearing conducted pursuant to
24 this section shall be identical to the discretion of a
25 superior court judge to permit testimony at a hearing
26 conducted pursuant to Section 527 of the Code of Civil
27 Procedure.

28 (4) To present oral argument.

29 (e) Consistent with the burden and standards of proof
30 applicable to a preliminary injunction entered under
31 Section 527 of the Code of Civil Procedure, the
32 administrative law judge shall grant the interim order
33 where, in the exercise of discretion, the administrative
34 law judge concludes that:

35 (1) There is a reasonable probability that the
36 petitioner will prevail in the underlying action.

37 (2) The likelihood of injury to the public in not issuing
38 the order outweighs the likelihood of injury to the
39 licensee in issuing the order.



1 (f) In all cases where an interim order is issued, and an
2 accusation is not filed and served pursuant to Sections
3 11503 and 11505 within 15 days of the date in which the
4 parties to the hearing on the interim order have
5 submitted the matter, the order shall be dissolved.

6 Upon service of the accusation the licensee shall have,
7 in addition to the rights granted by this section, all of the
8 rights and privileges available as specified in this chapter.
9 If the licensee requests a hearing on the accusation, the
10 board shall provide the licensee with a hearing within 30
11 days of the request, unless the licensee stipulates to a later
12 hearing, and a decision within 15 days of the date the
13 decision is received from the administrative law judge, or
14 the board shall nullify the interim order previously issued,
15 unless good cause can be shown by the Division of
16 Medical Quality for a delay.

17 (g) Where an interim order is issued, a written
18 decision shall be prepared within 15 days of the hearing,
19 by the administrative law judge, including findings of fact
20 and a conclusion articulating the connection between the
21 evidence produced at the hearing and the decision
22 reached.

23 (h) Notwithstanding the fact that interim orders
24 issued pursuant to this section are not issued after a
25 hearing as otherwise required by this chapter, interim
26 orders so issued shall be subject to judicial review
27 pursuant to Section 1094.5 of the Code of Civil Procedure.
28 The relief which may be ordered shall be limited to a stay
29 of the interim order. Interim orders issued pursuant to
30 this section are final interim orders and, if not dissolved
31 pursuant to subdivision (c) or (f), may only be challenged
32 administratively at the hearing on the accusation.

33 (i) The interim order provided for by this section shall
34 be:

35 (1) In addition to, and not a limitation on, the authority
36 to seek injunctive relief provided for in the Business and
37 Professions Code.

38 (2) A limitation on the emergency decision procedure
39 provided in Article 13 (commencing with Section
40 11460.10) of Chapter 4.5.



1 ~~SEC. 35.~~

2 *SEC. 49. Section 11166 of the Health and Safety Code*
3 *is amended to read:*

4 11166. No person shall fill a prescription for a
5 controlled substance classified in Schedule II ~~which is~~
6 ~~tendered to him after the seventh day following the date~~
7 ~~of issue~~ 14 or more days after the date written on the
8 prescription by the prescriber. No person shall knowingly
9 fill a mutilated or forged or altered prescription for a
10 controlled substance except for the addition of the
11 address of the person for whom the controlled substance
12 is prescribed as provided by paragraph (3) of subdivision
13 (b) of Section 11164.

14 *SEC. 50. Section 11167 of the Health and Safety Code*
15 *is repealed.*

16 ~~SEC. 36.~~

17 *SEC. 51. Section 11167 is added to the Health and*
18 *Safety Code, to read:*

19 11167. Notwithstanding subdivision (a) of Section
20 11164, in an emergency where failure to issue a
21 prescription may result in loss of life or intense suffering,
22 an order for a Schedule II controlled substance may be
23 dispensed on an oral, written, or electronic *data*
24 *transmission* order, subject to all of the following
25 requirements:

26 (a) The order contains all information required by
27 subdivision (a) of Section 11164.

28 (b) Any written order is signed and dated by the
29 prescriber in indelible pencil or ink, and the pharmacy
30 reduces any oral or electronic *data transmission* order to
31 writing prior to actually dispensing the controlled
32 substance.

33 (c) The prescriber provides a triplicate prescription,
34 completed as provided by subdivision (a) of Section
35 11164, by the seventh day following the transmission of
36 the initial order; a postmark by the seventh day following
37 transmission of the initial order shall constitute
38 compliance.

39 (d) If the prescriber fails to comply with subdivision
40 (b), the pharmacy shall so notify the Bureau of Narcotic



1 Enforcement in writing within 144 hours of the
2 prescriber's failure to do so and shall make and retain a
3 written, readily retrievable record of the prescription,
4 including the date and method of notification of the
5 Bureau of Narcotic Enforcement.

6 ~~SEC. 37. No reimbursement is required by this act
7 pursuant to Section 6 of Article XIII B of the California
8 Constitution because the only costs that may be incurred
9 by a local agency or school district will be incurred
10 because this act creates a new crime or infraction,
11 eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition
14 of a crime within the meaning of Section 6 of Article
15 XIII B of the California Constitution.~~

16 ~~Notwithstanding Section 17580 of the Government
17 Code, unless otherwise specified, the provisions of this act
18 shall become operative on the same date that the act
19 takes effect pursuant to the California Constitution.~~

20 *SEC. 52. No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution for certain costs that may be incurred by a
23 local agency or school district because in that regard this
24 act creates a new crime or infraction, eliminates a crime
25 or infraction, or changes the penalty for a crime or
26 infraction, within the meaning of Section 17556 of the
27 Government Code, or changes the definition of a crime
28 within the meaning of Section 6 of Article XIII B of the
29 California Constitution.*

30 *However, notwithstanding Section 17610 of the
31 Government Code, if the Commission on State Mandates
32 determines that this act contains other costs mandated by
33 the state, reimbursement to local agencies and school
34 districts for those costs shall be made pursuant to Part 7
35 (commencing with Section 17500) of Division 4 of Title
36 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million
38 dollars (\$1,000,000), reimbursement shall be made from
39 the State Mandates Claims Fund.*



1 *Notwithstanding Section 17580 of the Government*
2 *Code, unless otherwise specified, the provisions of this act*
3 *shall become operative on the same date that the act*
4 *takes effect pursuant to the California Constitution.*

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