

## Senate Bill No. 2239

### CHAPTER 878

An act to amend Sections 120, 125.7, 1621.1, 1632, 1633.5, 1763, 2067, 2103, 2225.5, 2239, 2242, 2350, 2355, 3512, 3516.5, 3517, 3519, 3520, 3521.2, 3523, 3524, 3526, 3527, 3528, 3530, 3534.1, 3534.3, 4301, 4322, 5053, 5055, 5056, 5060, 5070.6, 5072, 5073, 5104, 5134, 7301, 7348, 7358, 7362.1, 7362.2, 7362.3, 7390, 7391, 7392, 7393, 7394, 7395, 7423.5, 7622.3, 7651, 8742, 8773.1, 8773.2, and 13660 of, to add Sections 4115.5, 4301.5, 5058.1, and 7427 to, and to repeal Sections 1621.2, 5059, 5070.1, 5071, 5074, 5075, 5076, 5153, and 7303 of, the Business and Professions Code, to amend 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.

[Approved by Governor September 26, 1998. Filed  
with Secretary of State September 28, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 2239, 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 instead provide for the board to appoint an unspecified number of members.

(2) 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 demonstration of his or her judgment in dental diagnosis and treatment planning, prosthetic dentistry, and endodontics.

(3) 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.



(4) 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.

(5) Existing law regulating physician licensure permits an applicant for a physician's and surgeon's certificate who is found by the Division of Licensing of the Medical Board of California 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 for the period of time prescribed by the division.

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.

(6) Existing law provides that a licensee of the Medical Board of California or a health care 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 provide that the failure or refusal to comply with a court order issued in the enforcement of a subpoena, mandating the release of medical records, is also a misdemeanor, punishable as specified, and, with respect to a licensee, constitutes unprofessional conduct punishable by license suspension or revocation. This bill would thereby impose a state-mandated local program by creating a new crime. It would enact other related provisions.

(7) 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.

(8) 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.

The bill would also permit a pharmacy technician student, defined as a person enrolled in a pharmacy technician training program operated by a California public education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education, to be placed as a pharmacy technician trainee for the purpose of completing an externship required as a condition of registration by the California State Board of Pharmacy. The bill would permit a pharmacy technician trainee participating in an externship to perform packaging, manipulation, repetitive, or other nondiscretionary tasks only while under the direct supervision and control of a pharmacist, and would establish other requirements and conditions for participation in an externship.

(9) 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.

(10) 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.

(11) 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.

(12) Existing law, operative until July 1, 1997, provides for a State Board of Barbering and Cosmetology in the Department of Consumer Affairs to regulate and license barbers and cosmetologists pursuant to the Barbering and Cosmetology Act.

This bill would provide that the board’s functions are to be performed by the department and would provide that the Barbering and Cosmetology Act will become inoperative July 1, 2005, and will be repealed effective January 1, 2006, as specified. It would also make certain technical changes.

(13) 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.

(14) Existing law regulating surveyors permits the State Board of Registration for Professional Engineers and Land Surveyors to prescribe certain examination requirements by regulation, as specified, and requires that candidates for the 2nd division of the examination for licensure as a land surveyor 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.

(15) Existing law provides for the submission of surveying records known as corner records, and 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.

(16) 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.

(17) 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.

(18) 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.



(19) Existing law provides that no person shall fill a prescription for a controlled substance classified in Schedule II which is tendered to him or her 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.

(20) 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.

(21) 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.

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

SECTION 1. Section 120 of the Business and Professions Code is amended to read:

120. (a) The provisions of subdivision (a) of Section 119 shall not apply to a surviving spouse having in his or her possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate which has been canceled by official action of the State Board of Accountancy.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the board may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

SEC. 1.5. Section 125.7 of the Business and Professions Code is amended to read:



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

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

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

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

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code or, in the case of a licensee of the State Department of Health Services, with that department pursuant to Section 100171 of the Health and Safety Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date the decision is received from the administrative law judge, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at the time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.



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

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

1621.1. (a) The examining committee shall consist of members appointed by the board.

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

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

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

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

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

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

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

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

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

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

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

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

2067. An applicant for a physician's and surgeon's certificate who is found by the Division of Licensing to be deficient in the education and clinical instruction required by Sections 2089 and 2089.5 or who



is required pursuant to Section 2185 to complete additional medical instruction may 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.

SEC. 8. Section 2103 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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



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

SEC. 9. Section 2225.5 of the Business and Professions Code is amended to read:

2225.5. (a) (1) A licensee who fails or refuses to comply with a request for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.



(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Health Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, a “health care facility” means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 10. Section 2239 of the Business and Professions Code is amended to read:

2239. (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages,



to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

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

SEC. 11. Section 2242 of the Business and Professions Code is amended to read:

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

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

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

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

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated



prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.

SEC. 12. Section 2350 of the Business and Professions Code is amended to read:

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

(b) A physician and surgeon under current investigation by the division may request entry into the diversion program by contacting the Chief or Deputy Chief of Enforcement of the Medical Board of California. The Chief or Deputy Chief of Enforcement of the Medical Board of California shall refer the physician and surgeon who requests participation in the diversion program to a committee for evaluation of eligibility, even if the physician and surgeon is currently under investigation by the division, as long as the investigation is based primarily on the self-administration of drugs or alcohol under Section 2239, or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, and does not involve actual harm to the public or his or her patients. Prior to referring a physician and surgeon to the diversion program, the division may require any physician and surgeon who requests participation under those circumstances, or where there are other violations, to execute a statement of understanding wherein the physician and surgeon agrees that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted should the physician and surgeon be terminated from the program for failure to comply with program requirements.

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

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

(e) Any physician and surgeon terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the division for acts committed before, during, and after participation in the diversion program. The division shall not be precluded from taking disciplinary action for violations identified in the statement of understanding described in subdivision



(b) if a physician and surgeon is terminated from the diversion program for failure to comply with program requirements. The termination of a physician and surgeon who has been referred to the diversion program pursuant to subdivision (b) shall be reported by the committee to the division.

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

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

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

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

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

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

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

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

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



SEC. 13. Section 2355 of the Business and Professions Code is amended to read:

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

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

SEC. 14. Section 3512 of the Business and Professions Code is amended to read:

3512. Except as provided in Sections 159.5 and 2020, the committee shall employ within the limits of the Physician Assistant Fund all personnel necessary to carry out the provisions of this chapter including an executive officer who shall be exempt from civil service. The board and committee shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The committee may accept contributions to effect the purposes of this chapter.

SEC. 15. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the board, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the board for authorization under which such director may grant approval for emergency care physicians on the staff of such hospital to supervise emergency care physician assistants.

(b) The application shall encompass all supervising physicians employed in such service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than two physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2.

(e) Any violation of this section shall be grounds for suspension of the approval of the director or disciplinary action against the director or suspension of the approved program under Section 3527.

SEC. 16. Section 3517 of the Business and Professions Code is amended to read:



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

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

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

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

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

SEC. 17. Section 3519 of the Business and Professions Code is amended to read:



3519. The committee shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

(a) Provide evidence of one of the following:

(1) Successful completion of an approved program.

(2) Successful completion in a medical school approved by the Division of Licensing of a resident course of professional instruction which meets the requirements of Sections 2088 and 2089.

(b) Pass any examination required under Section 3517.

(c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.

(d) Pay all fees required under Section 3521.1.

SEC. 18. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the board shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund is continuously appropriated to carry out the purpose of this chapter.

SEC. 19. Section 3521.2 of the Business and Professions Code is amended to read:

3521.2. The fees to be paid by physician assistant training programs are to be set by the committee as follows:

(a) An application fee not to exceed five hundred dollars (\$500) shall be charged to each applicant seeking program approval by the committee.

(b) An approval fee not to exceed one hundred dollars (\$100) shall be charged to each program upon its approval by the committee.

SEC. 20. Section 3523 of the Business and Professions Code is amended to read:

3523. All physician assistant licenses shall expire at 12 midnight of the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The committee shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates and a pro rata formula for the payment of renewal fees by physician assistants affected by the implementation of the program.

To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the committee, accompanied by the prescribed renewal fee.

SEC. 21. Section 3524 of the Business and Professions Code is amended to read:



3524. A license or approval which has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the committee or board, as the case may be, and payment of the renewal fee in effect on the preceding regular renewal date. If the license or approval is not renewed within 30 days after its expiration, the licensed physician assistant and approved supervising physician, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 22. Section 3526 of the Business and Professions Code is amended to read:

3526. A person who fails to renew his or her license or approval within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but that person may apply for and obtain a new license or approval if he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the committee that, with due regard for the public interest, he or she is qualified to practice as a physician assistant.

(c) Pays all of the fees that would be required as if application for licensure was being made for the first time.

SEC. 23. Section 3527 of the Business and Professions Code is amended to read:

3527. (a) The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(b) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.



(c) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Medical Board of California, in conjunction with an action it has commenced against a physician and surgeon, may, in its own discretion and without the concurrence of the board, order the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(e) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, a physician assistant license, after a hearing as required in Section 3528 for unprofessional conduct which includes, except for good cause, the knowing failure of a licensee to protect patients by failing to follow infection control guidelines of the committee, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the committee shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the committee shall consult with the California Medical Board, the Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The committee shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 24. Section 3528 of the Business and Professions Code is amended to read:



3528. Any proceedings involving the denial, suspension, or revocation of the application for licensure or the license of a physician assistant, the application for approval or the approval of a supervising physician, or the application for approval or the approval of an approved program under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 25. Section 3530 of the Business and Professions Code is amended to read:

3530. One year from the date of a revocation of a license or approval under this chapter, application may be made to the committee or the board in the case of approval of an application to supervise physician assistants for reinstatement, restoration or modification of probation. The committee may accept or reject an application for reinstatement, restoration, or modification of probation and may require an examination for that reinstatement, restoration, or modification of probation when it is deemed appropriate for a license or approval under this chapter.

SEC. 26. Section 3534.1 of the Business and Professions Code is amended to read:

3534.1. The examining committee shall establish and administer a diversion program for the rehabilitation of physician assistants whose competency is impaired due to the abuse of drugs or alcohol. The examining committee may contract with any other state agency or a private organization to perform its duties under this article. The examining committee may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. As used in this article, "committee" means a diversion evaluation committee.

SEC. 27. Section 3534.3 of the Business and Professions Code is amended to read:

3534.3. Each committee has the following duties and responsibilities:

(a) The evaluation of physician assistants who request participation in the program and to consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) The review and designation of treatment facilities to which physician assistants in the diversion program may be referred.

(c) The receipt and review of information concerning physician assistants participating in the program.

(d) To call meetings as necessary to consider the requests of physician assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the examining committee.



(e) The consideration of whether each participant in the diversion program may with safety continue or resume the practice of medicine.

(f) To set forth in writing a treatment program for each participant in the diversion program with requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the examining committee, and to suggest proposals for changes in the diversion program.

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

SEC. 28. Section 4115.5 is added to the Business and Professions Code, to read:

4115.5. (a) Notwithstanding any other provision of law, a pharmacy technician student may be placed in a pharmacy as a pharmacy technician trainee to complete an externship for the purpose of obtaining practical training that is required by the board as a condition of becoming registered as a pharmacy technician. A "pharmacy technician student" is a person who is enrolled in a pharmacy technician training program operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education.

(b) (1) A pharmacy technician trainee participating in an externship as described in subdivision (a) may perform the duties described in subdivision (a) of Section 4115 only under the immediate, personal supervision and control of a pharmacist. A pharmacist supervising a pharmacy technician trainee shall be on the premises and have the trainee within his or her view at any time the trainee performs the duties described in subdivision (a) of Section 4115.

(2) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall be directly responsible for the conduct of the trainee.

(3) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall verify any prescription prepared by the trainee under supervision of the pharmacist by initialing the prescription label before the medication is disbursed to a patient.

(4) No more than one pharmacy technician trainee per pharmacist may participate in an externship as described in subdivision (a) under the immediate, personal supervision and



control of that pharmacist at any time the trainee is present in the pharmacy.

(5) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall certify attendance for the pharmacy technician trainee and certify that the pharmacy technician trainee has met the educational objectives established by California public postsecondary education institution or the private postsecondary vocational institution in which the trainee is enrolled, as established by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than 120 of the 320 hours may be completed in a community pharmacy setting or in a single department in a hospital pharmacy.

(d) An externship in which a pharmacy technician trainee may participate as described in subdivision (a) shall be for a period of no more than six consecutive months, and shall be completed while the trainee is enrolled in a course of instruction at the institution.

(e) A pharmacy technician trainee participating in an externship as described in subdivision (a) shall wear identification that indicates his or her student status.

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

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

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.

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

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



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

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

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

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

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

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

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



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

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

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

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

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

SEC. 30. Section 4301.5 is added to the Business and Professions Code, to read:

4301.5. (a) If a pharmacist possesses a license or is otherwise authorized to practice pharmacy in any other state or by an agency of the federal government, and that license or authority is suspended or revoked, the pharmacist's license shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The board shall notify the pharmacist of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

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

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

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

(d) The record of the proceedings that resulted in the suspension or revocation of the pharmacist's license or authority to practice



pharmacy, including a transcript of the testimony therein, may be received in evidence.

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

SEC. 31. Section 4322 of the Business and Professions Code is amended to read:

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

SEC. 32. Section 5053 of the Business and Professions Code is amended to read:

5053. Nothing contained in this chapter precludes a person who is not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or partnership or a corporation composed of certified public accountants or public accountants holding a permit to practice pursuant to this chapter if the employee or assistant works under the control and supervision of a certified public accountant, or a public accountant authorized to practice public accountancy pursuant to this chapter and if the employee or assistant does not issue any statement over his or her name.

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

SEC. 33. Section 5055 of the Business and Professions Code is amended to read:

5055. Any person who has received from the board a certificate of certified public accountant may, subject to Section 5051, be styled and known as a “certified public accountant” and may also use the abbreviation “C.P.A.” No other person, except a firm registered under this chapter, shall 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.

SEC. 34. Section 5056 of the Business and Professions Code is amended to read:

5056. Any person who has received from the board a certificate of public accountant may, subject to Section 5051, be styled and known as a “public accountant” and may also use the abbreviation “P.A.” No other person, except a firm registered under this chapter, shall 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 public accountant.

SEC. 35. Section 5058.1 is added to the Business and Professions Code, to read:

5058.1. A person or firm may not use any title or designation in connection with the designation “certified public accountant” or “public accountant” that is false or misleading.

The board may adopt regulations covering the use of titles or designations.

SEC. 36. Section 5059 of the Business and Professions Code is repealed.

SEC. 37. Section 5060 of the Business and Professions Code is amended to read:

5060. (a) No person or firm may practice public accountancy under any name which is false or misleading.

(b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board.

(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other than the name set forth on his or her permit to practice, provided the name is registered by the board, is in good standing, and complies with the requirements of subdivision (a).

(d) The board may adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations designating particular forms of names as being false or misleading.

SEC. 38. Section 5070.1 of the Business and Professions Code is repealed.

SEC. 39. Section 5070.6 of the Business and Professions Code is amended to read:

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



SEC. 40. Section 5071 of the Business and Professions Code is repealed.

SEC. 41. Section 5072 of the Business and Professions Code is amended to read:

5072. (a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088.

(2) Each partner personally engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(3) Each partner not personally engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

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

SEC. 42. Section 5073 of the Business and Professions Code is amended to read:

5073. (a) Application for registration of a partnership shall be made upon a form prescribed by the board. The board shall in each case determine whether the applicant is eligible for registration.

(b) A partnership that is so registered and that holds a valid permit issued under this article and that has at least one general partner who is licensed to practice using the designation “certified public accountant” or the abbreviation “C.P.A.” and one additional licensed person may use the words “certified public accountants” or the abbreviation “C.P.A.s” in connection with its partnership name.

(c) A partnership that is so registered and that holds a valid permit issued under this article and that has at least one general partner who is licensed to practice using the designation “public accountant” or the abbreviation “P.A.” and one additional licensed person may use the words “public accountants” or the abbreviation “P.A.s” in connection with its partnership name.

(d) Notification shall be given to the board within one month after the admission to, or withdrawal of, a partner from any partnership so registered.

(e) Any registration of a partnership under this section granted in reliance upon Sections 5087 and 5088 shall terminate forthwith if the



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

SEC. 43. Section 5074 of the Business and Professions Code is repealed.

SEC. 44. Section 5075 of the Business and Professions Code is repealed.

SEC. 45. Section 5076 of the Business and Professions Code is repealed.

SEC. 46. Section 5104 of the Business and Professions Code is amended to read:

5104. Any certified public accountant or public accountant whose certificate, registration, or permit has been revoked or suspended shall upon request of the board relinquish his or her certificate or permit. However, upon the expiration of the period of suspension, the board shall immediately return any suspended certificate or permit which has been relinquished.

SEC. 47. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the written examination, plus the estimated cost to the board of administering the written examination and shall not exceed two hundred fifty dollars (\$250). The board may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the written examination or any of its component parts, plus the estimated cost to the board of administering the written examination and not to exceed fifty dollars (\$50) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed one hundred fifty dollars (\$150) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the



estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration shall be fixed by the board and shall not exceed one hundred fifty dollars (\$150).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (d), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately three months of annual authorized expenditures. Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation adopted pursuant to subdivision (k), that additional moneys are required to fund authorized expenditures other than those specified in subdivisions (a) to (d), inclusive, and maintain the board's contingent fund reserve balance equal to three months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) The fee to be charged for filing of sponsor agreements for continuing education courses shall be fixed by the board at not more than one hundred dollars (\$100). Universities, colleges, or other four-year institutions of learning accredited by a regional or national accrediting agency or association included in a list of those agencies or associations published by the United States Commissioner of Education under the requirements of Section 253 of the Veterans' Readjustment Assistance Act of 1952, known as Public Law 550 of the 82nd Congress, as amended, are exempted from the payment of this filing fee.

(j) The actual and estimated costs referred to in this section shall be calculated every two years using a survey of all costs attributable to the applicable subdivision.

(k) Upon the effective date of this section the board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in any fee fixed by the board shall be pursuant



to regulation duly adopted by the board in accordance with the limits of this section.

(l) Fees collected pursuant to subdivisions (a) to (d), inclusive, shall be fixed by the board in amounts necessary to recover the actual costs of providing the service for which the fee is assessed, as projected for the fiscal year commencing on the date the fees become effective.

SEC. 48. Section 5153 of the Business and Professions Code is repealed.

SEC. 48.1. Section 7301 of the Business and Professions Code is amended to read:

7301. This chapter constitutes the chapter on hair, skin, nail care, and electrolysis and may be known and cited as the Barbering and Cosmetology Act.

The term “board” as used in this chapter refers to the Director of the Department of Consumer Affairs, or his or her designee, as provided in this chapter.

SEC. 48.2. Section 7303 of the Business and Professions Code is repealed.

SEC. 48.3. Section 7348 of the Business and Professions Code is amended to read:

7348. An establishment shall at all times be in the charge of a person licensed pursuant to this chapter except an apprentice.

SEC. 48.4. Section 7358 of the Business and Professions Code is amended to read:

7358. A mobile unit shall at all times be in the charge of a person licensed pursuant to this chapter except an apprentice.

SEC. 48.5. Section 7362.1 of the Business and Professions Code is amended to read:

7362.1. A school of cosmetology approved by the board shall also meet all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 25 cosmetology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of cosmetology at least 25 bona fide, full-time students for the cosmetology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of cosmetology and has committed to attend a full course in cosmetology.

(c) Maintain a course of practical training and technical instruction for the full cosmetology course as specified in this chapter and in board regulations. A course of instruction in any branch of cosmetology shall be taught in a school of cosmetology.

SEC. 48.6. Section 7362.2 of the Business and Professions Code is amended to read:

7362.2. A school of barbering approved by the board shall also do all of the following:



(a) Possess the equipment and floor space necessary for comprehensive instruction of 15 barber students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of barbering at least 15 bona fide, full-time students for the barbering course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of barbering and has committed to attend a full course in barbering.

(c) Maintain a course of practical training and technical instruction for the full barbering course as specified in this chapter and in board regulations.

SEC. 48.7. Section 7362.3 of the Business and Professions Code is amended to read:

7362.3. A school of electrology approved by the board shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of five electrology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of electrology at least five bona fide, full-time students for the electrology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of electrology and has committed to attend a full course in electrology.

(c) Maintain a course of practical training and technical instruction for the full electrology course as specified in this chapter and in board regulations.

SEC. 48.8. Section 7390 of the Business and Professions Code is amended to read:

7390. A cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by board regulation.

SEC. 48.9. Section 7391 of the Business and Professions Code is amended to read:

7391. The board shall admit to examination for license as a cosmetology or barbering instructor any person who has made application to the board in the proper form, who has paid the fee required by this chapter, and who meets the following qualifications:

(a) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid license to practice cosmetology or barbering in this state.

(d) Has done at least one of the following:

(1) Completed a cosmetology or barbering instructor training course in an approved school in this state or equivalent training in an approved school in another state.



(2) Completed not less than the equivalent of 10 months of practice as a teacher assistant or teacher aide in a school approved by the board.

(3) Practiced cosmetology or barbering in a licensed establishment in this state for a period of one year within the three years immediately preceding application, or its equivalent in another state. An applicant using practical experience to qualify under this section shall submit an affidavit signed by his or her employers attesting to the qualifying experience.

SEC. 48.10. Section 7392 of the Business and Professions Code is amended to read:

7392. Each licensed instructor shall complete at least 30 clock hours of continuing education in the teaching of vocational education during each two-year licensing period. This section does not apply to an instructor who holds a credential to teach vocational education full time in a public school in this state.

For purposes of this section, programs designed for continuing education in the teaching of vocational education may include, but not be limited to, development of understanding and competency in the learning process, instructional techniques, curriculum and media, instructional evaluation, counseling and guidance, and the special needs of students.

The board shall adopt regulations establishing standards for the approval of continuing education courses and for the effective administration and enforcement of its continuing education requirements.

SEC. 48.11. Section 7393 of the Business and Professions Code is amended to read:

7393. As a condition of the renewal of the license of an instructor, the board may periodically require instructors to demonstrate current competence through continuing education as provided for in this chapter.

SEC. 48.12. Section 7394 of the Business and Professions Code is amended to read:

7394. The board's continuing education requirements shall not apply to instructors whose licenses are on inactive status according to the records maintained by the board.

Instructors whose licenses are on inactive status may not be employed as instructors in schools approved by the board.

Instructors whose licenses are on inactive status must complete at least 30 hours of continuing education in the teaching of vocational education as a condition of reinstatement to active status.

SEC. 48.13. Section 7395 of the Business and Professions Code is amended to read:

7395. If an instructor with an active license status does not provide proof of compliance with the continuing education requirements provided for in this chapter within 45 days of a request



from the board, the instructor's license shall revert to inactive status until proof of compliance is provided to the board.

SEC. 48.14. Section 7423.5 of the Business and Professions Code is amended to read:

7423.5. The amounts of the fees payable under this chapter relating to licenses for instructor are as follows:

(a) The fee for instructor application, examination, and initial license shall be not more than fifty dollars (\$50).

(b) The license renewal fee shall be not more than fifty dollars (\$50).

(c) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

SEC. 48.15. Section 7427 is added to the Business and Professions Code, to read:

7427. This chapter shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the date on which it becomes inoperative and is repealed. This chapter is subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 49. Section 7622.3 of the Business and Professions Code is amended to read:

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

SEC. 50. Section 7651 of the Business and Professions Code is amended to read:

7651. The program shall adopt regulations requiring continuing education of 14 hours every two years for licensed embalmers. As a condition of renewal, every embalmer shall certify to the program that he or she has successfully completed 14 hours of continuing education on or before December 31, 2000, and shall certify to the program that he or she has successfully completed 14 hours of continuing education on or after December 31 of every even-numbered year thereafter.

SEC. 52. Section 8742 of the Business and Professions Code is amended to read:

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



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

(2) Actual broad based progressive experience in land surveying for at least six years, including one year of responsible field training and one year of responsible office training, satisfactory to the board.

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

(b) With respect to an applicant for a license as a land surveyor, the board shall count one year of postsecondary education in land surveying as one year of experience in land surveying up to a maximum of four years, provided the applicant has graduated from the course in land surveying and the curriculum in land surveying is approved by the board or is accredited by a regional or national accrediting agency recognized for the purpose by the United States Office of Education. Each year of study in an approved or an accredited course in land surveying without graduation shall be counted the same as one-half year of experience.

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

Until January 1, 2000, the board may, at its discretion, confer credit as experience in land surveying, not in excess of two years, for successfully passing the first division of the examination prescribed in Section 8741.

SEC. 53. Section 8773.1 of the Business and Professions Code is amended to read:

8773.1. The board shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which such corner record shall be submitted and filed, and the time limits within which the form shall be filed.

SEC. 54. Section 8773.2 of the Business and Professions Code is amended to read:

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

(b) In the event the submitted "corner record" fails to comply with the examination criteria of subdivision (a), the county surveyor



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

(c) 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 within 10 working days after the licensed land surveyor or registered civil engineer resubmits and requests the corner record be filed without further change, an explanation of the differences shall be noted on the corner record and it shall be submitted to and filed by the county surveyor. 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.

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

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

SEC. 55. Section 13660 of the Business and Professions Code is amended to read:

13660. (a) Every person, firm, partnership, association, trustee, or corporation that operates a service station shall provide, upon request, refueling service to a disabled driver of a vehicle that displays a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles. The price charged for the motor vehicle fuel shall be no greater than that which the station otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

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

(1) Only one employee is on duty.

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

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

(c) (1) Every person, firm, partnership, association, trustee, or corporation required to provide refueling service for persons with disabilities pursuant to this section shall post the following notice in



a manner and single location that is conspicuous to a driver seeking refueling service:

“Service to Disabled Persons

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

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

(3) Every person, firm, partnership, association, trustee, or corporation that, consistent with subdivision (b), does not provide refueling service for persons with disabilities during any hours of operation shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

“No Service for Disabled Persons

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

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

(e) The local law enforcement agency shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the local law enforcement agency determines that there has been a denial of service in violation of this section, or a substantial or repeated failure to comply with



subdivision (c), the agency shall levy the fine prescribed in subdivision (f).

(f) Any person who, as a responsible managing individual setting service policy of a service station, or as an employee acting independently against the set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, and five hundred dollars (\$500) for each subsequent offense.

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

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

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

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

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

SEC. 56. Section 11371 of the Government Code is amended to read:

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

(b) The director shall determine the qualifications of panel members, supervise their training, and coordinate the publication of a reporter of decisions pursuant to this section. The panel shall include only those persons specifically qualified and shall at no time constitute more than 25 percent of the total number of administrative law judges within the Office of Administrative Hearings. If the



members of the panel do not have a full workload, they may be assigned work by the Director of the Office of Administrative Hearings. When the medically related case workload exceeds the capacity of the members of the panel, additional judges shall be requested to be added to the panels as appropriate. When this workload overflow occurs on a temporary basis, the Director of the Office of Administrative Hearings shall supply judges from the Office of Administrative Hearings to adjudicate the cases.

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

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

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

SEC. 57. Section 11529 of the Government Code is amended to read:

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

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days’ prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.



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

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

(1) To be represented by counsel.

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

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

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

(4) To present oral argument.

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

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

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

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

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

(g) Where an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law



judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

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

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

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

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

SEC. 58. Section 11166 of the Health and Safety Code is amended to read:

11166. No person shall fill a prescription for a controlled substance classified in Schedule II 14 or more days after the date written on the prescription by the prescriber. No person shall knowingly fill a mutilated or forged or altered prescription for a controlled substance except for the addition of the address of the person for whom the controlled substance is prescribed as provided by paragraph (3) of subdivision (b) of Section 11164.

SEC. 59. Section 11167 of the Health and Safety Code is repealed.

SEC. 60. Section 11167 is added to the Health and Safety Code, to read:

11167. Notwithstanding subdivision (a) of Section 11164, 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 all of the following requirements:

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

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

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

(d) If the prescriber fails to comply with subdivision (b), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall



make and retain a written, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

SEC. 61. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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

