

Senate Bill No. 349

Passed the Senate September 13, 2001

Secretary of the Senate

Passed the Assembly September 10, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 2470, 2535.2, 2684, 2786, 2892.1, 2984, 3147, 3508, 3524, 4545, 4980.38, 4980.41, 4980.45, and 4982 of, to amend and repeal Section 2471 of, and to add Section 121.5 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 349, Committee on Business and Professions. Healing arts.

(1) Existing law provides for the regulation and licensing of businesses, professions, and vocations, including the imposition of specified delinquency fees and unpaid renewal fees in connection with expired licenses and registrations.

This bill would provide that delinquency fees or accrued and unpaid renewal fees for expired licenses and registrations do not apply to licenses and registrations that have been lawfully designated as inactive or retired.

(2) Existing law, the Medical Practices Act, provides for the licensure and regulation of the practice of podiatric medicine by the California Board of Podiatric Medicine within the Medical Board of California. Pursuant to existing law, the podiatric medicine board may contract with consultants to assist the board in its enforcement program.

This bill would authorize the board to employ all personnel necessary to carry out its duties subject to the appointment of investigative personnel by the Division of Investigation in the Department of Consumer Affairs. The bill would make the contract and employment provisions affecting the podiatric medicine board inoperative as of July 1, 2003, and would repeal them on January 1, 2004.

(3) Existing law provides that in certain circumstances specified license or registration renewal fees must be paid in order to renew an expired license or registration for speech-language pathologists and audiologists, physical therapists, vocational nurses, psychologists, optometrists, physician assistants, and psychiatric technicians.



This bill would require payment of all accrued and unpaid licensure or registration renewal fees in order for an individual to renew his or her license or registration with regard to the above professions or vocations. Because this bill would increase fee revenue deposited into various continuously appropriated funds applicable to these separate professions or vocations, the bill would make an appropriation.

(4) Existing law requires a registered marriage and family therapist intern to notify the board of his or her commencement of employment and termination of employment, and to meet certain guidelines in doing so, or he or she may risk losing credit for the experience gained during the period of employment.

This bill would eliminate the requirement that a registered intern notify the board of the commencement of employment and the termination of employment as an intern.

(5) Existing law requires that the Board of Registered Nursing provide for an analysis of the practice of entry level registered nursing at least every 8 years and that the analysis be used in the determination of subjects required to be completed at nursing school for licensure as a registered nurse.

This bill would require the analysis to be of all registered nurses and to be completed no less than every 5 years. The bill would also require that the results of the analysis be utilized in determining required subjects for validation of the licensing examination and assessment of the current practice of nursing.

(6) Existing law provides that the Physician Assistant Committee, which regulates the licensure and practice of physician assistants, meet at least 4 times annually, at least once in Sacramento and once in Los Angeles, and conduct additional meetings as necessary.

This bill would remove these requirements and instead require the committee to convene as deemed necessary.

Appropriation: yes.

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

SECTION 1. Section 121.5 is added to the Business and Professions Code, to read:

121.5. Except as otherwise provided in this code, the application of delinquency fees or accrued and unpaid renewal



fees for the renewal of expired licenses or registrations shall not apply to licenses or registrations that have lawfully been designated as inactive or retired.

SEC. 2. Section 2470 of the Business and Professions Code is amended to read:

2470. The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

SEC. 3. Section 2471 of the Business and Professions Code is amended to read:

2471. (a) Except as provided by Section 159.5, the board may employ, within the limits of the funds received by the board, all personnel necessary to carry out this chapter.

(b) The board may select and contract with necessary podiatric medical consultants who are licensed doctors of podiatric medicine to assist it in its enforcement program on an intermittent basis. No person may serve as a consultant for more than a total of 48 months unless there has been a break following his or her achievement of that period of service of at least 36 months. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis.

(c) Notwithstanding the limitation on service under subdivision (a), the board may continue to contract with the consultant who was responsible for investigating or prosecuting a specific case if the case is continued past the term of the consultant's contract.

(d) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 2535.2 of the Business and Professions Code is amended to read:

2535.2. Except as provided in Section 2535.3, a license that has expired may be renewed at any time within five years after its expiration upon filing of an application for renewal on a form prescribed by the board and payment of all accrued and unpaid



renewal fees. If the license is not renewed on or before its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2535, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 5. Section 2684 of the Business and Professions Code is amended to read:

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

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

(c) A license that has expired may be renewed within five years upon payment of all accrued and unpaid renewal fees.

SEC. 6. Section 2786 of the Business and Professions Code is amended to read:

2786. (a) An approved school of nursing is one which has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education or is affiliated with an institution of higher education. For purposes of this section, “institution of higher education” includes community colleges offering an associate degree. An approved school of nursing which is not an institution of higher education shall make an agreement with an institution of higher education in the same general location to grant an associate of arts degree to individuals who graduate from the school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.



(b) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to encourage all schools to provide clinical instruction in all phases of the educational process.

(c) The board shall perform or cause to be performed an analysis of the practice of the registered nurse no less than every five years. Results of the analysis shall be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examination, and assessment of the current practice of nursing.

SEC. 7. Section 2892.1 of the Business and Professions Code is amended to read:

2892.1. Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

If the license is renewed more than 30 days after its expiration, the licensee, 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 all renewal fees are paid, or on the date on which the delinquency fee is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 2892 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 8. Section 2984 of the Business and Professions Code is amended to read:

2984. Except as provided in Section 2985, a license that has expired may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration, the licensee, 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 all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2982 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 9. Section 3147 of the Business and Professions Code is amended to read:

3147. Except as otherwise provided by Section 114 of this code, an expired certificate may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the certificate is renewed more than 30 days after its expiration, the certificate 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 certificate shall continue in effect through the date provided in Section 3146 which next occurs after the effective date of the renewal, when it shall expire if it is not renewed.

A certificate which, under the law in effect before October 1, 1961, became suspended because of the failure of its holder to renew it, shall, for the purposes of this article, be considered to have expired on the date that it became suspended.

SEC. 10. Section 3508 of the Business and Professions Code is amended to read:

3508. (a) The committee may convene from time to time as deemed necessary by the committee.

(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving such notification.

(c) The committee shall receive permission of the director to meet more than six times annually. The director shall approve such meetings that are necessary for the committee to fulfill its legal responsibilities.

SEC. 11. Section 3524 of the Business and Professions Code is amended to read:



3524. A license or approval that 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 all accrued and unpaid renewal fees. 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 all renewal fees are 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. 12. Section 4545 of the Business and Professions Code is amended to read:

4545. Except as provided in Section 4545.2, a license that has expired may be renewed at any time within four years after its expiration on filing an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of all fees required by this chapter. If the license is renewed more than 30 days after its expiration, the 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 renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 4544 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A certificate which was forfeited for failure to renew under the law in effect before October 1, 1961, shall, for the purposes of this article, be considered to have expired on the date that it became forfeited.

SEC. 13. Section 4980.38 of the Business and Professions Code is amended to read:

4980.38. (a) Each educational institution preparing applicants to qualify for licensure shall notify each of its students



by means of its public documents or otherwise in writing that its degree program is designed to meet the requirements of Sections 4980.37 and 4980.40, and shall certify to the board that it has so notified its students.

(b) In addition to all the other requirements for licensure, each applicant shall submit to the board a certification by the chief academic officer, or his or her designee, of the applicant's educational institution that the applicant has fulfilled the requirements enumerated in Sections 4980.37 and 4980.40, and subdivisions (d) and (e) of Section 4980.41.

(c) An applicant for an intern registration who has completed a program to update his or her degree in accordance with subdivision (k) of Section 4980.40 shall furnish to the board certification by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges, or from a school, college, or university meeting accreditation standards comparable to those of the Western Association of Schools and Colleges, that the applicant has successfully completed all academic work necessary to comply with the current educational requirements for licensure as a marriage, family, and child counselor.

SEC. 14. Section 4980.41 of the Business and Professions Code is amended to read:

4980.41. All applicants for licensure shall complete the following coursework or training in order to be eligible to sit for the licensing examinations:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors, which shall include, but is not limited to, the following areas of study:

(1) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.

(2) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage, family, and child counseling, including family law.

(3) The current legal patterns and trends in the mental health profession.



(4) The psychotherapist/patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(5) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

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

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(d) Except for persons who began graduate study prior to January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(e) Except for persons who began graduate study prior to January 1, 1995, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(f) Except for persons who began graduate study prior to January 1, 2001, an applicant shall complete a minimum of a two



semester or three quarter unit survey course in psychological testing. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(g) Except for persons who began graduate study prior to January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(h) The requirements added by subdivisions (f) and (g) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended in any way to expand or restrict the scope of licensure for marriage and family therapists.

SEC. 15. Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who is a marriage, family, and child counselor, a psychologist, a clinical social worker, a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry and who is described in subdivision (f) of Section 4980.40 may supervise or employ, at any one time, no more than two unlicensed marriage, family, and child counselor registered interns in that private practice.

(b) A marriage, family, and child counseling corporation may employ, at any one time, no more than two registered interns for each employee or shareholder who is qualified to provide supervision pursuant to subdivision (f) of Section 4980.40. In no event shall any corporation employ, at any one time, more than 10 registered interns. In no event shall any supervisor supervise, at any one time, more than two registered interns. Persons who supervise interns shall be employed full time by the professional corporation and shall be actively engaged in performing professional services at and for the professional corporation. Employment and supervision within a marriage, family, and child counseling corporation shall be subject to all laws and regulations



governing experience and supervision gained in a private practice setting.

SEC. 16. Section 4982 of the Business and Professions Code is amended to read:

4982. The board may refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. 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 to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration 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 a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or 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 applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage, family, and child counseling services.

(d) Gross negligence or incompetence in the performance of marriage, family, and child counseling.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor.



(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any registered trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner which is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern or registered trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a registered trainee or registered intern under one's supervision or control to perform, or permitting the registered trainee or registered intern to hold himself or herself out



as competent to perform, professional services beyond the registered trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.



Approved _____, 2001

Governor

