

Senate Bill No. 1476

CHAPTER 658

An act to amend Sections 30, 101, 205, 473.15, 1601.1, 1616.5, 1742, 1770, 2460, 2570.4, 2570.19, 2602, 2668, 2701, 2708, 2920, 2933, 3010.5, 3014.6, 3504, 3512, 3516.1, 3685, 3710, 3716, 3765, 4001, 4003, 4034, 4162, 4162.5, 4163.5, 4169, 4200.1, 4800, 4804.5, 4928, 4934, 5510, 5517, 5620, 5621, 5622, 5810, 5811, 6704, 6710, 6712, 6714, 6716, 6726.2, 6730, 6732.3, 6738, 6740, 6750, 6753, 6754, 6787, 7000.5, 7011, 7200, 7215.6, 7810, 7815.5, 8000, 8710, 8729, 8740, 8745, and 22251 of, to amend and repeal Sections 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, 1775, and 4163 of, to amend, repeal, and add Sections 1621, 1670.1, 1680, 1721, 1721.5, 1741, 1742.1, 1743, 1744, 1771, 4999.2, and 4999.7 of, to add Sections 1900.5, 2660.5, 4163.1, 6732.5, and 6746.1 to, and to repeal Section 4163.6 of, the Business and Professions Code, to amend, repeal, and add Section 44876 of the Education Code, and to amend, repeal, and add Sections 1348.8 and 128160 of the Health and Safety Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1476, Figueroa. Professions and vocations.

(1) Existing law regulates various professions and vocations by various boards within the Department of Consumer Affairs. Existing law requires those boards, and the State Bar of California and the Department of Real Estate, to require a licensee, at the time of issuance or renewal of a license, to provide the licensee's federal employer identification number, if the licensee is a partnership, or his or her social security number.

This bill would instead impose that requirement only when a license is issued.

(2) Existing law provides for the licensing and regulation of dentists by the Dental Board of California, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would make nonsubstantive changes to those provisions.

(3) Existing law provides for the licensing and regulation of dental auxiliaries by the Committee on Dental Auxiliaries, and makes those provisions inoperative on July 1, 2008, and repeals them on January 1, 2009.

This bill would instead make those provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010, if SB 1472 is not enacted.

If SB 1472 is enacted and becomes effective on or before January 1, 2007, it would, among other things, rename the Committee on Dental Auxiliaries the Committee on Dental Assistants and revise the membership of the committee, and would create the California Dental Hygiene Bureau in the Department of Consumer Affairs and the Dental Hygiene Advisory Committee in the bureau.

This bill would make those provisions operative on January 1, 2008, instead of January 1, 2007, and would make other conforming changes, if SB 1472 is enacted.

(4) Existing law provides for the licensure and regulation of psychologists by the Board of Psychology, requires the board to employ necessary personnel, and authorizes the board to employ an executive officer. Existing law provides for the licensure and regulation of acupuncturists by the Acupuncture Board and requires the board to employ necessary personnel, including an executive officer. Existing law provides for the licensure and regulation of geologists and geophysicists by the Board for Geologists and Geophysicists and for the licensure and regulation of court reporters by the Court Reporters Board of California. Existing law provides for the licensure and regulation of contractors by the Contractors' License Board. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(5) Existing law provides for the licensing and regulation of podiatrists by the California Board of Podiatric Medicine, within the jurisdiction of the Medical Board of California. Existing law provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, in the Department of Consumer Affairs, and requires the board to appoint an executive officer. Existing law provides for the licensure and regulation of optometrists by the State Board of Optometry, in the Department of Consumer Affairs, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(6) Existing law, the Occupational Therapy Practice Act, provides for the licensing and regulation of occupational therapists and the certification and regulation of occupational therapy assistants by the California Board of Occupational Therapy. These provisions will become inoperative on July 1, 2007, and will be repealed on January 1, 2008.

This bill would instead make these provisions inoperative on July 1, 2013, and would repeal them on January 1, 2014.

Existing law exempts certain persons from the requirements of the act, including a licensee from a state with commensurately stringent

requirements, if the services are performed for less than 45 days in a calendar year and are performed in association with an occupational therapist licensed under the act.

This bill would instead require a licensee from a state with commensurately stringent requirements to have filed with the board an application for licensure as an occupational therapist or certified occupational therapy assistant and would require that his or her services be performed for no more than 60 days from the date on which the application is filed. The bill would delete the requirement that the services be performed in association with an occupational therapist licensed in the state. This bill would also restrict the practice of occupational therapists and occupational therapist assistants who have previously been denied a license in this state.

(7) Existing law provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California. These provisions will become inoperative on July 1, 2007, and will be repealed on January 1, 2008.

This bill would instead make these provisions inoperative on July 1, 2013, and would repeal them on January 1, 2014.

Existing law provides for a diversion program for the rehabilitation of physical therapists and physical therapist assistants abusing drugs or alcohol, and authorizes the board to charge a fee of up to \$100 for participation in the program. Existing law requires persons convicted of certain sex offenses to register as sex offenders, as specified.

This bill would change the fee for participation in the diversion program to the amount necessary to cover the actual cost of administering the program. Because this bill could increase the fee revenue deposited into the Physical Therapy Fund, a continuously appropriated fund, the bill would make an appropriation. The bill would also require the board to deny licensure as a physical therapist or approval as a physical therapist assistant if the applicant is required to register as a sex offender, unless the registration is required as a result of a misdemeanor conviction for indecent exposure.

(8) Existing law provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law requires the committee to employ necessary personnel, including an executive officer. Existing law prohibits a physician who provides services in a medically underserved area from supervising more than 4 physician assistants at one time. Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind that licenses schools for the training of guide dogs for the blind. Existing law also establishes a pilot project for the arbitration of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of the guide dog when the dog user is not the legal owner of the dog. All of these provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(9) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of the practice of naturopathic medicine, and establishes the Bureau of Naturopathic Medicine, in the Department of Consumer Affairs, which is responsible for the administration of the act. A violation of certain provisions of the act is a crime. The act will become inoperative on July 1, 2009, and will be repealed on January 1, 2010.

This bill would instead make the act inoperative on July 1, 2010, and would repeal it on January 1, 2011.

Because this bill would extend the application of certain provisions, the violation of which would be a crime, it would impose a state-mandated local program.

(10) Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of respiratory professionals by the Respiratory Care Board of California, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

Existing law defines the practice of respiratory therapy, and prohibits its practice without a license issued by the board, subject to certain exceptions.

This bill would specify that a person employed by a home medical device retail facility or a licensed home health agency is not prohibited by the act from performing respiratory care or related services authorized by the board.

(11) Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy and the sale of dangerous drugs or dangerous devices by the California State Board of Pharmacy, in the Department of Consumer Affairs. Existing law authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

On and after January 1, 2007, existing law prohibits a wholesaler or pharmacy from selling, trading, or transferring a dangerous drug without a pedigree, as defined, and prohibits a wholesaler or pharmacy from acquiring a dangerous drug without receiving a pedigree, unless the compliance date is extended. Existing law authorizes the board to extend the compliance date to January 1, 2008, in specified circumstances.

This bill would instead impose the prohibition against selling, trading, transferring, or acquiring a dangerous drug without a pedigree on January 1, 2009, and would extend the board's authority to extend the compliance date. The bill would also impose additional requirements with respect to information required to be contained in a pedigree and would make other conforming changes.

Existing law requires a surety bond to secure payments of fines by resident and nonresident dangerous drug wholesalers. These provisions are repealed on January 1, 2011.

This bill would instead repeal those provisions on January 1, 2015.

(12) Existing law provides for the licensure and regulation of veterinarians by the Veterinary Medical Board in the Department of Consumer Affairs, and authorizes the board to appoint an executive officer. Existing law provides for the licensure and regulation of architects by the California Architects Board and authorizes the board to appoint an executive officer. Existing law provides for the creation of the Landscape Architects Technical Committee to assist the board with specified functions. These provisions will become inoperative on July 1, 2009, and will be repealed on January 1, 2010.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(13) Existing law provides for a certification process for interior designers, and repeals those provisions on January 1, 2008.

This bill would instead repeal those provisions on January 1, 2010.

(14) Existing law provides for the licensure and regulation of professional engineers and land surveyors by the Board for Professional Engineers and Land Surveyors, in the Department of Consumer Affairs. Existing law requires the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

The bill would change the date on which board member terms expire. The bill would revise certain voting requirements for actions taken by the board. The bill would revise provisions relating to the use of a person's name in the name of an engineering business or a land surveying business. The bill would require all businesses engaged in civil, electrical, or mechanical engineering services to file a current organization record with the board.

Existing law authorizes the board to give one year of credit as qualifying experience for a postgraduate degree in a school of engineering.

This bill would instead authorize the board to give up to 5 years of credit as qualifying experience. The bill would authorize the board to make arrangements with an organization to conduct examinations for licensure. The bill would revise other related provisions and make technical changes.

(15) Existing law requires the body that certifies interior designers to report by September 1, 2005, on the effectiveness of the California Code and Regulation Examination for interior design professionals.

This bill would extend the reporting date to September 1, 2008.

(16) Existing law imposes various requirements on tax preparers. Existing law recognizes the California Tax Education Council as an organization representing various interested organizations in the tax return

preparation industry and that performs certain functions pursuant to law. Existing law requires the council to establish a process for 2 individual tax preparers to be appointed to the council with full voting privileges.

The bill would increase the number of individual tax preparers to be appointed to 6.

(17) This bill would incorporate additional changes in Section 101 of the Business and Professions Code, proposed by AB 2821, to be operative only if AB 2821 and this bill are chaptered and become effective on or before January 1, 2007, SB 1472 is chaptered and amends Section 101 of the Business and Professions Code, and this bill is chaptered last.

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

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

Appropriation: yes.

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

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that the licensee provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others.

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

- (1) Name.
- (2) Address or addresses of record.
- (3) Federal employer identification number if the entity is a partnership or social security number for all others.
- (4) Type of license.
- (5) Effective date of license or a renewal.
- (6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that each licensee

provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, “licensee” means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors’ State License Board.
- (k) The Bureau for Private Postsecondary and Vocational Education.
- (l) The Structural Pest Control Board.
- (m) The Bureau of Home Furnishings and Thermal Insulation.
- (n) The Board of Registered Nursing.
- (o) The Board of Behavioral Sciences.
- (p) The State Athletic Commission.
- (q) The Cemetery and Funeral Bureau.
- (r) The State Board of Guide Dogs for the Blind.
- (s) The Bureau of Security and Investigative Services.
- (t) The Court Reporters Board of California.
- (u) The Board of Vocational Nursing and Psychiatric Technicians.
- (v) The Landscape Architects Technical Committee.
- (w) The Bureau of Electronic and Appliance Repair.
- (x) The Division of Investigation.
- (y) The Bureau of Automotive Repair.
- (z) The State Board of Registration for Geologists and Geophysicists.
- (aa) The Respiratory Care Board of California.
- (ab) The Acupuncture Board.
- (ac) The Board of Psychology.
- (ad) The California Board of Podiatric Medicine.
- (ae) The Physical Therapy Board of California.
- (af) The Arbitration Review Program.
- (ag) The Committee on Dental Auxiliaries or, on and after January 1, 2008, the Committee on Dental Assistants.
- (ah) The Hearing Aid Dispensers Bureau.
- (ai) The Physician Assistant Committee.
- (aj) The Speech-Language Pathology and Audiology Board.
- (ak) The California Board of Occupational Therapy.
- (al) The Osteopathic Medical Board of California.

- (am) The Bureau of Naturopathic Medicine.
- (an) On and after January 1, 2008, the California Dental Hygiene Bureau.
- (ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2.5. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:
- (a) The Dental Board of California.
 - (b) The Medical Board of California.
 - (c) The State Board of Optometry.
 - (d) The California State Board of Pharmacy.
 - (e) The Veterinary Medical Board.
 - (f) The California Board of Accountancy.
 - (g) The California Architects Board.
 - (h) The Bureau of Barbering and Cosmetology.
 - (i) The Board for Professional Engineers and Land Surveyors.
 - (j) The Contractors' State License Board.
 - (k) The Bureau for Private Postsecondary and Vocational Education.
 - (l) The Structural Pest Control Board.
 - (m) The Bureau of Home Furnishings and Thermal Insulation.
 - (n) The Board of Registered Nursing.
 - (o) The Board of Behavioral Sciences.
 - (p) The State Athletic Commission.
 - (q) The Cemetery and Funeral Bureau.
 - (r) The State Board of Guide Dogs for the Blind.
 - (s) The Bureau of Security and Investigative Services.
 - (t) The Court Reporters Board of California.
 - (u) The Board of Vocational Nursing and Psychiatric Technicians.
 - (v) The Landscape Architects Technical Committee.
 - (w) The Bureau of Electronic and Appliance Repair.
 - (x) The Division of Investigation.
 - (y) The Bureau of Automotive Repair.
 - (z) The State Board of Registration for Geologists and Geophysicists.
 - (aa) The Respiratory Care Board of California.
 - (ab) The California Asian Medical Board.
 - (ac) The Board of Psychology.
 - (ad) The California Board of Podiatric Medicine.
 - (ae) The Physical Therapy Board of California.
 - (af) The Arbitration Review Program.
 - (ag) The Committee on Dental Auxiliaries or, on and after January 1, 2008, the Committee on Dental Assistants.
 - (ah) The Hearing Aid Dispensers Bureau.
 - (ai) The Physician Assistant Committee.
 - (aj) The Speech-Language Pathology and Audiology Board.
 - (ak) The California Board of Occupational Therapy.
 - (al) The Osteopathic Medical Board of California.

(am) The Bureau of Naturopathic Medicine.

(an) On and after January 1, 2008, the California Dental Hygiene Bureau.

(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Board of Architectural Examiners' Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery Fund.
- (6) Contractors' License Fund.
- (7) State Dentistry Fund.
- (8) State Funeral Directors and Embalmers Fund.
- (9) Guide Dogs for the Blind Fund.
- (10) Bureau of Home Furnishings and Thermal Insulation Fund.
- (11) California Board of Architectural Examiners-Landscape Architects Fund.
- (12) Contingent Fund of the Medical Board of California.
- (13) Optometry Fund.
- (14) Pharmacy Board Contingent Fund.
- (15) Physical Therapy Fund.
- (16) Private Investigator Fund.
- (17) Professional Engineers' and Land Surveyors' Fund.
- (18) Consumer Affairs Fund.
- (19) Behavioral Sciences Fund.
- (20) Licensed Midwifery Fund.
- (21) Court Reporters' Fund.
- (22) Structural Pest Control Fund.
- (23) Veterinary Medical Board Contingent Fund.
- (24) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (25) State Dental Auxiliary Fund or, on and after January 1, 2008, State Dental Assistant Fund.
- (26) Electronic and Appliance Repair Fund.
- (27) Geology and Geophysics Fund.
- (28) Dispensing Opticians Fund.
- (29) Acupuncture Fund.
- (30) Hearing Aid Dispensers Fund.
- (31) Physician Assistant Fund.
- (32) Board of Podiatric Medicine Fund.
- (33) Psychology Fund.
- (34) Respiratory Care Fund.
- (35) Speech-Language Pathology and Audiology Fund.

- (36) Board of Registered Nursing Fund.
- (37) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (38) Animal Health Technician Examining Committee Fund.
- (39) Structural Pest Control Education and Enforcement Fund.
- (40) Structural Pest Control Research Fund.
- (41) On and after January 1, 2008, State Dental Hygiene Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 4. Section 473.15 of the Business and Professions Code is amended to read:

473.15. (a) The Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473 shall review the following boards established by initiative measures, as provided in this section:

(1) The State Board of Chiropractic Examiners established by an initiative measure approved by electors November 7, 1922.

(2) The Osteopathic Medical Board of California established by an initiative measure approved June 2, 1913, and acts amendatory thereto approved by electors November 7, 1922.

(b) The Osteopathic Medical Board of California shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2010.

(c) The State Board of Chiropractic Examiners shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2011.

(d) The Joint Committee on Boards, Commissions, and Consumer Protection shall, during the interim recess of 2004 for the Osteopathic Medical Board of California, and during the interim recess of 2011 for the State Board of Chiropractic Examiners, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, the public, and the regulated industry. In that hearing, each board shall be prepared to demonstrate a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The Joint Committee on Boards, Commissions, and Consumer Protection shall evaluate and make determinations pursuant to Section 473.4 and shall report its findings and recommendations to the department as provided in Section 473.5.

(f) In the exercise of its inherent power to make investigations and ascertain facts to formulate public policy and determine the necessity and expediency of contemplated legislation for the protection of the public health, safety, and welfare, it is the intent of the Legislature that the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California be reviewed pursuant to this section.

(g) It is not the intent of the Legislature in requiring a review under this section to amend the initiative measures that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SEC. 5. Section 1601.1 of the Business and Professions Code is amended to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the prior board.

(d) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 6. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 1621 of the Business and Professions Code is amended to read:

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the following dental auxiliary categories: registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, registered dental hygienist in extended functions, or registered dental hygienist in alternative practice.

(b) Practice as a licensed dentist or in a dental auxiliary licensure category for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 8. Section 1621 is added to the Business and Professions Code, to read:

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the following categories: registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, registered dental hygienist in extended functions, or registered dental hygienist in alternative practice.

(b) Practice as a licensed dentist or in a licensure category described in subdivision (a) for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

(d) This section shall become operative on January 1, 2008.

SEC. 9. Section 1670.1 of the Business and Professions Code is amended to read:

1670.1. Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist or dental auxiliary, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist or dental auxiliary is deemed to be a conviction within the meaning of this section. The board

may order the license suspended or revoked, or may decline to issue a 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 the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, 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, information or indictment.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 10. Section 1670.1 is added to the Business and Professions Code, to read:

1670.1. (a) Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist, dental auxiliary, or registered dental hygienist, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b) The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist, dental auxiliary, or registered dental hygienist is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a 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 the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, 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.

(c) This section shall become operative on January 1, 2008.

SEC. 11. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the

employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental procedure; (2) the discovery of the death of a patient whose death is related to a dental procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary.

(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from dentist or dental auxiliary to patient, from patient to patient, and from patient to dentist or dental auxiliary. In administering this subdivision, the board 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, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, 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 board shall seek to ensure that licensees and others regulated by the board 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.

(ee) The utilization by a licensed dentist of any person to perform the functions of a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license to perform those functions.

(ff) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

(gg) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 12. Section 1680 is added to the Business and Professions Code, to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Chapter 9 (commencing with Section 4000), or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist or registered dental hygienist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct that would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist, dental auxiliary, or registered dental hygienist to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental or dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary.

(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry or dental hygiene with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from dentist, dental auxiliary, or registered dental hygienist to patient, from patient to patient, and from patient to dentist, dental auxiliary, or registered dental hygienist. In administering this subdivision, the board 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, guidelines, and regulations 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 board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, 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 board shall seek to ensure that licensees and others regulated by the board 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.

(ee) The utilization by a licensed dentist of any person to perform the functions of a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license to perform those functions.

(ff) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

(gg) This section shall become operative on January 1, 2008.

SEC. 13. Section 1721 of the Business and Professions Code is amended to read:

1721. (a) Except as provided in Section 1721.5, all funds received by the State Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund. Except as provided in Section 1721.5, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 14. Section 1721 is added to the Business and Professions Code, to read:

1721. (a) Except as provided in Sections 1721.5 and 1945, all funds received by the State Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund. Except as provided in Sections 1721.5 and 1945, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state.

(b) This section shall become operative on January 1, 2008.

SEC. 14.2. Section 1721.5 of the Business and Professions Code is amended to read:

1721.5. (a) All funds received by the State Treasurer under the authority of this chapter which relate to dental auxiliaries shall be placed in the State Dental Auxiliary Fund for the purposes of administering this chapter as it relates to dental auxiliaries.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 14.4. Section 1721.5 is added to the Business and Professions Code, to read:

1721.5. (a) All funds received by the State Treasurer under the authority of this chapter that relate to registered dental assistants shall be

placed in the State Dental Assistant Fund for the purposes of administering this chapter as it relates to registered dental assistants.

(b) This section shall become operative on January 1, 2008.

SEC. 15. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means the Committee on Dental Auxiliaries.

(c) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) "Dental auxiliary" means a person who may perform dental assisting or dental hygiene procedures authorized by this article.

(f) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 16. Section 1741 is added to the Business and Professions Code, to read:

1741. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means the Committee on Dental Assistants.

(c) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) "Dental auxiliary" means a person who may perform dental assisting authorized by this article.

This section shall become operative on January 1, 2008.

SEC. 17. Section 1742 of the Business and Professions Code is amended to read:

1742. (a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

(b) The Committee on Dental Auxiliaries shall have the following areas of responsibility and duties:

(1) The committee shall have the following duties and authority related to education programs and curriculum:

(A) Shall evaluate all dental auxiliary programs applying for board approval in accordance with board rules governing the programs.

(B) May appoint board members to any evaluation committee. Board members so appointed shall not make a final decision on the issue of program or course approval.

(C) Shall report and make recommendations to the board as to whether a program or course qualifies for approval. The board retains the final authority to grant or deny approval to a program or course.

(D) Shall review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at the request of the board.

(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.

(2) The committee shall have the following duties and authority related to applications:

(A) Shall review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.

(B) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(C) May delegate any or all of the functions in this paragraph to its staff.

(D) Shall issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The board retains final authority to interpret any licensing requirement. If a question arises in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.

(3) The committee shall have the following duties and authority regarding examinations:

(A) Shall advise the board as to the type of license examination it deems appropriate for the various dental auxiliary license categories.

(B) Shall, at the direction of the board, develop or cause to be developed, administer, or both, examinations in accordance with the board's instructions and periodically report to the board on the progress of those examinations. The following shall apply to the examination procedure:

(i) The examination shall be submitted to the board for its approval prior to its initial administration.

(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.

(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.

(iv) The board shall set pass points for all dental auxiliary licensing examinations.

(C) May appoint board members to any examination committee established pursuant to subparagraph (B).

(4) The committee shall periodically report and make recommendations to the board concerning the level of fees for dental auxiliaries and the need for any legislative fee increase. However, the board retains final authority to set all fees.

(5) The committee shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The committee may delegate any or all of its functions under this paragraph to its staff.

(6) The committee shall have no authority with respect to the approval of continuing education providers and the board retains all of this authority.

(7) The committee shall advise the board as to appropriate standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters that the board may, in the future, delegate to the committee. The board shall retain all authority with respect to the enforcement actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries.

(8) The committee shall have the following duties regarding regulations:

(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.

(C) To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes and the reasons for and facts supporting the need for the change. The board has the final rulemaking authority.

(c) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 17.5. Section 1742 of the Business and Professions Code is amended to read:

1742. (a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

(b) The Committee on Dental Auxiliaries shall have the following areas of responsibility and duties:

(1) The committee shall have the following duties and authority related to education programs and curriculum:

(A) Shall evaluate all dental auxiliary programs applying for board approval in accordance with board rules governing the programs.

(B) May appoint board members to any evaluation committee. Board members so appointed shall not make a final decision on the issue of program or course approval.

(C) Shall report and make recommendations to the board as to whether a program or course qualifies for approval. The board retains the final authority to grant or deny approval to a program or course.

(D) Shall review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at the request of the board.

(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.

(2) The committee shall have the following duties and authority related to applications:

(A) Shall review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.

(B) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(C) May delegate any or all of the functions in this paragraph to its staff.

(D) Shall issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The board retains final authority to interpret any licensing requirement. If a question arises in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.

(3) The committee shall have the following duties and authority regarding examinations:

(A) Shall advise the board as to the type of license examination it deems appropriate for the various dental auxiliary license categories.

(B) Shall, at the direction of the board, develop or cause to be developed, administer, or both, examinations in accordance with the board's instructions and periodically report to the board on the progress of those examinations. The following shall apply to the examination procedure:

(i) The examination shall be submitted to the board for its approval prior to its initial administration.

(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.

(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.

(iv) The board shall set pass points for all dental auxiliary licensing examinations.

(C) May appoint board members to any examination committee established pursuant to subparagraph (B).

(4) The committee shall periodically report and make recommendations to the board concerning the level of fees for dental auxiliaries and the need for any legislative fee increase. However, the board retains final authority to set all fees.

(5) The committee shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The committee may delegate any or all of its functions under this paragraph to its staff.

(6) The committee shall have no authority with respect to the approval of continuing education providers; the board retains all of this authority.

(7) The committee shall advise the board as to appropriate standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters that the board may, in the future, delegate to the committee. The board shall retain all authority with respect to the enforcement actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries.

(8) The committee shall have the following duties regarding regulations:

(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.

(C) To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes, and the reasons for and the facts supporting the need for the change. The board has the final rulemaking authority.

(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 18. Section 1742.1 of the Business and Professions Code is amended to read:

1742.1. (a) Protection of the public shall be the highest priority for the Committee on Dental Auxiliaries in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 19. Section 1742.1 is added to the Business and Professions Code, to read:

1742.1. Protection of the public shall be the highest priority for the Committee on Dental Assistants in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This section shall become operative January 1, 2008.

SEC. 20. Section 1743 of the Business and Professions Code is amended to read:

1743. The committee shall consist of the following nine members:

(a) One member who is a public member of the board, one member who is a licensed dentist and who has been appointed by the board as an examiner pursuant to Section 1621, one member who is a licensed dentist who is neither a board member nor appointed by the board as an examiner pursuant to Section 1621, three members who are licensed as registered dental hygienists, at least one of whom is actively employed in a private dental office, and three members who are licensed as registered dental assistants. If available, an individual licensed as a registered dental hygienist in extended functions shall be appointed in place of one of the members licensed as a registered dental hygienist. If available, an individual licensed as a registered dental assistant in extended functions shall be appointed in place of one of the members licensed as a registered dental assistant.

(b) The public member of the board shall not have been licensed under Chapter 4 (commencing with Section 1600) of the Business and Professions Code within five years of the appointment date and shall not have any current financial interest in a dental-related business.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 21. Section 1743 is added to the Business and Professions Code, to read:

1743. The committee shall consist of the following nine members:

(a) One member who is a public member of the board, one member who is a licensed dentist and who has been appointed by the board as an examiner pursuant to Section 1621, one member who is a licensed dentist who is neither a board member nor appointed by the board as an examiner pursuant to Section 1621, and three members who are licensed as registered dental assistants. If available, an individual licensed as a registered dental assistant in extended functions shall be appointed in place of one of the members licensed as a registered dental assistant.

(b) The public member of the board shall not have been licensed under this chapter within five years of the appointment date and shall not have any current financial interest in a dental-related business.

This section shall become operative on January 1, 2008.

SEC. 22. Section 1744 of the Business and Professions Code is amended to read:

1744. (a) The members of the committee shall be appointed by the Governor. The terms of the member who is a board member and the member who has been appointed by the board as an examiner pursuant to Section 1621 shall expire December 31, 1976. The terms of the member who is a licensed dentist and one member who is a dental assistant and one member who is licensed as a registered dental hygienist shall expire on December 31, 1977. The terms of all other members shall expire on December 31, 1978. Thereafter, appointments shall be for a term of four years.

(b) No member shall serve as a member of the committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms. The committee shall annually elect one of its members as chairperson.

(c) The Governor shall have the power to remove any member of the committee from office for neglect of any duty required by law or for incompetence or unprofessional or dishonorable conduct.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 23. Section 1744 is added to the Business and Professions Code, to read:

1744. (a) The members of the committee shall be appointed by the Governor. Appointments shall be for a term of four years.

(b) No member shall serve as a member of the committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms. The committee shall annually elect one of its members as chairperson.

(c) The Governor shall have the power to remove any member of the committee from office for neglect of any duty required by law, incompetence, or unprofessional or dishonorable conduct.

(d) This section shall become operative on January 1, 2008.

SEC. 24. Section 1760 of the Business and Professions Code is amended to read:

1760. The following functions may be performed by a registered dental hygienist in addition to those authorized pursuant to Sections 1760.5, 1761, 1762, 1763, and 1764:

(a) All functions that may be performed by a dental assistant or a registered dental assistant.

(b) All persons holding a license as a registered dental hygienist on January 1, 2003, or issued a license on or before December 31, 2005, are authorized to perform the duties of a registered dental assistant specified in Section 1754. All persons issued a license as a registered dental hygienist on and after January 1, 2006, shall qualify for and receive a registered dental assistant license prior to performance of the duties specified in Section 1754.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 25. Section 1760.5 of the Business and Professions Code is amended to read:

1760.5. (a) The practice of dental hygiene includes dental hygiene assessment, development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

- (1) Diagnosis and comprehensive treatment planning.
- (2) Placing, condensing, carving, or removal of permanent restorations.
- (3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.
- (4) Prescribing medication.
- (5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1761.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 26. Section 1761 of the Business and Professions Code is amended to read:

1761. A dental hygienist is authorized to perform the following procedures under direct supervision, after submitting to the board evidence of satisfactory completion of a board-approved course of instruction in the procedures:

- (a) Soft-tissue curettage.
- (b) Administration of local anesthesia.
- (c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 27. Section 1762 of the Business and Professions Code is amended to read:

1762. A dental hygienist is authorized to perform the following procedures under general supervision:

- (a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.
- (b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.
- (c) The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.

(d) The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 28. Section 1763 of the Business and Professions Code is amended to read:

1763. (a) A dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

(b) A dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

(c) In any public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, a dental hygienist may provide, without supervision, dental hygiene preventive services in addition to oral screenings, including, but not limited to, the application of fluorides and pit and fissure sealants.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 29. Section 1764 of the Business and Professions Code is amended to read:

1764. (a) Any procedure performed or service provided by a dental hygienist that does not specifically require direct supervision shall require general supervision, so long as it does not give rise to a situation in the dentist's office requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable dental conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(b) Unless otherwise specified in this chapter, a dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting, so long as the procedure is performed or the service is provided under the appropriate level of supervision required by this article.

(c) A dental hygienist may use any material or device approved for use in the performance of a service or procedure within his or her scope of practice under the appropriate level of supervision, if the dental hygienist has the appropriate education and training required to use the material or device.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 30. Section 1765 of the Business and Professions Code is amended to read:

1765. No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental

hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

(a) A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.

(b) A dental assistant acting in accordance with the rules of the board in performing the following procedures:

- (1) Applying nonaerosol and noncaustic topical agents.
- (2) Applying topical fluoride.
- (3) Taking impression for bleaching trays.

(c) A registered dental assistant acting in accordance with the rules of the board in performing the following procedures:

- (1) Polishing the coronal surfaces of teeth.
- (2) Applying bleaching agents.
- (3) Activating bleaching agents with a nonlaser light-curing device.

(d) A registered dental assistant in extended functions acting in accordance with the rules of the board in applying pit and fissure sealants.

(e) A registered dental hygienist licensed in another jurisdiction performing a clinical demonstration for educational purposes.

(f) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 31. Section 1766 of the Business and Professions Code is amended to read:

1766. (a) The board shall license as a registered dental hygienist a person who satisfies all of the following requirements:

(1) Completion of an educational program for registered dental hygienists, approved by the board, and accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(2) Satisfactory performance on an examination required by the board.

(3) Satisfactory completion of a national written dental hygiene examination approved by the board.

(b) The board may grant a license as a registered dental hygienist to an applicant who has not taken an examination before the board, if the applicant submits all of the following to the board:

(1) A completed application form and all fees required by the board.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by

filing with the board a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(4) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed as a registered dental hygienist or dentist. If the applicant has been subject to disciplinary action, the board shall review that action to determine if it warrants refusal to issue a license to the applicant.

(5) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(6) Proof of satisfactory completion of the Dental Hygiene National Board Examination and of a state or regional clinical licensure examination.

(7) Proof that the applicant has not failed the examination for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.

(8) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the board on registered dental hygienists licensed in this state at the time of application.

(9) Any other information as specified by the board to the extent that it is required of applicants for licensure by examination under this article.

(c) The board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (b), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) has not been met.

(d) The board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

(e) The board shall review the impact of this section on the availability of actively practicing dental hygienists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2006. The report shall include a separate section providing data specific to dental hygienists who intend to fulfill the alternative clinical practice

requirements of subdivision (b). The report shall include, but not be limited to, the following:

(1) The number of applicants from other states who have sought licensure.

(2) The number of dental hygienists from other states licensed pursuant to this section, the number of licenses not granted under this section, and the reason why the license was not granted.

(3) The practice location of dental hygienists licensed pursuant to this section.

(4) The number of dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing dental hygienists or no dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (b).

(5) The length of time dental hygienists licensed pursuant to this section practiced in the reported location.

(f) In identifying a dental hygienist's location of practice, the board shall use medical service study areas or other appropriate geographic descriptions for regions of the state.

(g) (1) The board shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

(A) Satisfactorily performs on an examination required by the board.

(B) Satisfactorily completes a national written dental hygiene examination approved by the board.

(2) A dental student who is granted a registered dental hygienist license pursuant to this subdivision may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.

(3) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygiene license issued pursuant to this subdivision is automatically revoked.

(4) The dental hygiene license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.

(5) Notwithstanding paragraph (4), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygiene license issued pursuant to this subdivision shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the board.

(6) The provisions of paragraphs (1) and (2) shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the board.

(h) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 32. Section 1768 of the Business and Professions Code is amended to read:

1768. The board shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a valid license issued pursuant to Section 1766 as a registered dental hygienist.

(b) Completes clinical training approved by the board in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the board.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 33. Section 1769 of the Business and Professions Code is amended to read:

1769. (a) The board, in consultation with the committee, shall adopt regulations necessary to define the functions that may be performed by registered dental hygienists in extended functions, whether the functions require direct or general supervision, and the settings within which registered dental hygienists in extended functions may work.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 34. Section 1770 of the Business and Professions Code, as amended by Section 22 of Chapter 621 of the Statutes of 2005, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than two dental auxiliaries in extended functions who are licensed pursuant to Sections 1756 and 1768.

(b) This section shall become inoperative on December 31, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 35. Section 1770 of the Business and Professions Code, as amended by Section 23 of Chapter 621 of the Statutes of 2005, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than three dental auxiliaries in extended functions or registered dental hygienists in extended functions licensed pursuant to Sections 1753 and 1918.

(b) This section shall become operative on January 1, 2008.

SEC. 36. Section 1771 of the Business and Professions Code is amended to read:

1771. (a) Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, registered dental hygienist in extended

functions, or registered dental hygienist in alternative practice, or uses any other term indicating or implying he or she is licensed by the board in the aforementioned categories, is guilty of a misdemeanor.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 37. Section 1771 is added to the Business and Professions Code, to read:

1771. (a) Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant or registered dental assistant in extended functions, or uses any other term indicating or implying he or she is licensed by the board in the aforementioned categories, is guilty of a misdemeanor.

(b) This section shall become operative on January 1, 2008.

SEC. 38. Section 1772 of the Business and Professions Code is amended to read:

1772. (a) The board shall seek to obtain an injunction against any dental hygienist who provides services in alternative practice pursuant to Sections 1774 and 1775 if the board has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 39. Section 1774 of the Business and Professions Code is amended to read:

1774. (a) The board shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination required by the board and, subject to Sections 1760 and 1766, who meets either of the following requirements:

(1) Holds a current California license as a dental hygienist and meets the following requirements:

(A) Has been engaged in clinical practice as a dental hygienist for a minimum of 2,000 hours during the immediately preceding 36 months.

(B) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the board by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(2) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article

1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

(b) Subject to the provisions of subdivisions (b) and (h) of Section 1775, the board, in consultation with the committee, shall adopt regulations in accordance with Section 1748 necessary to implement this section.

(c) The Director of Consumer Affairs shall review the regulations adopted by the board in accordance with Section 313.1.

(d) A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1774, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in this section and Section 1775, with the exception of subdivision (e) of Section 1775, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 40. Section 1775 of the Business and Professions Code is amended to read:

1775. (a) A registered dental hygienist in alternative practice may perform those preventive and therapeutic functions described in subdivision (a) of Section 1760, subdivision (a) of Section 1760.5, and subdivisions (a) and (b) of Section 1762 as an employee of a dentist or of another registered dental hygienist in alternative practice, or as an independent contractor, or as a sole proprietor of an alternative dental hygiene practice, or as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code or as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(b) A registered dental hygienist in alternative practice may perform the dental hygiene services specified in subdivision (a) in the following settings:

- (1) Residences of the homebound.
- (2) Schools.
- (3) Residential facilities and other institutions.

(4) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A registered dental hygienist in alternative practice shall not do any of the following:

(1) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond those services specified in subdivision (a).

(2) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

(d) A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

(e) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(f) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing functions specified in subdivision (b) of Section 1751.

(g) A registered dental hygienist in alternative practice shall provide to the board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

(h) A registered dental hygienist in alternative practice may perform dental hygiene services for a patient who presents to the registered hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state who has performed a physical examination and a diagnosis of the patient prior to the prescription being provided. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed 15 months from the date that it was issued.

(i) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 41. Section 1900.5 is added to the Business and Professions Code, to read:

1900.5. This article shall become operative on January 1, 2008.

SEC. 42. Section 2460 of the Business and Professions Code is amended to read:

2460. There is created within the jurisdiction of the Medical Board of California and its divisions the California Board of Podiatric Medicine. This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the California Board of Podiatric Medicine subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 43. Section 2570.4 of the Business and Professions Code is amended to read:

2570.4. Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

(a) Any person licensed, certified, or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed, certified, or otherwise recognized.

(b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.

(c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.

(d) Any person performing occupational therapy services in the state if all of the following apply:

(1) An application for licensure as an occupational therapist or certification as an occupational therapy assistant has been filed with the board pursuant to Section 2570.6 and an application for a license or certificate in this state has not been previously denied.

(2) The person possesses a current, active, and nonrestricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter.

(3) Occupational therapy services are performed in association with an occupational therapist licensed under this chapter, and for no more than 60 days from the date on which the application for licensure or certification was filed with the board.

(e) Any person employed as an aide subject to the supervision requirements of this section.

SEC. 44. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The

Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars (\$1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars (\$610,000) of

this loan amount is hereby appropriated to the board to use in the 2000–01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act. The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.

(l) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 45. Section 2602 of the Business and Professions Code is amended to read:

2602. The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter. This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 46. Section 2660.5 is added to the Business and Professions Code, to read:

2660.5. The board shall deny a physical therapist license or physical therapist assistant approval to an applicant who is required to register pursuant to Section 290 of the Penal Code. This section does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

SEC. 47. Section 2668 of the Business and Professions Code is amended to read:

2668. (a) A fee to cover the actual cost of administering the program shall be charged for participation in the program. If the board contracts with any other entity to carry out this article, at the discretion of the board, the fee may be collected and retained by that entity.

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

(c) Subdivision (a) shall apply to all new participants entering into the board's diversion program on or after January 1, 2007. Subdivision (a) shall apply on and after January 1, 2008, to participants currently enrolled as of December 31, 2007.

SEC. 48. Section 2701 of the Business and Professions Code is amended to read:

2701. There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

Within the meaning of this chapter, board, or the board, refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 49. Section 2708 of the Business and Professions Code is amended to read:

2708. The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

The executive officer shall not be a member of the board.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 50. Section 2920 of the Business and Professions Code is amended to read:

2920. The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry

out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 52. Section 3010.5 of the Business and Professions Code is amended to read:

3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) This section shall remain in effect only until July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 53. Section 3014.6 of the Business and Professions Code is amended to read:

3014.6. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 54. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Committee of the Medical Board of California. The committee consists of nine members. This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 55. Section 3512 of the Business and Professions Code is amended to read:

3512. (a) 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.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 56. Section 3516.1 of the Business and Professions Code is amended to read:

3516.1. (a) (1) Notwithstanding any other provision of law, a physician who provides services in a medically underserved area may supervise not more than four physician assistants at any one time.

(2) As used in this section, “medically underserved area” means a “health professional(s) shortage area” (HPSA) as defined in Part 5 (commencing with Section 5.1) of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225 of the Health and Safety Code.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 57. Section 3685 of the Business and Professions Code is amended to read:

3685. (a) The provisions of Article 8 (commencing with Section 3680) shall become operative on January 1, 2004, but the remaining provisions of this chapter shall become operative on July 1, 2004. It is the intent of the Legislature that the initial implementation of this chapter be administered by fees collected in advance from applicants. Therefore, the bureau shall have the power and authority to establish fees and receive applications for licensure or intents to file application statements on and after January 1, 2004. The department shall certify that sufficient funds are available prior to implementing this chapter. Funds from the General Fund may not be used for the purpose of implementing this chapter.

(b) This chapter shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this chapter renders the bureau subject to the review required by Division 1.2 (commencing with Section 473).

(c) The bureau shall prepare the report required by Section 473.2 no later than September 1, 2008.

SEC. 58. Section 3710 of the Business and Professions Code is amended to read:

3710. The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 59. Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 60. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their speciality.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Health Services of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

SEC. 61. Section 4001 of the Business and Professions Code is amended to read:

4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.

(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a “chain community pharmacy” means a chain of 75 or more stores in California under the same ownership, and an “independent community pharmacy” means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

(f) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 62. Section 4003 of the Business and Professions Code is amended to read:

4003. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer may or may not be a member of the board as the board may determine.

(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.

(e) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 63. Section 4034 of the Business and Professions Code is amended to read:

4034. (a) "Pedigree" means a record, in electronic form, containing information regarding each transaction resulting in a change of ownership of a given dangerous drug, from sale by a manufacturer, through acquisition and sale by one or more wholesalers, manufacturers, or pharmacies, until final sale to a pharmacy or other person furnishing, administering, or dispensing the dangerous drug. The pedigree shall be created and maintained in an interoperable electronic system, ensuring compatibility throughout all stages of distribution.

(b) A pedigree shall include all of the following information:

(1) The source of the dangerous drug, including the name, the federal manufacturer's registration number or a state license number as determined by the board, and principal address of the source.

(2) The trade or generic name of the drug, the quantity of the dangerous drug, its dosage form and strength, the date of the transaction, the sales invoice number, the container size, the number of containers, the expiration dates, and the lot numbers.

(3) The business name, address, and the federal manufacturer's registration number or a state license number as determined by the board, of each owner of the dangerous drug, and the dangerous drug shipping information, including the name and address of each person certifying delivery or receipt of the dangerous drug.

(4) A certification under penalty of perjury from a responsible party of the source of the dangerous drug that the information contained in the pedigree is true and accurate.

(c) A single pedigree shall include every change of ownership of a given dangerous drug from its initial manufacture through to its final transaction to a pharmacy or other person for furnishing, administering, or dispensing the drug, regardless of repackaging or assignment of another National Drug Code (NDC) Directory number.

(d) A pedigree shall track each dangerous drug at the smallest package or immediate container distributed by the manufacturer, received and

distributed by the wholesaler, and received by the pharmacy or another person furnishing, administering, or dispensing the dangerous drug.

(e) Any return of a dangerous drug to a wholesaler or manufacturer shall be documented on the same pedigree as the transaction that resulted in the receipt of the drug by the party returning it.

(f) If a licensed health care service plan, hospital organization, and one or more physician organizations have exclusive contractual relationships to provide health care services, drugs distributed between these persons shall be deemed not to have changed ownership.

(g) The following transactions are not required to be recorded on a pedigree:

(1) The provision of samples of dangerous drugs by a manufacturer's employee to an authorized prescriber, provided the samples are dispensed to a patient of the prescriber without charge.

(2) An injectable dangerous drug that is delivered by the manufacturer directly to an authorized prescriber or other entity directly responsible for administration of the injectable dangerous drug, only for an injectable dangerous drug that by law may only be administered under the professional supervision of the prescriber or other entity directly responsible for administration of the drug. Injectable dangerous drugs exempted from the pedigree requirement by this paragraph may not be dispensed to a patient or a patient's agent for self-administration, and shall only be administered to the patient, as defined in Section 4016, by the prescriber or other authorized entity that received the drug directly from the manufacturer.

(3) The exemption in paragraph (2) shall expire and be inoperative on January 1, 2010, unless prior to that date the board receives, at a public hearing, evidence that entities involved in the distribution of the injectable dangerous drugs subject to that paragraph are not able to provide a pedigree in compliance with all of the provisions of California law, and the board votes to extend the expiration date for the exemption until January 1, 2011. The decision as to whether to extend the expiration date shall be within the sole discretion of the board, and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code.

(h) If a manufacturer, wholesaler, or pharmacy has reasonable cause to believe that a dangerous drug in, or having been in, its possession is counterfeit or the subject of a fraudulent transaction, the manufacturer, wholesaler, or pharmacy shall notify the board within 72 hours of obtaining that knowledge. This subdivision shall apply to any dangerous drug that has been sold or distributed in or through this state.

(i) "Interoperable electronic system" as used in this chapter means an electronic track and trace system for dangerous drugs that uses a unique identification number, established at the point of manufacture, contained within a standardized nonproprietary data format and architecture, that is uniformly used by manufacturers, wholesalers, and pharmacies for the pedigree of a dangerous drug.

(j) The application of the pedigree requirement in pharmacies shall be subject to review during the board's sunset review to be conducted as described in subdivision (f) of Section 4001.

(k) This section shall become operative on January 1, 2009. However, the board may extend the date for compliance with this section and Section 4163 until January 1, 2011, in accordance with Section 4163.5.

SEC. 64. Section 4162 of the Business and Professions Code is amended to read:

4162. (a) (1) An applicant for the issuance or renewal of a wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000) or other equivalent means of security acceptable to the board payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purposes of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the wholesaler is ten million dollars (\$10,000,000) or less, in which case the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) A person to whom an approved new drug application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application, and is licensed or applies for licensure as a wholesaler, shall not be required to post a surety bond as provided in paragraph (1).

(4) For licensees subject to paragraph (2) or (3), the board may require a bond up to one hundred thousand dollars (\$100,000) for any licensee who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days after the order imposing the fine, or costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends those dates.

SEC. 65. Section 4162.5 of the Business and Professions Code is amended to read:

4162.5. (a) (1) An applicant for the issuance or renewal of a nonresident wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000), or other equivalent means of security acceptable to the board, such as an irrevocable letter of credit, or a deposit in a trust account or financial institution, payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of

any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purpose of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the nonresident wholesaler is ten million dollars (\$10,000,000) or less in which the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) For applicants who satisfy paragraph (2), the board may require a bond up to one hundred thousand dollars (\$100,000) for any nonresident wholesaler who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(4) A person to whom an approved new drug application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application, and is licensed or applies for licensure as a nonresident wholesaler, shall not be required to post a surety bond as provided in this section.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days of the issuance of the fine or when the costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall become inoperative and is repealed on, January 1, 2015, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends those dates.

SEC. 66. Section 4163 of the Business and Professions Code, as amended by Section 31 of Chapter 857 of the Statutes of 2004, is repealed.

SEC. 67. Section 4163 of the Business and Professions Code, as added by Section 32 of Chapter 857 of the Statutes of 2004, is amended to read:

4163. (a) A manufacturer or wholesaler may not furnish a dangerous drug or dangerous device to an unauthorized person.

(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by law to possess or furnish dangerous drugs or dangerous devices. When the person acquiring the dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it has not previously acquired dangerous drugs or dangerous devices.

(c) Except as otherwise provided in Section 4163.5, commencing on January 1, 2009, a wholesaler or pharmacy may not sell, trade, or transfer a dangerous drug at wholesale without providing a pedigree.

(d) Except as otherwise provided in Section 4163.5, commencing on January 1, 2009, a wholesaler or pharmacy may not acquire a dangerous drug without receiving a pedigree.

SEC. 68. Section 4163.1 is added to the Business and Professions Code, to read:

4163.1. It is the intent of the Legislature that commencing on January 1, 2007, and continuing through the full implementation of the pedigree requirements specified by Section 4163, manufacturers and wholesalers shall use best efforts to provide in the most readily accessible form possible, information regarding the manufacturer's specific relationships in the distribution of dangerous drugs with wholesalers.

SEC. 69. Section 4163.5 of the Business and Professions Code is amended to read:

4163.5. The board may extend the date for compliance with the requirement for a pedigree set forth in Sections 4034 and 4163 until January 1, 2011, if it determines that manufacturers or wholesalers require additional time to implement electronic technologies to track the distribution of dangerous drugs within the state. A determination by the board to extend the deadline for providing pedigrees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 70. Section 4163.6 of the Business and Professions Code is repealed.

SEC. 71. Section 4169 of the Business and Professions Code, as added by Section 39 of Chapter 857 of the Statutes of 2004, is amended to read:

4169. (a) A person or entity may not do any of the following:

(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy, in violation of Section 4163.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.

(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 72. Section 4169 of the Business and Professions Code, as added by Section 40 of Chapter 857 of the Statutes of 2004, is amended to read:

4169. (a) A person or entity may not do any of the following:

(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

(b) Notwithstanding any other provision of law, a violation of this section or of subdivision (c) or (d) of Section 4163 may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.

(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.

(e) This section shall become operative on January 1, 2008.

SEC. 73. Section 4200.1 of the Business and Professions Code is amended to read:

4200.1. (a) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination four times, and may take the Multi-State Pharmacy Jurisprudence Examination for California four times.

(b) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination and the Multi-State Pharmacy Jurisprudence Examination for California four additional times each if he or she successfully completes, at minimum, 16 additional semester units of education in pharmacy as approved by the board.

(c) The applicant shall comply with the requirements of Section 4200 for each application for reexamination made pursuant to subdivision (b).

(d) An applicant may use the same coursework to satisfy the additional educational requirement for each examination under subdivision (b), if the coursework was completed within 12 months of the date of his or her application for reexamination.

(e) For purposes of this section, the board shall treat each failing score on the pharmacist licensure examination administered by the board prior to January 1, 2004, as a failing score on both the North American Pharmacist Licensure Examination and the Multi-State Pharmacy Jurisprudence Examination for California.

(f) From January 1, 2004, to July 1, 2008, inclusive, the board shall collect data on the applicants who are admitted to, and take, the licensure examinations required by Section 4200. The board shall report to the Joint Committee on Boards, Commissions, and Consumer Protection before September 1, 2008, regarding the impact on those applicants of the examination limitations imposed by this section. The report shall include, but not be limited to, the following information:

(1) The number of applicants taking the examination and the number who fail the examination for the fourth time.

(2) The number of applicants who, after failing the examination for the fourth time, complete a pharmacy studies program in California or another state to satisfy the requirements of this section and who apply to take the licensure examination required by Section 4200.

(3) To the extent possible, the school from which the applicant graduated and the school's location and the pass/fail rates on the examination for each school.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 74. Section 4800 of the Business and Professions Code is amended to read:

4800. There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of seven members, three of whom shall be public members.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review provided for by Division 1.2 (commencing with Section 473).

SEC. 75. Section 4804.5 of the Business and Professions Code is amended to read:

4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes

effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 76. Section 4928 of the Business and Professions Code is amended to read:

4928. The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter. The appointing powers, as described in Section 4929, may appoint to the board a person who was a member of the prior board prior to the repeal of that board on January 1, 2006.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 77. Section 4934 of the Business and Professions Code is amended to read:

4934. (a) The board, by and with the approval of the director, may employ personnel necessary for the administration of this chapter, and the board, by and with the approval of the director, may appoint an executive officer who is exempt from the provisions of the Civil Service Act.

(b) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 78. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Sections 1760 to 1775, inclusive, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in

the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Ensuring that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(6) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 79. Section 4999.2 is added to the Business and Professions Code, to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist or dental hygienist pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Ensuring that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(6) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

(c) This section shall become operative on January 1, 2008.

SEC. 80. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) Nothing in this section shall limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For the purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, “health care professional” is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse

pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Sections 1760 to 1775, inclusive, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 81. Section 4999.7 is added to the Business and Professions Code, to read:

4999.7. (a) Nothing in this section shall limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For the purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, “health care professional” is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist or dental hygienist pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

(d) This section shall become operative on January 1, 2008.

SEC. 82. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California Architects Board which consists of 10 members.

Any reference in law to the California Board of Architectural Examiners shall mean the California Architects Board.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 83. Section 5517 of the Business and Professions Code is amended to read:

5517. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 84. Section 5620 of the Business and Professions Code is amended to read:

5620. The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.

(a) There is in the Department of Consumer Affairs a California Architects Board as defined in Article 2 (commencing with Section 5510) of Chapter 3.

Whenever in this chapter “board” is used it refers to the California Architects Board.

(b) Except as provided herein, the board may delegate its authority under this chapter to the Landscape Architects Technical Committee.

(c) After review of proposed regulations, the board may direct the examining committee to notice and conduct hearings to adopt, amend, or repeal regulations pursuant to Section 5630, provided that the board itself shall take final action to adopt, amend, or repeal those regulations.

(d) The board shall not delegate its authority to discipline a landscape architect or to take action against a person who has violated this chapter.

(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 85. Section 5621 of the Business and Professions Code is amended to read:

5621. (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.

(b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.

(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall have elapsed whichever first occurs. Vacancies shall be filled for the unexpired term.

(d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.

(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 86. Section 5622 of the Business and Professions Code is amended to read:

5622. (a) The landscape architects committee may assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of this chapter.

(b) The landscape architects committee may investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.

(c) The landscape architects committee may perform duties and functions that have been delegated to it by the board pursuant to Section 5620.

(d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee's activities.

(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes

operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 87. Section 5810 of the Business and Professions Code is amended to read:

5810. (a) This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).

(b) This chapter shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 88. Section 5811 of the Business and Professions Code is amended to read:

5811. An interior design organization issuing stamps under Section 5801 shall provide to the Joint Committee on Boards, Commissions, and Consumer Protection by September 1, 2008, a report that reviews and assesses the costs and benefits associated with the California Code and Regulations Examination and explores feasible alternatives to that examination.

SEC. 89. Section 6704 of the Business and Professions Code is amended to read:

6704. (a) In order to safeguard life, health, property, and public welfare, no person shall practice civil, electrical, or mechanical engineering unless appropriately licensed or specifically exempted from licensure under this chapter, and only persons licensed under this chapter shall be entitled to take and use the titles “consulting engineer,” “professional engineer,” or “registered engineer,” or any combination of those titles or abbreviations thereof, and according to licensure with the board the engineering branch titles specified in Section 6732, or the authority titles specified in Sections 6736 and 6736.1, or the title “engineer-in-training.”

(b) The provisions of this section shall not prevent the use of the title “consulting engineer” by a person who has qualified for and maintained exemption for using that title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor.

SEC. 90. Section 6710 of the Business and Professions Code is amended to read:

6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.

(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 91. Section 6712 of the Business and Professions Code is amended to read:

6712. (a) All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 30 of the fourth year following the year in which the previous term expired.

(b) Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

(c) The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering. One of the professional members licensed under this chapter shall be from a local public agency, and one shall be from a state agency.

(d) The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 92. Section 6714 of the Business and Professions Code is amended to read:

6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 93. Section 6716 of the Business and Professions Code is amended to read:

6716. (a) The board may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter shall be governed by these rules and regulations.

(c) The board shall hold at least two regular meetings each year. Special meetings shall be held at those times that the board's rules provide. A majority of the board constitutes a quorum.

SEC. 94. Section 6726.2 of the Business and Professions Code is amended to read:

6726.2. Each member of each technical advisory committee shall be an expert in the branch of engineering within the committee's jurisdiction and shall be licensed under this chapter.

SEC. 95. Section 6730 of the Business and Professions Code is amended to read:

6730. In order to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as in this chapter specifically excepted, who practices, or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, shall submit evidence that he or she is qualified to practice, and shall be licensed accordingly as a civil engineer, electrical engineer or mechanical engineer by the board.

SEC. 96. Section 6732.3 of the Business and Professions Code is amended to read:

6732.3. (a) Any person who has received from the board a license in corrosion, manufacturing, quality, or safety engineering, and who holds a valid license under this chapter, may continue to use the branch title of the branch in which the professional engineer is legally licensed. A person holding a license in corrosion, manufacturing, quality, or safety engineering is subject to the license renewal provisions of this chapter.

(b) The professional engineer also may continue to use the title of "professional engineer," "licensed engineer," "registered engineer," or "consulting engineer."

SEC. 97. Section 6732.5 is added to the Business and Professions Code, to read:

6732.5. (a) Upon the discontinuance of a national examination for a branch specified in this chapter, the board shall not be required to administer an examination for a license in that branch or be required to issue licenses in that branch.

(b) Any person who has received from the board a license in a branch for which the national examination is discontinued, and who holds a valid license under this chapter, may continue to use the branch title of the branch in which the professional engineer is legally licensed. A person holding a license in the affected branch of engineering is subject to the license renewal provisions of this chapter. The professional engineer may also continue to use the title of "professional engineer," "licensed engineer," or "consulting engineer."

SEC. 98. Section 6738 of the Business and Professions Code is amended to read:

6738. (a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice within the scope of their license civil (including geotechnical and structural), electrical, or mechanical engineering as a sole proprietorship, partnership,

firm, or corporation (hereinafter called business), if all of the following requirements are met:

(1) A civil, electrical, or mechanical engineer currently licensed in this state is an owner, partner, or officer in charge of the engineering practice of the business.

(2) All civil, electrical, or mechanical engineering services are performed by, or under the responsible charge of, a professional engineer licensed in the appropriate branch of professional engineering.

(3) If the business name of a California engineering business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist Act (Chapter 12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the engineering work in the branch in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of any person not licensed in this state if that person is appropriately registered or licensed in another state. Any offer, promotion, or advertisement which contains the name of any individual in the business, other than by use of the names of the individuals in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(c) The business name of a California engineering business may be a fictitious name. However, if the fictitious name includes the name of any person, the requirements of paragraph (3) of subdivision (a) shall be met.

(d) A person not licensed under this chapter may also be a partner or an officer of a civil, electrical, or mechanical engineering business if the requirements of subdivision (a) are met. Nothing in this section shall be construed to permit a person who is not licensed under this chapter to be the sole owner of a civil, electrical, or mechanical engineering business, unless otherwise exempt under this chapter.

(e) This chapter does not prevent an individual or business engaged in any line of endeavor other than the practice of civil, electrical, or mechanical engineering from employing or contracting with a licensed civil, electrical, or mechanical engineer to perform the respective engineering services incidental to the conduct of business.

(f) This section shall not prevent the use of the name of any business engaged in rendering civil, electrical, or mechanical engineering services, including the use by any lawful successor or survivor, that lawfully was in existence on December 31, 1987. However, the business is subject to paragraphs (1) and (2) of subdivision (a).

(g) A business engaged in rendering civil, electrical, or mechanical engineering services may use in its name the name of a deceased or retired person provided all of the following conditions are satisfied:

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, prior to and after the death or retirement of the person.

(2) The person shall have been an owner, partner, or officer of the business, or an owner, partner, or officer of the predecessor in interest of the business.

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing board if that person is operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

(4) The person, if retired, has consented to the use of the name and does not permit the use of the name in the title of another professional engineering business in this state during the period of the consent. However, the retired person may use his or her name as the name of a new or purchased business if it is not identical in every respect to that person's name as used in the former business.

(5) The business shall be subject to the provisions of paragraphs (1) and (2) of subdivision (a).

(h) This section does not affect the provisions of Sections 6731.2 and 8726.1.

(i) A current organization record form shall be filed with the board for all business engaged in rendering civil, electrical, or mechanical engineering services.

SEC. 99. Section 6740 of the Business and Professions Code is amended to read:

6740. A subordinate to a civil, electrical or mechanical engineer licensed under this chapter, or a subordinate to a civil, electrical or mechanical engineer exempted from licensure under this chapter, insofar as he or she acts solely in that capacity, is exempt from licensure under the provisions of this chapter. This exemption, however, does not permit any such subordinate to practice civil, electrical or mechanical engineering in his or her own right or to use the titles listed in Sections 6732, 6736, and 6736.1.

SEC. 100. Section 6746.1 is added to the Business and Professions Code, to read:

6746.1. The provisions of this chapter pertaining to licensure of professional engineers, other than civil engineers, do not apply to employees in the communications industry, nor to the employees of contractors while engaged in work on communications equipment. However, those employees may not use any of the titles listed in Sections 6732, 6736, and 6736.1, unless licensed.

SEC. 101. Section 6750 of the Business and Professions Code is amended to read:

6750. (a) An application for licensure as a professional engineer or certification as an engineer-in-training shall be made to the board on the prescribed form, with all statements made therein under oath, and shall be accompanied by the application fee prescribed by this chapter. An application for licensure as a professional engineer shall specify, additionally, the branch of engineering in which the applicant desires licensure.

(b) The board may authorize an organization specified by the board pursuant to Section 6754 to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 102. Section 6753 of the Business and Professions Code is amended to read:

6753. With respect to applicants for licensure as professional engineers, the board:

(a) Shall give credit as qualifying experience of four years, for graduation with an engineering degree from a college or university the curriculum of which has been approved by the board.

(b) May at its discretion give credit as qualifying experience up to a maximum of two years, for graduation with an engineering degree from a nonapproved engineering curriculum or graduation with an engineering technology degree in an approved engineering technology curriculum.

(c) May at its discretion give credit as qualifying experience of up to one-half year, for each year of successfully completed postsecondary study in an engineering curriculum up to a maximum of four years credit. A year of study shall be at least 32 semester units or 48 quarter units.

(d) May at its discretion give credit as qualifying experience not in excess of five years, for a postgraduate degree in a school of engineering with a board approved undergraduate or postgraduate curriculum.

(e) May at its discretion give credit as qualifying experience for engineering teaching, not in excess of one year, if of a character satisfactory to the board.

The sum of qualifying experience credit for subdivision (a) to (e), inclusive, shall not exceed five years.

SEC. 103. Section 6754 of the Business and Professions Code is amended to read:

6754. Examination for licensure shall be held at such times and places as the board shall determine.

The second division of the examination for all branches specified in Section 6732 shall be administered at least once each year.

Work of the board relating to examination and licensure may be divided into committees as the board shall direct. The scope of examinations and the methods of procedure may be prescribed by board rule.

The board may make arrangements with a public or private organization to conduct the examination. The board may contract with a public or private organization for materials or services related to the examination.

SEC. 104. Section 6787 of the Business and Professions Code is amended to read:

6787. Every person is guilty of a misdemeanor:

(a) Who, unless he or she is exempt from licensure under this chapter, practices or offers to practice civil, electrical, or mechanical engineering in this state according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his or her own the certificate of licensure of a licensed professional engineer unless he or she is the person named on the certificate of licensure.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of licensure.

(d) Who impersonates or uses the seal of a licensed professional engineer.

(e) Who uses an expired, suspended, surrendered, or revoked certificate issued by the board.

(f) Who represents himself or herself as, or uses the title of, a licensed or registered civil, electrical, or mechanical engineer, or any other title whereby that person could be considered as practicing or offering to practice civil, electrical, or mechanical engineering in any of its branches, unless he or she is correspondingly qualified by licensure as a civil, electrical, or mechanical engineer under this chapter.

(g) Who, unless appropriately licensed, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical, or mechanical engineering work is solicited, performed, or practiced, except as authorized pursuant to subdivision (d) of Section 6738 and Section 8726.1.

(h) Who uses the title, or any combination of that title, of “professional engineer,” “licensed engineer,” “registered engineer,” or the branch titles specified in Section 6732, or the authority titles specified in Sections 6736 and 6736.1, or “engineer-in-training,” or who makes use of any abbreviation of that title that might lead to the belief that he or she is a licensed engineer, is authorized to use the titles specified in Section 6736 or 6736.1, or holds a certificate as an engineer-in-training, without being licensed, authorized, or certified as required by this chapter.

(i) Who uses the title “consulting engineer” without being licensed as required by this chapter or without being authorized to use that title pursuant to legislation enacted at the 1963, 1965 or 1968 Regular Session.

(j) Who violates any provision of this chapter.

SEC. 105. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors’ State License Board, which consists of 15 members.

(b) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those

unresolved issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection.

(c) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 106. Section 7011 of the Business and Professions Code is amended to read:

7011. The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.

The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.

Appointments shall be made in accordance with the provisions of civil service laws.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 107. Section 7200 of the Business and Professions Code is amended to read:

7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 108. Section 7215.6 of the Business and Professions Code is amended to read:

7215.6. (a) In order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, in all cases except those in which the dog user is the unconditional legal owner of the dog, the following arbitration procedure shall be established as a pilot project.

(b) This procedure establishes an arbitration panel for the settlement of disputes between a guide dog user and a licensed guide dog school

regarding the continued use of a guide dog by the user in all cases except those in which the dog user is the unconditional legal owner of the dog. The disputes that may be subject to this procedure concern differences between the user and school over whether or not a guide dog should continue to be used, differences between the user and school regarding the treatment of a dog by the user, and differences over whether or not a user should continue to have custody of a dog pending investigation of charges of abuse. It specifically does not address issues such as admissions to schools, training practices, or other issues relating to school standards. The board and its representative are not parties to any dispute described in this section.

(c) The licensed guide dog schools in California and the board shall provide to guide dog users graduating from guide dog programs in these schools a new avenue for the resolution of disputes that involve continued use of a guide dog, or the actual physical custody of a guide dog. Guide dog users who are dissatisfied with decisions of schools regarding continued use of guide dogs may appeal to the board to convene an arbitration panel composed of all of the following:

- (1) One person designated by the guide dog user.
- (2) One person designated by the licensed guide dog school.
- (3) A representative of the board who shall coordinate the activities of the panel and serve as chair.

(d) If the guide dog user or guide dog school wishes to utilize the arbitration panel, this must be stated in writing to the board. The findings and decision of the arbitration panel shall be final and binding. By voluntarily agreeing to having a dispute resolved by the arbitration panel and subject to its procedures, each party to the dispute shall waive any right for subsequent judicial review.

(e) A licensed guide dog school that fails to comply with any provision of this section shall automatically be subject to a penalty of two hundred fifty dollars (\$250) per day for each day in which a violation occurs. The penalty shall be paid to the board. The license of a guide dog school shall not be renewed until all penalties have been paid.

The fine shall be assessed without advance hearing, but the licensee may apply to the board for a hearing on the issue of whether the fine should be modified or set aside. This application shall be in writing and shall be received by the board within 30 days after service of notice of the fine. Upon receipt of this written request, the board shall set the matter for hearing within 60 days.

(f) As a general rule, custody of the guide dog shall remain with the guide dog user pending a resolution by the arbitration panel. In circumstances where the immediate health and safety of the guide dog user or guide dog is threatened, the licensed school may take custody of the dog at once. However, if the dog is removed from the user's custody without the user's concurrence, the school shall provide to the board the evidence that caused this action to be taken at once and without fail; and within five calendar days a special committee of two members of the board shall make

a determination regarding custody of the dog pending hearing by the arbitration panel.

(g) The arbitration panel shall decide the best means to determine final resolution in each case. This shall include, but is not limited to, a hearing of the matter before the arbitration panel at the request of either party to the dispute, an opportunity for each party in the dispute to make presentations before the arbitration panel, examination of the written record, or any other inquiry as will best reveal the facts of the disputes. In any case, the panel shall make its findings and complete its examination within 45 calendar days of the date of filing the request for arbitration, and a decision shall be rendered within 10 calendar days of the examination.

All arbitration hearings shall be held at sites convenient to the parties and with a view to minimizing costs. Each party to the arbitration shall bear its own costs, except that the arbitration panel, by unanimous agreement, may modify this arrangement.

(h) The board may study the effectiveness of the arbitration panel pilot project in expediting resolution and reducing conflict in disputes between guide dog users and guide dog schools and may share its findings with the Legislature upon request.

(i) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which is enacted before January 1, 2012, deletes or extends that date.

SEC. 109. Section 7810 of the Business and Professions Code is amended to read:

7810. The Board for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

Each member shall hold office until the appointment and qualification of the member's successor or until one year has elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.

At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of

whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 110. Section 7815.5 of the Business and Professions Code is amended to read:

7815.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 111. Section 8000 of the Business and Professions Code is amended to read:

8000. There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 112. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The Board for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on

which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 113. Section 8729 of the Business and Professions Code is amended to read:

8729. (a) This chapter does not prohibit one or more licensed land surveyors or civil engineers licensed in this state prior to 1982 (hereinafter called civil engineers) from practicing or offering to practice within the scope of their licensure, land surveying as a sole proprietorship, partnership, firm, or corporation (hereinafter called business), if the following conditions are satisfied:

(1) A land surveyor or civil engineer currently licensed in the state is an owner, partner, or officer in charge of the land surveying practice of the business.

(2) All land surveying services are performed by or under the responsible charge of a land surveyor or civil engineer.

(3) If the business name of a California land surveying business contains the name of a person, then that person shall be licensed by the board as a land surveyor or licensed by the board in any year as a civil engineer. Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of the individual in the business name, shall clearly and specifically designate the license discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the land surveying work in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of a person not licensed in this state, if that person is appropriately licensed or registered in another state. Any offer, promotion, or advertisement that contains the name of any individual in the business, other than by use of the name of the individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(c) The business name of a California land surveying business may be a fictitious name. However, if the fictitious name includes the names of any person, the requirements of paragraph (3) of subdivision (a) shall be met.

(d) A person not licensed under this chapter or licensed as a civil engineer in this state prior to 1982 may also be a partner or an officer of a land surveying business if the conditions of subdivision (a) are satisfied. Nothing in this section shall be construed to permit a person who is not licensed under this chapter or licensed as a civil engineer in this state prior to 1982 to be the sole owner or office of a land surveying business, unless otherwise exempt under this chapter.

(e) This chapter does not prevent an individual or business engaged in any line of endeavor, other than the practice of land surveying, from employing or contracting with a licensed land surveyor or a licensed civil

engineer to perform the respective land surveying services incidental to the conduct of business.

(f) This section shall not prevent the use of the name of any business engaged in rendering land surveying services, including the use by any lawful successor or survivor, that lawfully was in existence on June 1, 1941. However, the business is subject to the provisions of paragraphs (1) and (2) of subdivision (a).

(g) A business engaged in rendering land surveying services may use in its name the name of a deceased or retired person if the following conditions are satisfied:

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, prior to the death or retirement of the person.

(2) The person shall have been an owner, partner, or officer of the business, or an owner, partner, or officer of the predecessor in interest of the business.

(3) The person shall have been licensed as a land surveyor or a civil engineer by the board, if operating a place of business or practice in this state, or by an applicable state board in the event no place of business existed in this state.

(4) The person, if retired, has consented to the use of the name and does not permit the use of the name in the title of another land surveying business in this state during the period of that consent, except that a retired person may use his or her name as the name of a new or purchased business, if that business is not identical in every respect to that person's name as used in the former business.

(5) The business shall be subject to paragraphs (1) and (2) of subdivision (a).

(h) This section does not affect Sections 6731.2 and 8726.1.

(i) A current organization record form shall be filed with the board for all businesses engaged in rendering professional land surveying services.

SEC. 114. Section 8740 of the Business and Professions Code is amended to read:

8740. (a) An application for each division of the examination for a license as a land surveyor shall be made to the board on the form prescribed by it, with all statements therein made under oath, and shall be accompanied by the application fee fixed by this chapter.

(b) The board may authorize an organization specified by the board pursuant to Section 8747 to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 115. Section 8745 of the Business and Professions Code is amended to read:

8745. Examinations for license shall be held at such times and at such places within the state as determined by board rule.

The scope of examinations and the method of procedure shall be prescribed by board rule.

The board may make arrangements with a public or private organization to conduct the examination. The board may contract with a public or private organization for materials or services related to the examination.

SEC. 116. Section 22251 of the Business and Professions Code is amended to read:

22251. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), “tax preparer” includes:

(A) A person who, for a fee or for other consideration, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), “tax preparer” does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer’s income, sales, or payroll tax returns.

(b) “Tax return” means a return, declaration, statement, refund claim, or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

(c) An “approved curriculum provider,” for purposes of basic instruction as described in subdivision (a) of Section 22255, and continuing education as described in subdivision (b) of Section 22255, is one who has been approved by the council as defined in subdivision (d). A curriculum provider who is approved by the tax education council is exempt from Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code.

(d) “Council” means the California Tax Education Council that is a single organization made up of not more than one representative from each professional society, association, or other entity operating as a nonprofit corporation that chooses to participate in the council and that represents tax preparers, enrolled agents, attorneys, or certified public accountants with a membership in California of at least 200 for the last three years, and not more than one representative from each for-profit tax preparation corporation that chooses to participate in the council and that has at least 200 employees and has been operating in California for the last three years. The council shall establish a process by which six individuals who are tax preparers pursuant to Section 22255 are appointed to the council with full voting privileges to serve terms as determined by the council,

with their initial terms being served on a staggered basis. A person exempt from the requirements of this chapter pursuant to Section 22258 is not eligible for appointment to the council, other than an employee of an individual in an exempt category.

(e) “Client” means an individual for whom a tax preparer performs or agrees to perform tax preparation services.

(f) “Refund anticipation loan” means a loan, whether provided by the tax preparer or another entity, such as a financial institution, in anticipation of, and whose payment is secured by, a client’s federal or state income tax refund or by both.

(g) “Refund anticipation loan fee schedule” means a list or table of refund anticipation loan fees that includes three or more representative refund anticipation loan amounts. The schedule shall separately list each fee or charge imposed, as well as a total of all fees imposed, related to the making of a refund anticipation loan. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal Truth in Lending Act (15 U.S.C. Sec. 1601 and following).

SEC. 117. Section 44876 of the Education Code is amended to read:

44876. (a) The qualifications for a dental hygienist shall be a valid certificate issued by the Board of Dental Examiners of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 118. Section 44876 is added to the Education Code, to read:

44876. (a) The qualifications for a dental hygienist shall be a valid license issued by the California Dental Hygiene Bureau or by the Dental Board of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

(b) This section shall become operative on January 1, 2008.

SEC. 119. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within

which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an

enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For the purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 120. Section 1348.8 is added to the Health and Safety Code, to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within

which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist or a dental hygienist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For the purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(d) This section shall become operative on January 1, 2008.

SEC. 121. Section 128160 of the Health and Safety Code is amended to read:

128160. (a) Pilot projects may be approved in the following fields:

- (1) Expanded role medical auxiliaries.
- (2) Expanded role nursing.
- (3) Expanded role dental auxiliaries.
- (4) Maternal child care personnel.
- (5) Pharmacy personnel.
- (6) Mental health personnel.

(7) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects that operate in rural and central city areas shall be given priority.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 122. Section 128160 is added to the Health and Safety Code, to read:

128160. (a) Pilot projects may be approved in the following fields:

- (1) Expanded role medical auxiliaries.
- (2) Expanded role nursing.
- (3) Expanded role dental auxiliaries, dental hygienists, dental hygienists in alternative practice, or dental hygienists is extended functions.
- (4) Maternal child care personnel.
- (5) Pharmacy personnel.
- (6) Mental health personnel.
- (7) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects that operate in rural and central city areas shall be given priority.

(c) This section become operative on January 1, 2008.

SEC. 123. (a) Sections 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14.2, 14.4, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 78, 79, 80, 81, 117, 118, 119, 120, 121, and 122 of this bill shall only become operative if AB 1472 is enacted and becomes effective on or before January 1, 2007, and this bill is enacted after AB 1472.

(b) Section 17.5 of this bill shall only become operative if AB 1472 is enacted and becomes effective on or before January 1, 2007, and this bill is enacted after AB 1472, in which case Section 17 of this bill shall not become operative.

SEC. 124. Section 2.5 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and AB 2821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 101 of the Business and Professions Code, (3) SB 1472 is enacted and amends Section 101 of the Business and Professions Code, and (4) this bill is enacted after AB 2821 and SB 1472, in which case Section 2 of this bill shall not become operative.

SEC. 125. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.