

AMENDED IN ASSEMBLY SEPTEMBER 7, 2007

SENATE BILL

No. 797

Introduced by Senator Ridley-Thomas

February 23, 2007

An act to amend Sections ~~7026.1 and 7028~~ 490, 2006, 2531, 2531.75, 2841, 2847, 3041.3, 4501, 4503, 4982, 4989.54, 4990.32, 4992.3, 5552.5, 7026.1, 7028, 7303, 8005, 22258, and 22259 of the Business and Professions Code, and to amend Sections 12529, 12529.5, 12529.6, and 12529.7 of the Government Code, relating to ~~contractors~~ professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 797, as amended, Ridley-Thomas. ~~Contractors.~~ *Professions and vocations.*

Existing

(1) *Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on certain bases, including the licensee's conviction of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.*

This bill would specify that this authorization to suspend or revoke a license is in addition to any other action that a board is permitted to take against the licensee.

(2) *Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, establishes the Speech-Language Pathology and Audiology Board and provides for its issuance of a speech-language pathology license and an audiology license to qualified applicants and for its regulation of those licensees. Under existing law, the provisions*

establishing the board and authorizing its appointment of an executive officer will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would extend those dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010.

(3) Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians and provides for its issuance of a vocational nurse license and a psychiatric technician's license to qualified applicants and for its regulation of those licensees. Under existing law, the provisions establishing the board and authorizing its selection of an executive officer will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would extend those dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010.

(4) Existing law, the Architects Practice Act, establishes the California Architects Board and provides for its licensure and regulation of architects. Under existing law, the board is authorized to implement an intern development program until July 1, 2009.

This bill would extend the authority of the board to implement this program to July 1, 2011.

(5) Existing law provides for the certification of optometrists to diagnose and treat certain conditions of the human eye or its appendages, and to use therapeutic pharmaceutical agents. It requires the board to decide all issues relating to the equivalency of an optometrists' education or training for certification, as specified.

This bill would delete an obsolete reference to the Therapeutic Pharmaceutical Agent Advisory Committee.

(6) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law defines "contractor" and includes certain persons who perform tree removal, tree pruning, stump removal, and tree or limb cabling or guying, except as specified, within that definition. Existing law requires contractors to pay specified fees, which are deposited into the continuously appropriated Contractors' License Fund, and requires the deposit of fines collected under the Contractors' State License Law into the fund. Existing law, makes it a misdemeanor for any person to engage in the business or act in the capacity of a contractor without having a license, and subjects a person who violates this prohibition to specified fines and imprisonment.

This bill would also define “contractor” to include a person who offers to perform, purport to have the capacity to perform, or submits a bid to perform tree removal, tree pruning, stump removal, or tree or limb cabling or guying, except as specified. The bill would revise the penalties provisions accordingly and would apply specified penalty provisions to a person named on a revoked license and held responsible for the act or omission resulting in the revocation. Because the bill would increase moneys deposited into the continuously appropriated Contractors’ License Fund, the bill would make an appropriation. Because the bill would expand the definition of a contractor and thereby create new crimes, it would impose a state-mandated local program.

The

(7) Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology and provides for its issuance of a cosmetology license, a barbering license, an esthetician license, a manicurist license, and an electrologist license and for its regulation of those licensees. Under existing law, the provisions establishing the board will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would extend those dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010.

(8) Existing law provides for the licensure or registration, and regulation of marriage and family therapists, licensed educational psychologists, and clinical social workers by the Board of Behavioral Sciences. Under existing law, the board may refuse to issue a registration or license, or may suspend or revoke a license or registration, if the applicant, registrant, or licensee has been guilty of unprofessional conduct, as specified. Under existing law, the board may refuse to issue a registration or license, or may suspend or revoke a license or registration, if the applicant, registrant, or licensee has been guilty of unprofessional conduct, as specified. Existing law authorizes the board to file a specified accusation against these licensees or registrants within certain limitations periods for, among other things, an alleged act or omission involving a minor that is the basis for disciplinary action.

This bill would specify that unprofessional conduct includes engaging in specified acts with a minor regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. The bill would also specify that, if after the limitations periods have expired, the board discovers a specified alleged act with a minor,

and there is independent evidence corroborating the allegation, an accusation shall be filed within 3 years from the date the board discovers that alleged act.

(9) Existing law imposes specified requirements and prohibitions on tax preparers, as defined, and exempts specified persons from these requirements and prohibitions. A violation of those provisions is a misdemeanor. Under existing law, those provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would extend the inoperative and repeal dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010. The bill would also expand the category of persons exempted from these provisions and revise the requirements for exemption, including imposing a requirement that specified tax returns are signed by a licensed accountant, attorney, or by a person who is enrolled to practice before the Internal Revenue Service. The bill would also specify that preparation of a tax return includes the inputting of tax data into a computer. Because this bill would impose additional qualifications on the exemption from tax preparer provisions, the violation of which would be a crime, it would impose a state-mandated local program.

(10) Existing law authorizes the Court Reporters Board to, among other things, appoint an executive officer and employ other employees as may be necessary. These provisions will become inoperative on July 1, 2008, and be repealed on January 1, 2009.

This bill would extend those dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010.

(11) Existing law creates the Health Quality Enforcement Section within the Department of Justice with the primary responsibility of investigating and prosecuting proceedings against licensees and applicants within the jurisdiction of the Medical Board of California and various other boards. Existing law requires that attorneys staff the intake unit of specified regulatory boards to evaluate and screen complaints and develop uniform standards for their processing. Existing law also simultaneously assigns a complaint received by the medical board to an investigator and a deputy attorney general in the Health Quality Enforcement Section, and provides that, for the duration of the assignment, the investigator is under the direction of the deputy attorney general. Existing law makes these provisions inoperative on July 1, 2008, and repeals them on January 1, 2009, unless a later enacted statute deletes or extends those dates. Existing law also requires the medical board, in consultation with specified agencies, to report and

make recommendations to the Governor and the Legislature on this prosecution model by July 1, 2007.

This bill would make those provisions inoperative on July 1, 2010, repeal them on January 1, 2011, and would make other related changes. The bill would specify that an investigator is not under the supervision of the deputy attorney general simultaneously assigned to a complaint. The bill would require the medical board to increase its computer capabilities and compatibilities with the Health Quality Enforcement Section and to establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices. The bill would also require the medical board, in consultation with specified agencies, to report and make recommendations to the Governor and the Legislature on this enforcement and prosecution model by July 1, 2009.

(12) This bill would incorporate additional changes in Section 490 of the Business and Professions Code, proposed by AB 1025, to be operative only if AB 1025 and this bill are both chaptered and become effective on or before January 1, 2008, and this bill is chaptered last.

(13) This bill would incorporate additional changes in Sections 12529 and 12529.5 of the Government Code, proposed by SB 1048, to be operative only if SB 1048 and this bill are both chaptered and become effective on or before January 1, 2008, and this bill is chaptered last.

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

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

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 *SECTION 1. Section 490 of the Business and Professions Code*
2 *is amended to read:*

3 490. ~~A~~(a) *In addition to any other action that a board is*
4 *permitted to take against a licensee, a board may suspend or revoke*
5 *a license on the ground that the licensee has been convicted of a*
6 *crime, if the crime is substantially related to the qualifications,*
7 *functions, or duties of the business or profession for which the*
8 *license was issued.*~~A~~

1 (b) Notwithstanding any other provision of law, a board may
2 exercise any authority to discipline a licensee for conviction of a
3 crime that is independent of the authority granted under
4 subdivision (a) only if the crime is substantially related to the
5 qualifications, functions, or duties of the business or profession
6 for which the licensee's license was issued.

7 (c) A conviction within the meaning of this section means a plea
8 or verdict of guilty or a conviction following a plea of nolo
9 contendere. Any action ~~which~~ that a board is permitted to take
10 following the establishment of a conviction may be taken when
11 the time for appeal has elapsed, or the judgment of conviction has
12 been affirmed on appeal, or when an order granting probation is
13 made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4 of the
15 Penal Code.

16 (d) The Legislature hereby finds and declares that the
17 application of this section has been made unclear by the holding
18 in *Petropoulos v. Department of Real Estate* (2006) 142
19 *Cal.App.4th* 554, and that the holding in that case has placed a
20 significant number of statutes and regulations in question, resulting
21 in potential harm to the consumers of California from licensees
22 who have been convicted of crimes. Therefore, the Legislature
23 finds and declares that this section establishes an independent
24 basis for a board to impose discipline upon a licensee, and that
25 the amendments to this section made by Senate Bill 797 of the
26 2007–08 Regular Session do not constitute a change to, but rather
27 are declaratory of, existing law.

28 SEC. 1.5 Section 490 of the Business and Professions Code is
29 amended to read:

30 490. A(a) In addition to any other action that a board is
31 permitted to take against a licensee, a board may suspend or revoke
32 a license on the ground that the licensee has been convicted of a
33 crime, if the crime is substantially related to the qualifications,
34 functions, or duties of the business or profession for which the
35 license was issued. A

36 (b) Notwithstanding any other provision of law, a board may
37 exercise any authority to discipline a licensee for conviction of a
38 crime that is independent of the authority granted under subdivision
39 (a) only if the crime is substantially related to the qualifications,

1 functions, or duties of the business or profession for which the
2 licensee's license was issued.

3 (c) A conviction within the meaning of this section means a plea
4 or verdict of guilty or a conviction following a plea of nolo
5 contendere. Any action ~~which~~ *that* a board is permitted to take
6 following the establishment of a conviction may be taken when
7 the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal, or when an order granting probation is
9 made suspending the imposition of sentence, ~~irrespective of a~~
10 ~~subsequent order under the provisions of Section 1203.4 of the~~
11 ~~Penal Code.~~

12 (d) *No license shall be suspended or revoked based solely on*
13 *any criminal conviction that has been dismissed pursuant to Section*
14 *1203.4 or 1203.4a of the Penal Code, since that dismissal creates*
15 *a presumption of rehabilitation for purposes of this section, unless*
16 *the board provides substantial evidence to the contrary in writing*
17 *to the person justifying the board's suspension or revocation of*
18 *the license based solely on his or her dismissed conviction that is*
19 *substantially related to the qualifications, functions, or duties of*
20 *the business or profession for which the license was made.*

21 (e) *The department shall annually prepare a report, to be*
22 *submitted to the Legislature on October 1, that documents board*
23 *suspensions or revocations of licenses based solely on dismissed*
24 *criminal convictions as specified in subdivision (d).*

25 (f) *The Legislature hereby finds and declares that the application*
26 *of this section has been made unclear by the holding in* *Petropoulos*
27 *v. Department of Real Estate (2006) 142 Cal.App.4th 554, and*
28 *that the holding in that case has placed a significant number of*
29 *statutes and regulations in question, resulting in potential harm*
30 *to the consumers of California from licensees who have been*
31 *convicted of crimes. Therefore, the Legislature finds and declares*
32 *that this section establishes an independent basis for a board to*
33 *impose discipline upon a licensee, and that the amendments to this*
34 *section made by Senate Bill 797 of the 2007–08 Regular Session*
35 *do not constitute a change to, but rather are declaratory of, existing*
36 *law.*

37 *SEC. 2. Section 2006 of the Business and Professions Code is*
38 *amended to read:*

39 2006. (a) On and after January 1, 2006, any reference in this
40 chapter to an investigation by the board, or one of its divisions,

1 shall be deemed to refer to an investigation ~~conducted~~ *directed* by
2 employees of the Department of Justice.

3 (b) This section shall become inoperative on July 1, ~~2008~~ *2010*,
4 and as of January 1, ~~2009~~ *2011*, is repealed, unless a later enacted
5 statute, that becomes operative on or before January 1, ~~2009~~ *2011*,
6 deletes or extends the dates on which it becomes inoperative and
7 is repealed.

8 *SEC. 3. Section 2531 of the Business and Professions Code is*
9 *amended to read:*

10 2531. There is in the Department of Consumer Affairs a
11 Speech-Language Pathology and Audiology Board in which the
12 enforcement and administration of this chapter is vested. The
13 Speech-Language Pathology and Audiology Board shall consist
14 of nine members, three of whom shall be public members.

15 This section shall become inoperative on July 1, ~~2008~~ *2009*, and,
16 as of January 1, ~~2009~~ *2010*, is repealed, unless a later enacted
17 statute, that becomes effective on or before January 1, ~~2009~~ *2010*,
18 deletes or extends the inoperative and repeal dates. The repeal of
19 this section renders the board subject to the review required by
20 Division 1.2 (commencing with Section 473).

21 *SEC. 4. Section 2531.75 of the Business and Professions Code*
22 *is amended to read:*

23 2531.75. (a) The board may appoint a person exempt from
24 civil service who shall be designated as an executive officer and
25 who shall exercise the powers and perform the duties delegated
26 by the board and vested in him or her by this chapter.

27 (b) This section shall become inoperative on July 1, ~~2008~~ *2009*,
28 and, as of January 1, ~~2009~~ *2010*, is repealed, unless a later enacted
29 statute, that becomes operative on or before January 1, ~~2009~~ *2010*,
30 deletes or extends the dates on which it becomes inoperative and
31 is repealed.

32 *SEC. 5. Section 2841 of the Business and Professions Code is*
33 *amended to read:*

34 2841. There is in the Department of Consumer Affairs a Board
35 of Vocational Nursing and Psychiatric Technicians of the State of
36 California, consisting of 11 members.

37 Within the meaning of this chapter, board, or the board, refers
38 to the Board of Vocational Nursing and Psychiatric Technicians
39 of the State of California.

1 This section shall become inoperative on July 1, ~~2008~~ 2009, and,
2 as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
3 statute, which becomes effective on or before January 1, ~~2009~~
4 2010, deletes or extends the dates on which it becomes inoperative
5 and is repealed. The repeal of this section renders the board subject
6 to the review required by Division 1.2 (commencing with Section
7 473).

8 *SEC. 6. Section 2847 of the Business and Professions Code is*
9 *amended to read:*

10 2847. (a) The board shall select an executive officer who shall
11 perform duties as are delegated by the board and who shall be
12 responsible to it for the accomplishment of those duties.

13 (b) The person selected to be the executive officer of the board
14 shall be a duly licensed vocational nurse under this chapter, a duly
15 licensed professional nurse as defined in Section 2725, or a duly
16 licensed psychiatric technician. The executive officer shall not be
17 a member of the board.

18 (c) With the approval of the Director of Finance, the board shall
19 fix the salary of the executive officer.

20 (d) The executive officer shall be entitled to traveling and other
21 necessary expenses in the performance of his or her duties. He or
22 she shall make a statement, certified before some duly authorized
23 person, that the expenses have been actually incurred.

24 (e) This section shall become inoperative on July 1, ~~2008~~ 2009,
25 and, as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
26 statute, which becomes effective on or before January 1, ~~2009~~
27 2010, deletes or extends the dates on which it becomes inoperative
28 and is repealed.

29 *SEC. 7. Section 3041.3 of the Business and Professions Code*
30 *is amended to read:*

31 3041.3. (a) In order to be certified to use therapeutic
32 pharmaceutical agents and authorized to diagnose and treat the
33 conditions listed in subdivisions (b), (d), and (e) of Section 3041,
34 an optometrist shall apply for a certificate from the board and meet
35 all requirements imposed by the board.

36 (b) The board shall grant a certificate to use therapeutic
37 pharmaceutical agents to any applicant who graduated from a
38 California accredited school of optometry prior to January 1, 1996,
39 is licensed as an optometrist in California, and meets all of the
40 following requirements:

1 (1) Satisfactorily completes a didactic course of no less than 80
2 classroom hours in the diagnosis, pharmacological, and other
3 treatment and management of ocular disease provided by either
4 an accredited school of optometry in California or a recognized
5 residency review committee in ophthalmology in California.

6 (2) Completes a preceptorship of no less than 65 hours, during
7 a period of not less than two months nor more than one year, in
8 either an ophthalmologist's office or an optometric clinic. The
9 training received during the preceptorship shall be on the diagnosis,
10 treatment, and management of ocular, systemic disease. The
11 preceptor shall certify completion of the preceptorship.
12 Authorization for the ophthalmologist to serve as a preceptor shall
13 be provided by an accredited school of optometry in California,
14 or by a recognized residency review committee in ophthalmology,
15 and the preceptor shall be licensed as an ophthalmologist in
16 California, board-certified in ophthalmology, and in good standing
17 with the Medical Board of California. The individual serving as
18 the preceptor shall schedule no more than three optometrist
19 applicants for each of the required 65 hours of the preceptorship
20 program. This paragraph shall not be construed to limit the total
21 number of optometrist applicants for whom an individual may
22 serve as a preceptor, and is intended only to ensure the quality of
23 the preceptorship by requiring that the ophthalmologist preceptor
24 schedule the training so that each applicant optometrist completes
25 each of the 65 hours of the preceptorship while scheduled with no
26 more than two other optometrist applicants.

27 (3) Successfully completes a minimum of 20 hours of
28 self-directed education.

29 (4) Passes the National Board of Examiners in Optometry's
30 "Treatment and Management of Ocular Disease" examination or,
31 in the event this examination is no longer offered, its equivalent,
32 as determined by the State Board of Optometry.

33 (5) Passes the examination issued upon completion of the
34 80-hour didactic course required under paragraph (1) and provided
35 by the accredited school of optometry or residency program in
36 ophthalmology.

37 (6) When any or all of the requirements contained in paragraph
38 (1), (4), or (5) have been satisfied on or after July 1, 1992, and
39 before January 1, 1996, an optometrist shall not be required to
40 fulfill the satisfied requirements in order to obtain certification to

1 use therapeutic pharmaceutical agents. In order for this paragraph
2 to apply to the requirement contained in paragraph (5), the didactic
3 examination that the applicant successfully completed shall meet
4 equivalency standards, as determined by the board.

5 (7) Any optometrist who graduated from an accredited school
6 of optometry on or after January 1, 1992, and before January 1,
7 1996, shall not be required to fulfill the requirements contained in
8 paragraphs (1), (4), and (5).

9 (c) The board shall grant a certificate to use therapeutic
10 pharmaceutical agents to any applicant who graduated from a
11 California accredited school of optometry on or after January 1,
12 1996, who is licensed as an optometrist in California, and who
13 meets all of the following requirements:

14 (1) Passes the National Board of Examiners in Optometry's
15 national board examination, or its equivalent, as determined by
16 the State Board of Optometry.

17 (2) Of the total clinical training required by a school of
18 optometry's curriculum, successfully completed at least 65 of those
19 hours on the diagnosis, treatment, and management of ocular,
20 systemic disease.

21 (3) Is certified by an accredited school of optometry as
22 competent in the diagnosis, treatment, and management of ocular,
23 systemic disease to the extent authorized by this section.

24 (4) Is certified by an accredited school of optometry as having
25 completed at least 10 hours of experience with a board-certified
26 ophthalmologist.

27 (d) The board shall grant a certificate to use therapeutic
28 pharmaceutical agents to any applicant who is an optometrist who
29 obtained his or her license outside of California if he or she meets
30 all of the requirements for an optometrist licensed in California to
31 be certified to use therapeutic pharmaceutical agents.

32 (1) In order to obtain a certificate to use therapeutic
33 pharmaceutical agents, any optometrist who obtained his or her
34 license outside of California and graduated from an accredited
35 school of optometry prior to January 1, 1996, shall be required to
36 fulfill the requirements set forth in subdivision (b). In order for
37 the applicant to be eligible for the certificate to use therapeutic
38 pharmaceutical agents, the education he or she received at the
39 accredited out-of-state school of optometry shall be equivalent to
40 the education provided by any accredited school of optometry in

1 California for persons who graduate before January 1, 1996. For
2 those out-of-state applicants who request that any of the
3 requirements contained in subdivision (b) be waived based on
4 fulfillment of the requirement in another state, if the board
5 determines that the completed requirement was equivalent to that
6 required in California, the requirement shall be waived.

7 (2) In order to obtain a certificate to use therapeutic
8 pharmaceutical agents, any optometrist who obtained his or her
9 license outside of California and who graduated from an accredited
10 school of optometry on or after January 1, 1996, shall be required
11 to fulfill the requirements set forth in subdivision (c). In order for
12 the applicant to be eligible for the certificate to use therapeutic
13 pharmaceutical agents, the education he or she received by the
14 accredited out-of-state school of optometry shall be equivalent to
15 the education provided by any accredited school of optometry for
16 persons who graduate on or after January 1, 1996. For those
17 out-of-state applicants who request that any of the requirements
18 contained in subdivision (c) be waived based on fulfillment of the
19 requirement in another state, if the board determines that the
20 completed requirement was equivalent to that required in
21 California, the requirement shall be waived.

22 (3) The State Board of Optometry shall decide all issues relating
23 to the equivalency of an optometrist's education or training under
24 this subdivision, ~~and the committee established pursuant to Section~~
25 ~~3041.1 shall recommend protocols for the board to use in this~~
26 ~~regard, as described in Section 3041.1.~~

27 *SEC. 8. Section 4501 of the Business and Professions Code is*
28 *amended to read:*

29 4501. (a) "Board," as used in this chapter, means the Board
30 of Vocational Nursing and Psychiatric Technicians.

31 (b) This section shall become inoperative on July 1, ~~2008~~ 2009,
32 and, as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
33 statute, which becomes effective on or before January 1, ~~2009~~
34 2010, deletes or extends the dates on which it becomes inoperative
35 and is repealed.

36 *SEC. 9. Section 4503 of the Business and Professions Code is*
37 *amended to read:*

38 4503. (a) The board shall administer and enforce this chapter.

39 (b) This section shall become inoperative on July 1, ~~2008~~ 2009,
40 and, as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted

1 statute, which becomes effective on or before January 1, ~~2009~~
2 2010, deletes or extends the dates on which it becomes inoperative
3 and is repealed.

4 *SEC. 10. Section 4982 of the Business and Professions Code*
5 *is amended to read:*

6 4982. The board may refuse to issue any registration or license,
7 or may suspend or revoke the license or registration of any
8 registrant or licensee if the applicant, licensee, or registrant has
9 been guilty of unprofessional conduct. Unprofessional conduct
10 shall include, but not be limited to:

11 (a) The conviction of a crime substantially related to the
12 qualifications, functions, or duties of a licensee or registrant under
13 this chapter. The record of conviction shall be conclusive evidence
14 only of the fact that the conviction occurred. The board may inquire
15 into the circumstances surrounding the commission of the crime
16 in order to fix the degree of discipline or to determine if the
17 conviction is substantially related to the qualifications, functions,
18 or duties of a licensee or registrant under this chapter. A plea or
19 verdict of guilty or a conviction following a plea of nolo contendere
20 made to a charge substantially related to the qualifications,
21 functions, or duties of a licensee or registrant under this chapter
22 shall be deemed to be a conviction within the meaning of this
23 section. The board may order any license or registration suspended
24 or revoked, or may decline to issue a license or registration when
25 the time for appeal has elapsed, or the judgment of conviction has
26 been affirmed on appeal, or, when an order granting probation is
27 made suspending the imposition of sentence, irrespective of a
28 subsequent order under Section 1203.4 of the Penal Code allowing
29 the person to withdraw a plea of guilty and enter a plea of not
30 guilty, or setting aside the verdict of guilty, or dismissing the
31 accusation, information, or indictment.

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

37 (c) Administering to himself or herself any controlled substance
38 or using of any of the dangerous drugs specified in Section 4022,
39 or of any alcoholic beverage to the extent, or in a manner, as to be
40 dangerous or injurious to the person applying for a registration or

1 license or holding a registration or license under this chapter, or
2 to any other person, or to the public, or, to the extent that the use
3 impairs the ability of the person applying for or holding a
4 registration or license to conduct with safety to the public the
5 practice authorized by the registration or license, or the conviction
6 of more than one misdemeanor or any felony involving the use,
7 consumption, or self-administration of any of the substances
8 referred to in this subdivision, or any combination thereof. The
9 board shall deny an application for a registration or license or
10 revoke the license or registration of any person, other than one
11 who is licensed as a physician and surgeon, who uses or offers to
12 use drugs in the course of performing marriage and family therapy
13 services.

14 (d) Gross negligence or incompetence in the performance of
15 marriage and family therapy.

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

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

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

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

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

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

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

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

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

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

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

23 (p) Advertising in a manner that is false, misleading, or
24 deceptive.

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

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

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

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

1 perform, professional services beyond the trainee's or registered
2 intern's level of education, training, or experience.

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

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

8 (w) *Engaging in an act described in Section 261, 286, 288a, or*
9 *289 of the Penal Code with a minor or an act described in Section*
10 *288 or 288.5 of the Penal Code regardless of whether the act*
11 *occurred prior to or after the time the registration or license was*
12 *issued by the board.*

13 *SEC. 11. Section 4989.54 of the Business and Professions Code*
14 *is amended to read:*

15 4989.54. The board may deny a license or may suspend or
16 revoke the license of a licensee if he or she has been guilty of
17 unprofessional conduct. Unprofessional conduct includes, but is
18 not limited to, the following:

19 (a) Conviction of a crime substantially related to the
20 qualifications, functions and duties of an educational psychologist.

21 (1) The record of conviction shall be conclusive evidence only
22 of the fact that the conviction occurred.

23 (2) The board may inquire into the circumstances surrounding
24 the commission of the crime in order to fix the degree of discipline
25 or to determine if the conviction is substantially related to the
26 qualifications, functions, or duties of a licensee under this chapter.

27 (3) A plea or verdict of guilty or a conviction following a plea
28 of nolo contendere made to a charge substantially related to the
29 qualifications, functions, or duties of a licensee under this chapter
30 shall be deemed to be a conviction within the meaning of this
31 section.

32 (4) The board may order a license suspended or revoked, or
33 may decline to issue a license when the time for appeal has elapsed,
34 or the judgment of conviction has been affirmed on appeal, or
35 when an order granting probation is made suspending the
36 imposition of sentence, irrespective of a subsequent order under
37 Section 1203.4 of the Penal Code allowing the person to withdraw
38 a plea of guilty and enter a plea of not guilty or setting aside the
39 verdict of guilty or dismissing the accusation, information, or
40 indictment.

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

5 (c) Administering to himself or herself a controlled substance
6 or using any of the dangerous drugs specified in Section 4022 or
7 an alcoholic beverage to the extent, or in a manner, as to be
8 dangerous or injurious to himself or herself or to any other person
9 or to the public or to the extent that the use impairs his or her ability
10 to safely perform the functions authorized by the license.

11 (d) Conviction of more than one misdemeanor or any felony
12 involving the use, consumption, or self-administration of any of
13 the substances referred to in subdivision (c) or any combination
14 thereof.

15 (e) Advertising in a manner that is false, misleading, or
16 deceptive.

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

20 (g) Commission of any dishonest, corrupt, or fraudulent act
21 substantially related to the qualifications, functions, or duties of a
22 licensee.

23 (h) Denial of licensure, revocation, suspension, restriction, or
24 any other disciplinary action imposed by another state or territory
25 or possession of the United States or by any other governmental
26 agency, on a license, certificate, or registration to practice
27 educational psychology or any other healing art. A certified copy
28 of the disciplinary action, decision, or judgment shall be conclusive
29 evidence of that action.

30 (i) Revocation, suspension, or restriction by the board of a
31 license, certificate, or registration to practice as a clinical social
32 worker or marriage and family therapist.

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

36 (k) Gross negligence or incompetence in the practice of
37 educational psychology.

38 (l) Misrepresentation as to the type or status of a license held
39 by the licensee or otherwise misrepresenting or permitting

1 misrepresentation of his or her education, professional
2 qualifications, or professional affiliations to any person or entity.

3 (m) Intentionally or recklessly causing physical or emotional
4 harm to any client.

5 (n) Engaging in sexual relations with a client or a former client
6 within two years following termination of professional services,
7 soliciting sexual relations with a client, or committing an act of
8 sexual abuse or sexual misconduct with a client or committing an
9 act punishable as a sexually related crime, if that act or solicitation
10 is substantially related to the qualifications, functions, or duties of
11 a licensed educational psychologist.

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

16 (p) Paying, accepting, or soliciting any consideration,
17 compensation, or remuneration, whether monetary or otherwise,
18 for the referral of professional clients.

19 (q) Failing to maintain confidentiality, except as otherwise
20 required or permitted by law, of all information that has been
21 received from a client in confidence during the course of treatment
22 and all information about the client that is obtained from tests or
23 other means.

24 (r) Performing, holding himself or herself out as being able to
25 perform, or offering to perform any professional services beyond
26 the scope of the license authorized by this chapter or beyond his
27 or her field or fields of competence as established by his or her
28 education, training, or experience.

29 (s) Reproducing or describing in public, or in any publication
30 subject to general public distribution, any psychological test or
31 other assessment device the value of which depends in whole or
32 in part on the naivete of the subject in ways that might invalidate
33 the test or device. An educational psychologist shall limit access
34 to the test or device to persons with professional interests who can
35 be expected to safeguard its use.

36 (t) Aiding or abetting an unlicensed person to engage in conduct
37 requiring a license under this chapter.

38 (u) When employed by another person or agency, encouraging,
39 either orally or in writing, the employer's or agency's clientele to

1 utilize his or her private practice for further counseling without
2 the approval of the employing agency or administration.

3 (v) Failing to comply with the child abuse reporting
4 requirements of Section 11166 of the Penal Code.

5 (w) Failing to comply with the elder and adult dependent abuse
6 reporting requirements of Section 15630 of the Welfare and
7 Institutions Code.

8 (x) *Engaging in an act described in Section 261, 286, 288a, or*
9 *289 of the Penal Code with a minor or an act described in Section*
10 *288 or 288.5 of the Penal Code regardless of whether the act*
11 *occurred prior to or after the time the registration or license was*
12 *issued by the board.*

13 *SEC. 12. Section 4990.32 of the Business and Professions Code*
14 *is amended to read:*

15 4990.32. (a) Except as otherwise provided in this section, an
16 accusation filed pursuant to Section 11503 of the Government
17 Code against a licensee or registrant under the chapters the board
18 administers and enforces shall be filed within three years from the
19 date the board discovers the alleged act or omission that is the
20 basis for disciplinary action or within seven years from the date
21 the alleged act or omission that is the basis for disciplinary action
22 occurred, whichever occurs first.

23 (b) An accusation filed against a licensee alleging the
24 procurement of a license by fraud or misrepresentation is not
25 subject to the limitations set forth in subdivision (a).

26 (c) The limitations period provided by subdivision (a) shall be
27 tolled for the length of time required to obtain compliance when
28 a report required to be filed by the licensee or registrant with the
29 board pursuant to Article 11 (commencing with Section 800) of
30 Chapter 1 is not filed in a timely fashion.

31 (d) An accusation alleging sexual misconduct shall be filed
32 within three years after the board discovers the act or omission
33 alleged as the grounds for disciplinary action or within 10 years
34 after the act or omission alleged as the grounds for disciplinary
35 action occurred, whichever occurs first. This subdivision shall
36 apply to a complaint alleging sexual misconduct received by the
37 board on and after January 1, 2002.

38 (e) If an alleged act or omission involves a minor, the seven-year
39 limitations period provided for by subdivision (a) and the 10-year
40 limitations period provided for by subdivision (d) shall be tolled

1 until the minor reaches the age of majority. *However, if the board*
2 *discovers an alleged act of sexual contact with a minor under*
3 *Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after*
4 *the limitations periods described in this subdivision have otherwise*
5 *expired, and there is independent evidence that corroborates the*
6 *allegation, an accusation shall be filed within three years from*
7 *the date the board discovers that alleged act.*

8 (f) The limitations period provided by subdivision (a) shall be
9 tolled during any period if material evidence necessary for
10 prosecuting or determining whether a disciplinary action would
11 be appropriate is unavailable to the board due to an ongoing
12 criminal investigation.

13 (g) For purposes of this section, “discovers” means the latest
14 of the occurrence of any of the following with respect to each act
15 or omission alleged as the basis for disciplinary action:

16 (1) The date the board received a complaint or report describing
17 the act or omission.

18 (2) The date, subsequent to the original complaint or report, on
19 which the board became aware of any additional acts or omissions
20 alleged as the basis for disciplinary action against the same
21 individual.

22 (3) The date the board receives from the complainant a written
23 release of information pertaining to the complainant’s diagnosis
24 and treatment.

25 *SEC. 13. Section 4992.3 of the Business and Professions Code*
26 *is amended to read:*

27 4992.3. The board may refuse to issue a registration or a
28 license, or may suspend or revoke the license or registration of
29 any registrant or licensee if the applicant, licensee, or registrant
30 has been guilty of unprofessional conduct. Unprofessional conduct
31 includes, but is not limited to:

32 (a) The conviction of a crime substantially related to the
33 qualifications, functions, or duties of a licensee or registrant under
34 this chapter. The record of conviction shall be conclusive evidence
35 only of the fact that the conviction occurred. The board may inquire
36 into the circumstances surrounding the commission of the crime
37 in order to fix the degree of discipline or to determine if the
38 conviction is substantially related to the qualifications, functions,
39 or duties of a licensee or registrant under this chapter. A plea or
40 verdict of guilty or a conviction following a plea of nolo contendere

1 made to a charge substantially related to the qualifications,
2 functions, or duties of a licensee or registrant under this chapter
3 is a conviction within the meaning of this section. The board may
4 order any license or registration suspended or revoked, or may
5 decline to issue a license or registration when the time for appeal
6 has elapsed, or the judgment of conviction has been affirmed on
7 appeal, or, when an order granting probation is made suspending
8 the imposition of sentence, irrespective of a subsequent order under
9 Section 1203.4 of the Penal Code allowing the person to withdraw
10 a plea of guilty and enter a plea of not guilty, or setting aside the
11 verdict of guilty, or dismissing the accusation, information, or
12 indictment.

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

18 (c) Administering to himself or herself any controlled substance
19 or using any of the dangerous drugs specified in Section 4022 or
20 any alcoholic beverage to the extent, or in a manner, as to be
21 dangerous or injurious to the person applying for a registration or
22 license or holding a registration or license under this chapter, or
23 to any other person, or to the public, or, to the extent that the use
24 impairs the ability of the person applying for or holding a
25 registration or license to conduct with safety to the public the
26 practice authorized by the registration or license, or the conviction
27 of more than one misdemeanor or any felony involving the use,
28 consumption, or self-administration of any of the substances
29 referred to in this subdivision, or any combination thereof. The
30 board shall deny an application for a registration or license or
31 revoke the license or registration of any person who uses or offers
32 to use drugs in the course of performing clinical social work. This
33 provision does not apply to any person also licensed as a physician
34 and surgeon under Chapter 5 (commencing with Section 2000) or
35 the Osteopathic Act who lawfully prescribes drugs to a patient
36 under his or her care.

37 (d) Gross negligence or incompetence in the performance of
38 clinical social work.

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

1 (f) Misrepresentation as to the type or status of a license or
2 registration held by the person, or otherwise misrepresenting or
3 permitting misrepresentation of his or her education, professional
4 qualifications, or professional affiliations to any person or entity.
5 For purposes of this subdivision, this misrepresentation includes,
6 but is not limited to, misrepresentation of the person's
7 qualifications as an adoption service provider pursuant to Section
8 8502 of the Family Code.

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

12 (h) Aiding or abetting any unlicensed or unregistered person to
13 engage in conduct for which a license or registration is required
14 under this chapter.

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

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

20 (k) Engaging in sexual relations with a client or with a former
21 client within two years from the termination date of therapy with
22 the client, soliciting sexual relations with a client, or committing
23 an act of sexual abuse, or sexual misconduct with a client, or
24 committing an act punishable as a sexually related crime, if that
25 act or solicitation is substantially related to the qualifications,
26 functions, or duties of a clinical social worker.

27 (l) Performing, or holding one's self out as being able to
28 perform, or offering to perform or permitting, any registered
29 associate clinical social worker or intern under supervision to
30 perform any professional services beyond the scope of the license
31 authorized by this chapter.

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

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

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

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

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

17 (r) Any conduct in the supervision of any registered associate
18 clinical social worker or intern by any licensee that violates this
19 chapter or any rules or regulations adopted by the board.

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

23 (t) *Engaging in an act described in Section 261, 286, 288a, or*
24 *289 of the Penal Code with a minor or an act described in Section*
25 *288 or 288.5 of the Penal Code regardless of whether the act*
26 *occurred prior to or after the time the registration or license was*
27 *issued by the board.*

28 *SEC. 14. Section 5552.5 of the Business and Professions Code*
29 *is amended to read:*

30 5552.5. The board may, by regulation, implement an intern
31 development program until July 1, ~~2009~~ 2011.

32 **SECTION 1.**

33 *SEC. 15. Section 7026.1 of the Business and Professions Code*
34 *is amended to read:*

35 7026.1. The term “contractor” includes all of the following:

36 (a) Any person not exempt under Section 7053 who maintains
37 or services air-conditioning, heating, or refrigeration equipment
38 that is a fixed part of the structure to which it is attached.

39 (b) Any person, consultant to an owner-builder, firm,
40 association, organization, partnership, business trust, corporation,

1 or company, who or which undertakes, offers to undertake, purports
2 to have the capacity to undertake, or submits a bid, to construct
3 any building or home improvement project, or part thereof.

4 (c) A temporary labor service agency that, as the employer,
5 provides employees for the performance of work covered by this
6 chapter. The provisions of this subdivision shall not apply if there
7 is a properly licensed contractor who exercises supervision in
8 accordance with Section 7068.1 and who is directly responsible
9 for the final results of the work. Nothing in this subdivision shall
10 require a qualifying individual, as provided in Section 7068, to be
11 present during the supervision of work covered by this chapter. A
12 contractor requesting the services of a temporary labor service
13 agency shall provide his or her license number to that temporary
14 labor service agency.

15 (d) Any person not otherwise exempt by this chapter, who
16 performs, offers to perform, purports to have the capacity to
17 perform, or submits a bid to perform tree removal, tree pruning,
18 stump removal, or tree or limb cabling or guying. The term
19 contractor does not include a person performing the activities of
20 a nursery person who in the normal course of routine work performs
21 incidental pruning of trees, or guying of planted trees and their
22 limbs. The term contractor does not include a gardener who in the
23 normal course of routine work performs incidental pruning of trees
24 measuring less than 15 feet in height after planting.

25 (e) Any person engaged in the business of drilling, digging,
26 boring, or otherwise constructing, deepening, repairing,
27 re-perforating, or abandoning any water well, cathodic protection
28 well, or monitoring well.

29 ~~SEC. 2.~~

30 *SEC. 16.* Section 7028 of the Business and Professions Code
31 is amended to read:

32 7028. (a) It is a misdemeanor for any person to engage in the
33 business or act in the capacity of a contractor within this state
34 without having a license therefor, unless the person is particularly
35 exempted from the provisions of this chapter.

36 (b) If a person has been previously convicted of the offense
37 described in this section, unless the provisions of subdivision (c)
38 are applicable, the court shall impose a fine of 20 percent of the
39 price of the contract under which the unlicensed person performed,
40 or offered to perform, contracting work, or four thousand five

1 hundred dollars (\$4,500), whichever is greater, and, unless the
2 sentence prescribed in subdivision (c) is imposed, the person shall
3 be confined in a county jail for not less than 90 days, except in an
4 unusual case where the interests of justice would be served by
5 imposition of a lesser sentence or a fine. If the court imposes only
6 a fine or a jail sentence of less than 90 days for second or
7 subsequent convictions under this section, the court shall state the
8 reasons for its sentencing choice on the record.

9 (c) A third or subsequent conviction for the offense described
10 in this section is punishable by a fine of not less than four thousand
11 five hundred dollars (\$4,500) nor more than the greater amount of
12 either ten thousand dollars (\$10,000) or 20 percent of the contract
13 price under which the unlicensed person performed, or offered to
14 perform, contracting work or by imprisonment in a county jail for
15 not more than one year or less than 90 days, or by both that fine
16 and imprisonment. The penalty provided by this subdivision is
17 cumulative to the penalties available under all other laws of this
18 state.

19 (d) A person who violates this section is subject to the penalties
20 prescribed in subdivision (c) if the person was named on a license
21 that was previously revoked and, either in fact or under law, was
22 held responsible for any act or omission resulting in the revocation.

23 (e) In the event the person performing the contracting work has
24 agreed to furnish materials and labor on an hourly basis, “the price
25 of the contract” for the purposes of this section means the aggregate
26 sum of the cost of materials and labor furnished and the cost of
27 completing the work to be performed.

28 (f) Notwithstanding any other provision of law to the contrary,
29 an indictment for any violation of this section by the unlicensed
30 contractor shall be found or an information or complaint filed
31 within four years from the date of the contract proposal, contract,
32 completion, or abandonment of the work, whichever occurs last.

33 *SEC. 17. Section 7303 of the Business and Professions Code*
34 *is amended to read:*

35 7303. (a) Notwithstanding Article 8 (commencing with Section
36 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
37 Government Code, there is in the Department of Consumer Affairs
38 the State Board of Barbering and Cosmetology in which the
39 administration of this chapter is vested.

1 (b) The board shall consist of nine members. Five members
2 shall be public members, and four members shall represent the
3 professions. The Governor shall appoint three of the public
4 members and the four professions members. The Senate Committee
5 on Rules and the Speaker of the Assembly shall each appoint one
6 public member. Members of the board shall be appointed for a
7 term of four years, except that of the members appointed by the
8 Governor, two of the public members and two of the professions
9 members shall be appointed for an initial term of two years. No
10 board member may serve longer than two consecutive terms.

11 (c) The board shall appoint an executive officer who is exempt
12 from civil service. The executive officer shall exercise the powers
13 and perform the duties delegated by the board and vested in him
14 or her by this chapter. The appointment of the executive officer is
15 subject to the approval of the director. ~~In the event that~~ If a newly
16 authorized board replaces an existing or previous bureau, the
17 director may appoint an interim executive officer for the board
18 who shall serve temporarily until the new board appoints a
19 permanent executive officer.

20 (d) The executive officer shall provide examiners, inspectors,
21 and other personnel necessary to carry out the provisions of this
22 chapter.

23 (e) This section shall become inoperative on July 1, ~~2008~~ 2009,
24 and, as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
25 statute, which becomes effective on or before January 1, ~~2009~~
26 2010, deletes or extends the dates on which it becomes inoperative
27 and is repealed.

28 *SEC. 18. Section 8005 of the Business and Professions Code*
29 *is amended to read:*

30 8005. The Court Reporters Board of California is charged with
31 the executive functions necessary for effectuating the purposes of
32 this chapter. It may appoint committees as it deems necessary or
33 proper. The board may appoint, prescribe the duties, and fix the
34 salary of an executive officer. Except as provided by Section 159.5,
35 the board may also employ other employees as may be necessary,
36 subject to civil service and other provisions of law.

37 This section shall become inoperative on July 1, ~~2008~~ 2009, and,
38 as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
39 statute, which becomes effective on or before January 1, ~~2009~~

1 2010, deletes or extends the dates on which it becomes inoperative
2 and is repealed.

3 *SEC. 19. Section 22258 of the Business and Professions Code*
4 *is amended to read:*

5 22258. (a) The following persons are exempt from the
6 requirements of this title, *subject to the requirements of subdivision*
7 *(b):*

8 (a)

9 (1) A person with a current and valid license issued by the
10 California Board of Accountancy ~~and his or her employees while~~
11 ~~functioning within the scope of their employment.~~

12 (b)

13 (2) A person who is an active member of the State Bar of
14 California ~~and his or her employees while functioning within the~~
15 ~~scope of their employment.~~

16 (c) ~~An employee of any~~

17 (3) *Any* trust company or trust business as defined in Chapter
18 1 (commencing with Section 99) of Division 1 of the Financial
19 Code ~~while functioning within the scope of his or her employment.~~

20 (d)

21 (4) A financial institution regulated by the state or federal
22 government, ~~and employees thereof, insofar as the activities of the~~
23 ~~employees are related to their employment and the activities of~~
24 the financial institution with respect to tax preparation are subject
25 to federal or state examination or oversight.

26 (e)

27 (5) A person who is enrolled to practice before the Internal
28 Revenue Service pursuant to Subpart A (commencing with Section
29 10.1) of Part 10 of Title 31 of the Code of Federal Regulations;
30 ~~and his or her employees while functioning within the scope of~~
31 ~~his or her employment.~~

32 (6) *Any employee of any person described in paragraph (1),*
33 *(2), (3), (4), or (5).*

34 (7) *Any employee of any corporation, partnership, association,*
35 *or any entity described in subparagraph (B) of paragraph (1) of*
36 *subdivision (a) of Section 2225.*

37 (b) (1) *Paragraph (6) of subdivision (a) shall apply only if all*
38 *tax returns prepared by that employee are signed by an employer*
39 *described in paragraph (1), (2), or (5) of subdivision (a).*

1 (2) Paragraph (7) of subdivision (a) shall apply only if all tax
2 returns prepared by that employee are signed by an employer
3 described in paragraph (7) of subdivision (a).

4 (3) No person described in this subdivision as an employee may
5 sign a tax return, unless that employee is otherwise exempt under
6 this section, is registered as a tax preparer with the Council, or
7 is an employee of either a trust company or trust business described
8 in paragraph (3) of subdivision (a), or any employee of a financial
9 institution described in paragraph (4) of subdivision (a).

10 (4) In the case of any employee of a trust company or trust
11 business described in paragraph (3) of subdivision (a), or any
12 employee of a financial institution described in paragraph (4) of
13 subdivision (a), the exemption provided under this subdivision
14 shall only apply to activities conducted by that employee that are
15 within the scope of his or her employment.

16 (c) For purposes of this section, preparation of a tax return
17 includes the inputting of tax data into a computer.

18 SEC. 20. Section 22259 of the Business and Professions Code
19 is amended to read:

20 22259. This chapter shall be subject to the review required by
21 Division 1.2 (commencing with Section 473).

22 This chapter shall become inoperative on July 1, ~~2008~~ 2009,
23 and, as of January 1, ~~2009~~ 2010, is repealed, unless a later enacted
24 statute, which becomes effective on or before January 1, ~~2009~~
25 2010, deletes or extends that date on which it becomes inoperative
26 and is repealed.

27 SEC. 21. Section 12529 of the Government Code, as amended
28 by Section 24 of Chapter 674 of the Statutes of 2005, is amended
29 to read:

30 12529. (a) There is in the Department of Justice the Health
31 Quality Enforcement Section. The primary responsibility of the
32 section is to investigate and prosecute proceedings against licensees
33 and applicants within the jurisdiction of the Medical Board of
34 California including all committees under the jurisdiction of the
35 board or a division of the board, including the Board of Podiatric
36 Medicine, and the Board of Psychology.

37 (b) The Attorney General shall appoint a Senior Assistant
38 Attorney General of the Health Quality Enforcement Section. The
39 Senior Assistant Attorney General of the Health Quality
40 Enforcement Section shall be an attorney in good standing licensed

1 to practice in the State of California, experienced in prosecutorial
2 or administrative disciplinary proceedings and competent in the
3 management and supervision of attorneys performing those
4 functions.

5 (c) The Attorney General shall ensure that the Health Quality
6 Enforcement Section is staffed with a sufficient number of
7 experienced and able employees that are capable of handling the
8 most complex and varied types of disciplinary actions against the
9 licensees of the division or board.

10 (d) Funding for the Health Quality Enforcement Section shall
11 be budgeted in consultation with the Attorney General from the
12 special funds financing the operations of the Medical Board of
13 California, the California Board of Podiatric Medicine, and the
14 committees under the jurisdiction of the Medical Board of
15 California or a division of the board, and the Board of Psychology,
16 with the intent that the expenses be proportionally shared as to
17 services rendered.

18 (e) This section shall become inoperative on July 1, ~~2008~~ 2010,
19 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted
20 statute, that becomes operative on or before January 1, ~~2009~~ 2011,
21 deletes or extends the dates on which it becomes inoperative and
22 is repealed.

23 *SEC. 21.5 Section 12529 of the Government Code, as amended*
24 *by Section 24 of Chapter 674 of the Statutes of 2005, is amended*
25 *to read:*

26 12529. (a) There is in the Department of Justice the Health
27 Quality Enforcement Section. The primary responsibility of the
28 section is to investigate and prosecute proceedings against licensees
29 and applicants within the jurisdiction of the Medical Board of
30 California ~~including all committees, the California Board of~~
31 ~~Podiatric Medicine, the Board of Psychology, or any committee~~
32 ~~under the jurisdiction of the board Medical Board of California~~
33 ~~or a division of the board, including the Board of Podiatric~~
34 ~~Medicine, and the Board of Psychology.~~

35 (b) The Attorney General shall appoint a Senior Assistant
36 Attorney General of the Health Quality Enforcement Section. The
37 Senior Assistant Attorney General of the Health Quality
38 Enforcement Section shall be an attorney in good standing licensed
39 to practice in the State of California, experienced in prosecutorial
40 or administrative disciplinary proceedings and competent in the

1 management and supervision of attorneys performing those
2 functions.

3 (c) The Attorney General shall ensure that the Health Quality
4 Enforcement Section is staffed with a sufficient number of
5 experienced and able employees that are capable of handling the
6 most complex and varied types of disciplinary actions against the
7 licensees of the division or board.

8 (d) Funding for the Health Quality Enforcement Section shall
9 be budgeted in consultation with the Attorney General from the
10 special funds financing the operations of the Medical Board of
11 California, the California Board of Podiatric Medicine, *the Board*
12 *of Psychology*, and the committees under the jurisdiction of the
13 Medical Board of California or a division of the board, ~~and the~~
14 ~~Board of Psychology~~, with the intent that the expenses be
15 proportionally shared as to services rendered.

16 (e) This section shall become inoperative on July 1, ~~2008~~ 2010,
17 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted
18 statute, that becomes operative on or before January 1, ~~2009~~ 2011,
19 deletes or extends the dates on which it becomes inoperative and
20 is repealed.

21 *SEC. 22. Section 12529 of the Government Code, as added by*
22 *Section 25 of Chapter 674 of the Statutes of 2005, is amended to*
23 *read:*

24 12529. (a) There is in the Department of Justice the Health
25 Quality Enforcement Section. The primary responsibility of the
26 section is to prosecute proceedings against licensees and applicants
27 within the jurisdiction of the Medical Board of California including
28 all committees under the jurisdiction of the board or a division of
29 the board, including the Board of Podiatric Medicine, and the
30 Board of Psychology, and to provide ongoing review of the
31 investigative activities conducted in support of those prosecutions,
32 as provided in subdivision (b) of Section 12529.5.

33 (b) The Attorney General shall appoint a Senior Assistant
34 Attorney General of the Health Quality Enforcement Section. The
35 Senior Assistant Attorney General of the Health Quality
36 Enforcement Section shall be an attorney in good standing licensed
37 to practice in the State of California, experienced in prosecutorial
38 or administrative disciplinary proceedings and competent in the
39 management and supervision of attorneys performing those
40 functions.

1 (c) The Attorney General shall ensure that the Health Quality
2 Enforcement Section is staffed with a sufficient number of
3 experienced and able employees that are capable of handling the
4 most complex and varied types of disciplinary actions against the
5 licensees of the division or board.

6 (d) Funding for the Health Quality Enforcement Section shall
7 be budgeted in consultation with the Attorney General from the
8 special funds financing the operations of the Medical Board of
9 California, the California Board of Podiatric Medicine, and the
10 committees under the jurisdiction of the Medical Board of
11 California or a division of the board, and the Board of Psychology,
12 with the intent that the expenses be proportionally shared as to
13 services rendered.

14 (e) This section shall become operative July 1, ~~2008~~ 2010.

15 *SEC. 22.5 Section 12529 of the Government Code, as added*
16 *by Section 25 of Chapter 674 of the Statutes of 2005, is amended*
17 *to read:*

18 12529. (a) There is in the Department of Justice the Health
19 Quality Enforcement Section. The primary responsibility of the
20 section is to prosecute proceedings against licensees and applicants
21 within the jurisdiction of the Medical Board of California ~~including~~
22 ~~all committees, the California Board of Podiatric Medicine, the~~
23 ~~Board of Psychology, or any committee~~ under the jurisdiction of
24 ~~the board~~ *Medical Board of California* or a division of the board;
25 ~~including the Board of Podiatric Medicine, and the Board of~~
26 ~~Psychology~~, and to provide ongoing review of the investigative
27 activities conducted in support of those prosecutions, as provided
28 in subdivision (b) of Section 12529.5.

29 (b) The Attorney General shall appoint a Senior Assistant
30 Attorney General of the Health Quality Enforcement Section. The
31 Senior Assistant Attorney General of the Health Quality
32 Enforcement Section shall be an attorney in good standing licensed
33 to practice in the State of California, experienced in prosecutorial
34 or administrative disciplinary proceedings and competent in the
35 management and supervision of attorneys performing those
36 functions.

37 (c) The Attorney General shall ensure that the Health Quality
38 Enforcement Section is staffed with a sufficient number of
39 experienced and able employees that are capable of handling the

1 most complex and varied types of disciplinary actions against the
2 licensees of the division or board.

3 (d) Funding for the Health Quality Enforcement Section shall
4 be budgeted in consultation with the Attorney General from the
5 special funds financing the operations of the Medical Board of
6 California, the California Board of Podiatric Medicine, *the Board*
7 *of Psychology*, and the committees under the jurisdiction of the
8 Medical Board of California or a division of the board, ~~and the~~
9 ~~Board of Psychology~~, with the intent that the expenses be
10 proportionally shared as to services rendered.

11 (e) This section shall become operative July 1, ~~2008~~ 2010.

12 *SEC. 23. Section 12529.5 of the Government Code, as amended*
13 *by Section 26 of Chapter 674 of the Statutes of 2005, is amended*
14 *to read:*

15 12529.5. (a) All complaints or relevant information concerning
16 licensees that are within the jurisdiction of the Medical Board of
17 California or the Board of Psychology shall be made available to
18 the Health Quality Enforcement Section.

19 (b) The Senior Assistant Attorney General of the Health Quality
20 Enforcement Section shall assign attorneys to work on location at
21 the intake unit of the boards described in subdivision (d) of Section
22 12529 to assist in evaluating and screening complaints and to assist
23 in developing uniform standards and procedures for processing
24 complaints.

25 (c) The Senior Assistant Attorney General or his or her deputy
26 attorneys general shall assist the boards, division, or allied health
27 committees, including the Board of Podiatric Medicine, in
28 designing and providing initial and in-service training programs
29 for staff of the division, boards, or allied health committees,
30 including, but not limited to, information collection and
31 investigation.

32 (d) The determination to bring a disciplinary proceeding against
33 a licensee of the division or the boards shall be made by the
34 executive officer of the division, the board, or allied health
35 committee, including the Board of Podiatric Medicine, or the Board
36 of Psychology, as appropriate in consultation with the senior
37 assistant.

38 (e) This section shall become inoperative on July 1, ~~2008~~ 2010,
39 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted
40 statute, that becomes operative on or before January 1, ~~2009~~ 2011,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 *SEC. 23.5. Section 12529.5 of the Government Code, as*
4 *amended by Section 26 of Chapter 674 of the Statutes of 2005, is*
5 *amended to read:*

6 12529.5. (a) All complaints or relevant information concerning
7 licensees that are within the jurisdiction of the Medical Board of
8 California, *the California Board of Podiatric Medicine*, or the
9 Board of Psychology shall be made available to the Health Quality
10 Enforcement Section.

11 (b) The Senior Assistant Attorney General of the Health Quality
12 Enforcement Section shall assign attorneys to work on location at
13 the intake unit of the boards described in subdivision (d) of Section
14 12529 to assist in evaluating and screening complaints and to assist
15 in developing uniform standards and procedures for processing
16 complaints.

17 (c) The Senior Assistant Attorney General or his or her deputy
18 attorneys general shall assist the boards, division, or ~~allied health~~
19 ~~committees, including the Board of Podiatric Medicine, committees~~
20 in designing and providing initial and in-service training programs
21 for staff of the division, boards, or ~~allied health~~ committees,
22 including, but not limited to, information collection and
23 investigation.

24 (d) The determination to bring a disciplinary proceeding against
25 a licensee of the division or the boards shall be made by the
26 executive officer of the division, ~~the board, or allied health~~
27 ~~committee, including the Board of Podiatric Medicine, or the Board~~
28 ~~of Psychology boards, or committees~~, as appropriate in consultation
29 with the senior assistant.

30 (e) This section shall become inoperative on July 1, ~~2008~~ 2010,
31 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted
32 statute, that becomes operative on or before January 1, ~~2009~~ 2011,
33 deletes or extends the dates on which it becomes inoperative and
34 is repealed.

35 *SEC. 24. Section 12529.5 of the Government Code, as added*
36 *by Section 27 of Chapter 674 of the Statutes of 2005, is amended*
37 *to read:*

38 12529.5. (a) All complaints or relevant information concerning
39 licensees that are within the jurisdiction of the Medical Board of

1 California or the Board of Psychology shall be made available to
2 the Health Quality Enforcement Section.

3 (b) The Senior Assistant Attorney General of the Health Quality
4 Enforcement Section shall assign attorneys to assist the division
5 and the boards in intake and investigations and to direct
6 discipline-related prosecutions. Attorneys shall be assigned to
7 work closely with each major intake and investigatory unit of the
8 boards, to assist in the evaluation and screening of complaints from
9 receipt through disposition and to assist in developing uniform
10 standards and procedures for the handling of complaints and
11 investigations.

12 A deputy attorney general of the Health Quality Enforcement
13 Section shall frequently be available on location at each of the
14 working offices at the major investigation centers of the boards,
15 to provide consultation and related services and engage in case
16 review with the boards' investigative, medical advisory, and intake
17 staff. The Senior Assistant Attorney General and deputy attorneys
18 general working at his or her direction shall consult as appropriate
19 with the investigators of the boards, medical advisors, and
20 executive staff in the investigation and prosecution of disciplinary
21 cases.

22 (c) The Senior Assistant Attorney General or his or her deputy
23 attorneys general shall assist the boards, division, or allied health
24 committees, including the Board of Podiatric Medicine, in
25 designing and providing initial and in-service training programs
26 for staff of the division, boards, or allied health committees,
27 including, but not limited to, information collection and
28 investigation.

29 (d) The determination to bring a disciplinary proceeding against
30 a licensee of the division or the boards shall be made by the
31 executive officer of the division, the board, or allied health
32 committee, including the Board of Podiatric Medicine, or the Board
33 of Psychology, as appropriate in consultation with the senior
34 assistant.

35 (e) This section shall become operative July 1, ~~2008~~ 2010.

36 *SEC. 24.5 Section 12529.5 of the Government Code, as added*
37 *by Section 27 of Chapter 674 of the Statutes of 2005, is amended*
38 *to read:*

39 12529.5. (a) All complaints or relevant information concerning
40 licensees that are within the jurisdiction of the Medical Board of

1 California, *the California Board of Podiatric Medicine*, or the
2 Board of Psychology shall be made available to the Health Quality
3 Enforcement Section.

4 (b) The Senior Assistant Attorney General of the Health Quality
5 Enforcement Section shall assign attorneys to assist the division
6 and the boards in intake and investigations and to direct
7 discipline-related prosecutions. Attorneys shall be assigned to
8 work closely with each major intake and investigatory unit of the
9 boards, to assist in the evaluation and screening of complaints from
10 receipt through disposition and to assist in developing uniform
11 standards and procedures for the handling of complaints and
12 investigations.

13 A deputy attorney general of the Health Quality Enforcement
14 Section shall frequently be available on location at each of the
15 working offices at the major investigation centers of the boards,
16 to provide consultation and related services and engage in case
17 review with the boards' investigative, medical advisory, and intake
18 staff. The Senior Assistant Attorney General and deputy attorneys
19 general working at his or her direction shall consult as appropriate
20 with the investigators of the boards, medical advisors, and
21 executive staff in the investigation and prosecution of disciplinary
22 cases.

23 (c) The Senior Assistant Attorney General or his or her deputy
24 attorneys general shall assist the boards, division, or ~~allied health~~
25 ~~committees, including the Board of Podiatric Medicine, committees~~
26 in designing and providing initial and in-service training programs
27 for staff of the division, boards, or ~~allied health~~ committees,
28 including, but not limited to, information collection and
29 investigation.

30 (d) The determination to bring a disciplinary proceeding against
31 a licensee of the division or the boards shall be made by the
32 executive officer of the division, ~~the board, or allied health~~
33 ~~committee, including the Board of Podiatric Medicine, or the Board~~
34 ~~of Psychology boards, or committees~~, as appropriate in consultation
35 with the senior assistant.

36 (e) This section shall become operative July 1, ~~2008~~ 2010.

37 *SEC. 26. Section 12529.6 of the Government Code is amended*
38 *to read:*

39 12529.6. (a) The Legislature finds and declares that the
40 Medical Board of California, by ensuring the quality and safety

1 of medical care, performs one of the most critical functions of state
2 government. Because of the critical importance of the board's
3 public health and safety function, the complexity of cases involving
4 alleged misconduct by physicians and surgeons, and the evidentiary
5 burden in the board's disciplinary cases, the Legislature finds and
6 declares that using a vertical *enforcement and* prosecution model
7 for those investigations is in the best interests of the people of
8 California.

9 (b) Notwithstanding any other provision of law, as of January
10 1, 2006, each complaint that is referred to a district office of the
11 board for investigation shall be simultaneously and jointly assigned
12 to an investigator and to the deputy attorney general in the Health
13 Quality Enforcement Section responsible for prosecuting the case
14 if the investigation results in the filing of an accusation. The joint
15 assignment of the investigator and the deputy attorney general
16 shall exist for the duration of the disciplinary matter. During the
17 assignment, the investigator so assigned shall, under the direction
18 *but not the supervision* of the deputy attorney general, be
19 responsible for obtaining the evidence required to permit the
20 Attorney General to advise the board on legal matters such as
21 whether the board should file a formal accusation, dismiss the
22 complaint for a lack of evidence required to meet the applicable
23 burden of proof, or take other appropriate legal action.

24 (c) The Medical Board of California, the Department of
25 Consumer Affairs, and the Office of the Attorney General shall,
26 if necessary, enter into an interagency agreement to implement
27 this section.

28 (d) This section does not affect the requirements of Section
29 12529.5 as applied to the Medical Board of California where
30 complaints that have not been assigned to a field office for
31 investigation are concerned.

32 (e) *It is the intent of the Legislature to enhance the vertical
33 enforcement and prosecution model as set forth in subdivision (a).
34 The Medical Board of California shall do both of the following:*

35 (1) *Increase its computer capabilities and compatibilities with
36 the Health Quality Enforcement Section in order to share case
37 information.*

38 (2) *Establish and implement a plan to locate its enforcement
39 staff and the staff of the Health Quality Enforcement Section in*

1 *the same offices, as appropriate, in order to carry out the intent*
2 *of the vertical enforcement and prosecution model.*

3 (e)

4 (f) This section shall become inoperative on July 1, ~~2008~~ 2010,
5 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted
6 statute, that is enacted before January 1, ~~2009~~ 2011, deletes or
7 extends the dates on which it becomes inoperative and is repealed.

8 *SEC. 27. Section 12529.7 of the Government Code is amended*
9 *to read:*

10 12529.7. By July 1, ~~2007~~ 2009, the Medical Board of
11 California, in consultation with the Department of Justice, the
12 Department of Consumer Affairs, the Department of Finance, and
13 the Department of Personnel Administration, shall report and make
14 recommendations to the Governor and the Legislature on the
15 vertical *enforcement and prosecution* model created under Section
16 12529.6.

17 *SEC. 28. Section 1.5 of this bill incorporates amendments to*
18 *Section 490 of the Business and Professions Code proposed by*
19 *both this bill and AB 1025. It shall only become operative if (1)*
20 *both bills are enacted and become effective on or before January*
21 *1, 2008, (2) each bill amends Section 490 of the Business and*
22 *Professions Code, and (3) this bill is enacted after AB 1025, in*
23 *which case Section 1 of this bill shall not become operative.*

24 *SEC. 29. Sections 21.5 and 22.5 of this bill incorporate*
25 *amendments to Section 12529 of the Government Code proposed*
26 *by both this bill and SB 1048. They shall only become operative*
27 *if (1) both bills are enacted and become effective on or before*
28 *January 1, 2008, (2) each bill amends Section 12529 of the*
29 *Government Code, and (3) this bill is enacted after SB 1048, in*
30 *which case Sections 21 and 22 of this bill shall not become*
31 *operative.*

32 *SEC. 30. Sections 23.5 and 24.5 of this bill incorporate*
33 *amendments to Section 12529.5 of the Government Code proposed*
34 *by both this bill and SB 1048. They shall only become operative*
35 *if (1) both bills are enacted and become effective on or before*
36 *January 1, 2008, (2) each bill amends Section 12529.5 of the*
37 *Government Code, and (3) this bill is enacted after SB 1048, in*
38 *which case Sections 23 and 24 of this bill shall not become*
39 *operative.*

1 ~~SEC. 3.~~

2 *SEC. 31.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

O