

Senate Bill No. 823

Passed the Senate August 31, 2008

Secretary of the Senate

Passed the Assembly August 19, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 101, 146, 149, 473.1, 2902, 2914, 4038, 4841.5, 4939, 4980.40, 7313, 7362, 7395.1, 7407, and 8027 of, to amend and repeal Section 4980.37 of, and to add Sections 115.5, and 4980.36 to, the Business and Professions Code, to add Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, and to add Section 11105.8 to the Vehicle Code, relating to postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, Perata. California Private Postsecondary Education Act of 2008.

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions.

The former act established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. Existing law extends the existence of these funds until July 1, 2008. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes. A provision provided for the act's repeal on January 1, 2008.

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2008. The bill would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs as a successor agency to the former bureau. The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund, which the bill would rename the Private Postsecondary Education Administration Fund, and the continuously appropriated Student Tuition Recovery Fund, and would also provide that certain

violations of the new act would be punishable as infractions. The bill would impose reporting requirements on the bureau and the office of the Legislative Analyst regarding bureau compliance within this act. The bill would also express the intent of the Legislature that the Bureau of State Audits conducts an audit that assesses the extent the requirements of this act are met.

The bill would express the intent of the Legislature that the California Private Postsecondary Education Act of 2008 be resolved in a comprehensive measure, as specified. Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) Existing law provides for the licensure or registration and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences and requires that applicants for licensure or registration, among other requirements, possess a doctor's or master's degree from a specified school, college, or university, containing no less than 48 semester or 72 quarter units of instruction in specified areas. Existing law requires that the doctor's or master's degree program contain no less than 6 semester or 9 quarter units of supervised practicum, as specified, and requires that the practicum include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups. Existing law also requires the degree program to satisfy certain criteria in order to meet the educational qualifications for licensure.

This bill would limit the application of these requirements to applicants for licensure or registration who begin graduate study before August 1, 2012, and would impose additional requirements on applicants who do not complete that study on or before December 31, 2018, on applicants who graduate from a degree program that meets those requirements, and on those who begin graduate study on or after August 1, 2012. The bill would require that these applicants, among other things, possess a doctor's or master's degree containing no less than 60 semester or 90 quarter units of instruction in certain areas, including, but not limited to, cooccurring disorders, multicultural development and cross-cultural interaction, and an understanding of the effects of socioeconomic status on treatment and available resources, as specified. The bill would require that these units include 6 semester or 9 quarter units of practicum that provides training in specified areas and includes

a minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. The bill would additionally, with respect to these applicants, revise the requirements needed for the degree program to meet the educational qualifications for licensure, as specified.

(3) This bill would condition the enactment of certain provisions relating to licensure requirements upon the enactment of both this bill and SB 1218 of the 2007–08 Regular Session. The bill would make another provision operative only if this bill is enacted and SB 1218 is not enacted.

(4) 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 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 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 Hearing Aid Dispensers Bureau.
- (ah) The Physician Assistant Committee.
- (ai) The Speech-Language Pathology and Audiology Board.
- (aj) The California Board of Occupational Therapy.
- (ak) The Osteopathic Medical Board of California.
- (al) The Bureau of Naturopathic Medicine.
- (am) The Dental Hygiene Committee of California.
- (an) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 115.5 is added to the Business and Professions Code, to read:

115.5. The department may design and administer a process for the approval of programs offered to veterans of the Armed Forces, and for the approval and supervision of the institutions offering programs to veterans, pursuant to any applicable act of Congress and the regulations adopted pursuant to that act. For purposes of this section, the department:

(a) Is designated as the state approving agency for veterans' institutions and veterans' programs, and is authorized to be reimbursed for its services in this regard.

(b) Has the same powers conferred on the Director of Education by Article 6 (commencing with Section 12090) of Chapter 1 of Part 8 of Division 1 of Title 1 of the Education Code, to enter into

agreements and cooperate with the United States Department of Veterans Affairs, or any other federal agency, regarding approval of programs, and the approval and supervision of institutions that offer programs to veterans.

SEC. 3. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) or (d) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivisions (c) and (d) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Sections 2052 and 2054.
- (2) Section 2630.
- (3) Section 2903.
- (4) Section 3660.
- (5) Sections 3760 and 3761.
- (6) Section 4080.
- (7) Section 4825.
- (8) Section 4935.
- (9) Section 4980.
- (10) Section 4996.
- (11) Section 5536.
- (12) Section 6704.
- (13) Section 6980.10.

- (14) Section 7317.
- (15) Section 7502 or 7592.
- (16) Section 7520.
- (17) Section 7617 or 7641.
- (18) Subdivision (a) of Section 7872.
- (19) Section 8016.
- (20) Section 8505.
- (21) Section 8725.
- (22) Section 9681.
- (23) Section 9840.
- (24) Subdivision (c) of Section 9891.24.
- (25) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary Education pursuant to Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 4. Section 149 of the Business and Professions Code is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

- (1) Cease the unlawful advertising.
- (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he

or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Funeral Directors and Embalmers Program.
- (3) The Veterinary Medical Board.
- (4) The Hearing Aid Dispensers Advisory Commission.
- (5) The Landscape Architects Technical Committee.
- (6) The California Board of Podiatric Medicine.
- (7) The Respiratory Care Board of California.
- (8) The Bureau of Home Furnishings and Thermal Insulation.
- (9) The Bureau of Security and Investigative Services.
- (10) The Bureau of Electronic and Appliance Repair.
- (11) The Bureau of Automotive Repair.
- (12) The Tax Preparers Program.
- (13) The California Architects Board.
- (14) The Speech-Language Pathology and Audiology Board.
- (15) The Board for Professional Engineers and Land Surveyors.
- (16) The Board of Behavioral Sciences.
- (17) The State Board for Geologists and Geophysicists.
- (18) The Structural Pest Control Board.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The California Board of Accountancy.
- (22) The Bureau of Naturopathic Medicine.
- (23) The Bureau for Private Postsecondary Education.

SEC. 5. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.

(b) The Bureau for Private Postsecondary Education. For purposes of this chapter, “board” includes the bureau.

(c) The Cemetery and Funeral Bureau.

SEC. 6. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this chapter expressly otherwise provided the following definitions apply:

(a) “Licensed psychologist” means an individual to whom a license has been issued pursuant to the provisions of this chapter, which license is in force and has not been suspended or revoked.

(b) “Board” means the Board of Psychology.

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words “psychology,” “psychological,” “psychologist,” “psychology consultation,” “psychology consultant,” “psychometry,” “psychometrics” or “psychometrist,” “psychotherapy,” “psychotherapist,” “psychoanalysis,” or “psychoanalyst,” or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

(d) “Accredited,” as used with reference to academic institutions, means the University of California, the California State University, or an institution that is accredited by a national or an applicable regional accrediting agency recognized by the United States Department of Education.

(e) “Approved,” as used with reference to academic institutions, means an institution having “approval to operate,” as defined in Section 94817 of the Education Code.

SEC. 7. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section.

No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board

that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board.

The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) Show by evidence satisfactory to the board that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

(f) (1) Show by evidence satisfactory to the board that he or she has completed coursework in spousal or partner abuse assessment, detection, and intervention. This requirement applies to applicants who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003.

(2) An applicant who began graduate training on or after January 1, 2004, shall show by evidence satisfactory to the board that he or she has completed a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the direct provision of mental health services.

(3) Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) An applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if all of the following are true:

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

(2) The approved institution has not, since July 1, 1999, had a change of location, as described in Section 94822 of the Education Code.

(3) The approved institution is not a franchise institution, as defined in Section 94841.5 of the Education Code.

SEC. 8. Section 4038 of the Business and Professions Code is amended to read:

4038. (a) "Pharmacy technician" means an individual who assists a pharmacist in a pharmacy in the performance of his or her pharmacy related duties, as specified in Section 4115.

(b) A "pharmacy technician trainee" is a person who is enrolled in a pharmacy technician training program operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary Education.

SEC. 9. Section 4841.5 of the Business and Professions Code is amended to read:

4841.5. To be eligible to take the written and practical examination for registration as a registered veterinary technician, the applicant shall:

(a) Be at least 18 years of age.

(b) Furnish satisfactory evidence of graduation from, at minimum, a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the board, or the equivalent thereof as determined by the board. In the case

of a private postsecondary institution, the institution shall also be approved by the Bureau for Private Postsecondary Education.

SEC. 10. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) The board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Standards for the approval of training programs shall include a minimum of 3,000 hours of study in curriculum pertaining to the practice of an acupuncturist. This subdivision shall apply to all students entering programs on or after January 1, 2005.

(c) Within three years of initial approval by the board, each program so approved by the board shall receive full institutional approval under Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code as it existed on June 20, 2007, or Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority, or the approval of the program shall automatically lapse.

SEC. 11. Section 4980.36 is added to the Business and Professions Code, to read:

4980.36. (a) This section applies to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree meeting the requirements of this section in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy,

obtained from a school, college, or university approved by the Bureau for Private Postsecondary and Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, including an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and

family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. Up to 75 of those hours may be gained performing client centered advocacy, as defined in Section 4980.03.

(iii) A student shall be enrolled in a practicum course while counseling clients.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) An understanding of the effects of socioeconomic status on treatment and available resources.

(G) An understanding of resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance abuse, cooccurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, cooccurring disorders, and addiction. For purposes of this subparagraph, “cooccurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and cooccurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, cooccurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and cooccurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, cooccurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

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

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

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 12. Section 4980.37 of the Business and Professions Code is amended to read:

4980.37. (a) This section applies to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an

emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and the manner in which those theories may be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children. The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness

prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population,

including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low-income and multicultural mental health settings.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 13. Section 4980.40 of the Business and Professions Code is amended to read:

4980.40. To qualify for a license, an applicant shall have all the following qualifications:

(a) Applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education, or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.

(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years of experience that meet the requirements of Section 4980.43.

(g) The applicant shall pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and

passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(i) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a qualifying degree that is equivalent to a degree earned from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau of Private Postsecondary Education. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the board deems necessary.

SEC. 14. Section 7313 of the Business and Professions Code is amended to read:

7313. (a) (1) To ensure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit during business hours or at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below

the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the board, the executive officer and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Bureau for Private Postsecondary Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 15. Section 7362 of the Business and Professions Code is amended to read:

7362. (a) A school approved by the board is one which is approved by the Bureau for Private Postsecondary Education, or a public school in this state, and provides a course of instruction approved by the board.

(b) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

SEC. 16. Section 7395.1 of the Business and Professions Code is amended to read:

7395.1. (a) A student who is enrolled in a school of cosmetology approved by the Bureau for Private Postsecondary Education in a course approved by the board may, upon completion

of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

- (1) The establishment is licensed by the board.
- (2) The establishment has a minimum of four licensees working at the establishment, including employees and owners or managers.
- (3) All licensees at the establishment are in good standing with the board.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and to all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the board.

(d) (1) A school participating in the externship program shall provide the participating establishment and the extern with a syllabus containing applicable information specified in Section 73880 of Title 5 of the California Code of Regulations. The extern, the school, and the establishment shall agree to the terms of and sign the syllabus prior to the extern beginning work at the establishment. No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

SEC. 17. Section 7407 of the Business and Professions Code is amended to read:

7407. The board shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the board's contingent fund.

The schedule shall indicate for each type of violation whether, in the board's discretion, the violation can be corrected. The board shall review and revise the schedule of administrative fines for violations by January 1, 2005. The board shall ensure that it and the Bureau for Private Postsecondary Education do not issue citations for the same violation.

SEC. 18. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, "school" means a court reporter training program or an institution that provides a course of instruction approved by the board and the Bureau for Private Postsecondary Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the California Department of Education, the Bureau for Private Postsecondary Education, the Chancellor's Office of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of

denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the

student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools, including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees, including, but not limited to, those qualified by each recognized or provisionally recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(j) Inspections and investigations shall be conducted by the board as necessary to carry out this section, including, but not limited to, unannounced site visits.

(k) All recognized and provisionally recognized schools shall print in their school or course catalog the name, address, and telephone number of the board. At a minimum, the information shall be in 8-point bold type and include the following statement:

“IN ORDER FOR A PERSON TO QUALIFY FROM A SCHOOL TO TAKE THE STATE LICENSING EXAMINATION, THE PERSON SHALL COMPLETE A PROGRAM AT A RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING THE MINIMUM REQUIREMENTS THAT A COURT REPORTING PROGRAM MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT: THE COURT REPORTERS BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE NUMBER).”

(l) Each court reporting school shall file with the board, not later than June 30 of each year, a current school catalog that shows all course offerings and staff, and for private schools, the owner, except that where there have been no changes to the catalog within the previous year, no catalog need be sent. In addition, each school shall also file with the board a statement certifying whether the school is in compliance with all statutes and the rules and regulations of the board, signed by the responsible court reporting program manager.

(m) A school offering court reporting may not make any written or verbal claims of employment opportunities or potential earnings

unless those claims are based on verified data and reflect current employment conditions.

(n) If a school offers a course of instruction that exceeds the board's minimum requirements, the school shall disclose orally and in writing the board's minimum requirements and how the course of instruction differs from those criteria. The school shall make this disclosure before a prospective student executes an agreement obligating that person to pay any money to the school for the course of instruction. The school shall also make this disclosure to all students enrolled on January 1, 2002.

(o) Private and public schools shall provide each prospective student with all of the following and have the prospective student sign a document that shall become part of that individual's permanent record, acknowledging receipt of each item:

(1) A student consumer information brochure published by the board.

(2) A list of the school's graduation requirements, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary.

(3) A list of requirements to qualify for the state certified shorthand reporter licensing examination, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary, if different than those requirements listed in paragraph (2).

(4) A copy of the school's board-approved benchmarks for satisfactory progress as identified in subdivision (u).

(5) A report showing the number of students from the school who qualified for each of the certified shorthand reporter licensing examinations within the preceding two years, the number of those students that passed each examination, the time, as of the date of qualification, that each student was enrolled in court reporting school, and the placement rate for all students that passed each examination.

(6) On and after January 1, 2005, the school shall also provide to prospective students the number of hours each currently enrolled student who has qualified to take the next licensing test, exclusive of transfer students, has attended court reporting classes.

(p) All enrolled students shall have the information in subdivisions (n) and (o) on file no later than June 30, 2005.

(q) Public schools shall provide the information in subdivisions (n) and (o) to each new student the first day he or she attends theory or machine speed class, if it was not provided previously.

(r) Each enrolled student shall be provided written notification of any change in qualification or graduation requirements that is being implemented due to the requirements of any one of the school's oversight agencies. This notice shall be provided to each affected student at least 30 days before the effective date of the change and shall state the new requirement and the name, address, and telephone number of the agency that is requiring it of the school. Each student shall initial and date a document acknowledging receipt of that information and that document, or a copy thereof, shall be made part of the student's permanent file.

(s) Schools shall make available a comprehensive final examination in each academic subject to any student desiring to challenge an academic class in order to obtain credit towards certification for the state licensing examination. The points required to pass a challenge examination shall not be higher than the minimum points required of other students completing the academic class.

(t) An individual serving as a teacher, instructor, or reader shall meet the qualifications specified by regulation for his or her position.

(u) Each school shall provide a substitute teacher or instructor for any class for which the teacher or instructor is absent for two consecutive days or more.

(v) The board has the authority to approve or disapprove benchmarks for satisfactory progress which each school shall develop for its court reporting program. Schools shall use only board-approved benchmarks to comply with the provisions of paragraph (4) of subdivision (o) and subdivision (u).

(w) Each school shall counsel each student a minimum of one time within each 12-month period to identify the level of attendance and progress, and the prognosis for completing the requirements to become eligible to sit for the state licensing examination. If the student has not progressed in accordance with the board-approved benchmarks for that school, the student shall be counseled a minimum of one additional time within that same 12-month period.

(x) The school shall provide to the board, for each student qualifying through the school as eligible to sit for the state licensing

examination, the number of hours the student attended court reporting classes, both academic and machine speed classes, including theory.

(y) The pass rate of first-time exam takers for each school offering court reporting shall meet or exceed the average pass rate of all first-time test takers for a majority of examinations given for the preceding three years. Failure to do so shall require the board to conduct a review of the program. In addition, the board may place the school on probation and may withdraw recognition if the school continues to place below the above described standard on the two exams that follow the three-year period.

(z) A school shall not require more than one 10-minute qualifying examination, as defined in the regulations of the board, for a student to be eligible to sit for the state certification examination.

(aa) A school shall provide the board the actual number of hours of attendance for each applicant the school qualifies for the state licensing examination.

(ab) The board shall, by December 1, 2001, do the following by regulation as necessary:

(1) Establish the format that shall be used by schools to report tracking of all attendance hours and actual timeframes for completed coursework.

(2) Require schools to provide a minimum of 10 hours of live dictation class each school week for every full-time student.

(3) Require schools to provide students with the opportunity to read back from their stenographic notes a minimum of one time each day to his or her instructor.

(4) Require schools to provide students with the opportunity to practice with a school-approved speed-building tape, or other assigned material, a minimum of one hour per day after school hours as a homework assignment and provide the notes from this tape to their instructor the following day for review.

(5) Develop standardization of policies on the use and administration of qualifier examinations by schools.

(6) Define qualifier exam as follows: the qualifier exam shall consist of 4-voice testimony of 10-minute duration at 200 wpm, graded at 97.5 percent accuracy, and in accordance with the guidelines followed by the board. Schools shall be required to date and number each qualifier and announce the date and number to

the students at the time of administering the qualifier. All qualifiers shall indicate the actual dictation time of the test and the school shall catalog and maintain the qualifier for a period of not less than three years for the purpose of inspection by the board.

(7) Require schools to develop a program to provide students with the opportunity to interact with professional court reporters to provide skill support, mentoring, or counseling which they can document at least quarterly.

(8) Define qualifications and educational requirements required of instructors and readers that read test material and qualifiers.

(ac) The board shall adopt regulations to implement the requirements of this section not later than September 1, 2002.

(ad) The board may recover costs for any additional expenses incurred under the enactment amending this section in the 2001–02 Regular Session of the Legislature pursuant to its fee authority in Section 8031.

SEC. 19. Chapter 8 (commencing with Section 94800) is added to Part 59 of Division 10 of Title 3 of the Education Code, to read:

CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

Article 1. General Provisions

94800. This chapter shall be known, and may be cited, as the California Private Postsecondary Education Act of 2008.

94801. Whenever a reference is made to the Bureau for Private Postsecondary and Vocational Education, by the provisions of any statute or regulation, that reference shall be construed as referring to the Bureau for Private Postsecondary Education. Whenever a reference is made to the Council for Private Postsecondary Education and Vocation Education, by the provisions of any statute of regulation, that reference shall be construed as referring to the Bureau for Private Postsecondary Education.

94801.1. The Legislature finds and declares the following:

(a) In 2007, there were more than 400,000 Californians attending more than 1,500 private postsecondary schools in California. Many of these students are low-income students who incur up to tens of thousands of dollars in long-term debt in an effort to learn a trade and become employed in order to financially provide for themselves and their families.

(b) Private postsecondary schools complement the public education system and help develop a trained workforce to meet the demands of California businesses and the economy.

(c) Numerous reports and studies have concluded that California regulatory oversight failed to enforce student protections or provide effective oversight of private postsecondary schools. The law and regulatory oversight were nearly allowed to expire, and only reinstated by urgency legislation in 1997, allowed to expire on June 30, 2007, with some skeletal functions continued by urgency legislation and allowed to expire on June 30, 2008, thereby creating an urgent need to reform the law and create a new regulatory structure to take effect as soon as possible.

(d) This chapter intends to provide a body of law that ensures all of the following:

(1) Minimum educational quality standards and opportunities for success for California students attending private postsecondary schools.

(2) Meaningful student protections through essential avenues of recourse for students.

(3) A regulatory structure that provides for an appropriate level of oversight.

(4) A regulatory governance structure that ensures that all stakeholders have a voice and are heard in policymaking by the new bureau created by this chapter.

(5) A regulatory governance structure that provides for accountability and oversight by the Legislature through program monitoring and periodic reports.

(e) It is widely believed that up to 20 percent of the private postsecondary education provided in California in 2007 is Internet based. Therefore, this chapter calls for a thorough review of Internet-based private postsecondary education. This review is intended to serve as a basis for future policymakers to address any deficiencies in law in regulating Internet-based private postsecondary education.

(f) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and the Legislature should act quickly to correct them. A failure to act in a timely manner allowed expiration

of the regulatory structure on June 30, 2007. This history should never be repeated.

94801.2. (a) The Legislature finds that the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (ACSCU) and the Accrediting Commission for Community and Junior Colleges and Universities, Western Association of Schools and Colleges (ACCJC) (collectively WASC) serve as unique and reliable authorities for establishing and maintaining standards for public and private institutions providing postsecondary education in California for the following reasons:

(1) WASC has acted as the regional accrediting association for colleges and universities based in California for more than 40 years. This includes all campuses of the University of California, California State University, and California Community Colleges. Its effectiveness has been affirmed in numerous past external studies.

(2) For private institutions, ACSCU and ACCJC require, as one condition for eligibility for accreditation, that an applicant institution first apply to and obtain approval from the Bureau of Private Postsecondary Education, thereby assuring Californians that all applicant institutions have been found by the bureau to meet the state's licensure standards prior to being considered for accreditation.

(3) A majority of the commission members on the ACSCU and ACCJC are residents of California and represent a diversity of backgrounds and interests.

(4) WASC does not discriminate based on location or geography. ACSCU and ACCJC policies and practices permit an institution that is accredited by a different regional accrediting association to apply for accreditation from ACSCU and ACCJC if that institution maintains sufficient presence in California. Institutions accredited by a different regional accrediting association have been granted accreditation by WASC.

(5) Through a full faith and credit agreement with other regional accredited agencies, WASC has a process whereby institutions accredited by other regional accrediting agencies may also be accredited by WASC in an expeditious manner. This agreement allows institutions that are accredited by other regional accrediting agencies to be accredited by WASC in a matter of only a few

months, compared to a process that may normally take several years.

(6) ACCJC provides periodic on campus visits to all WASC accredited institutions and for each California campus.

(7) ACSCU and ACCJC regularly meet in California, publish the time and place of meetings in advance, and permit and encourage interested Californians to attend the public portions of meetings and comment on policies under consideration by their respective commissions.

(8) WASC has demonstrated transparency and accountability for Californians, on-campus oversight, and student protection for Californians.

(9) In 2007, the United State District Court, Central District of California, issued a judgment in *Saro Daghlian vs. DeVry University, Inc.*, which is currently on appeal before the United States Court of Appeals for the Ninth Circuit. In this case, the district court found a portion of the 1989 Postsecondary and Vocational Education Reform Act (Reform Act) to impermissibly discriminate against out-of-state regionally accredited educational institutions. These legislative findings pertinent to the regional accreditation process were not available to the district court at the time of its judgment. Additionally, the scope, requirements, and approval process of this chapter are distinct from that of the Reform Act. Consequently, the Legislature finds and declares that the legislative findings not previously available to the court and the contents of the chapter will both effectively distinguish themselves from the Reform Act and preclude the application of the district court's reasoning in *Saro Daghlian vs. DeVry University, Inc.* to this act.

(b) Based on the above findings, the Legislature finds that there are compelling reasons to grant WASC accredited institutions a complete exemption from the requirements of this chapter.

94801.3. The Bureau for Private Postsecondary Education is subject to periodic and ongoing review by the Legislature.

94801.4. It is the intent and purpose of this chapter to protect students, reputable institutions, the public, and the economy of the state; ensure appropriate operational standards; ensure institutional stability; ensure minimum standards for educational quality, including through required uniform disclosures of program completion and student placement in occupations or job titles to

which training is represented to lead and salaries paid graduates in those occupations or job titles; prohibit misrepresentations, including misrepresentations related to the quality of education, the availability and quality of equipment, software, and materials, the transferability of credits, and employment availability and range of salary opportunities; require full disclosure of all material facts regarding the course or program of instruction; and protect the citizens of California against fraud, misrepresentation, or other practices that may lead to loss of funds paid for educational costs, whether financed through personal resources, state and federal student financial aid, or private loans. It is also the intent and purpose of this chapter to ensure that the public has information needed to assess whether the cost to taxpayers of government loans and grants for instruction is commensurate with the benefits obtained by students and flowing to the state's economy.

94801.5. There is a Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The bureau has the responsibility for approving and regulating private postsecondary educational institutions and programs.

94801.6. (a) Protection of the public shall be the highest priority for the bureau in exercising its approval, regulatory, and disciplinary functions. The bureau shall have all of the following objectives:

- (1) Protection of the public from fraud and misrepresentation and from illegal, unscrupulous, or unethical practices.
- (2) To encourage students to make informed decisions.
- (3) The development of a strong, vigorous, and widely respected sector of private postsecondary education that protects the interests of students and the public and serves the interests of the economy of California.

(b) Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

94801.7. The proceedings under this chapter shall be conducted by the bureau in accordance with the provisions of this chapter or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code at the bureau's option. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part

1 of Division 3 of Title 2 of the Government Code, this chapter shall prevail.

94801.8. Except as otherwise provided in this chapter, regulations required by and necessary to fully implement this chapter shall be adopted by January 1, 2010, and shall be amended periodically as needed by the bureau to fully implement the intent of this article.

Article 2. Transition Provisions

94802. (a) An institution, program, or course of study that had a valid approval to operate on June 30, 2007, issued by the Bureau for Private Postsecondary and Vocational Education pursuant to Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3, as it existed on June 30, 2007, which was not revoked, shall maintain that approval under this chapter. For the purposes of this chapter, the approval shall be valid until two calendar years after the expiration date of the approval, as it existed on June 30, 2007.

(b) Applications for reapproval that had been pending action before the Bureau for Private Postsecondary and Vocational Education on June 30, 2007, shall be deemed processed as follows:

(1) Applications received prior to January 1, 2006, shall be granted a reapproval until 2009 to coincide with the anniversary date of the current approval.

(2) Applications received after January 1, 2006, shall be granted a reapproval until 2010 to coincide with the anniversary date of the current approval.

(c) Students enrolling in institutions approved under subdivision (b) shall be notified during the enrollment process that the institution's application for reapproval to operate has not been reviewed by the bureau.

(d) With respect to any deadline applicable to the approval, renewal of approval, or conditional approval of an institution or program, no time shall be deemed to have elapsed between July 1, 2007, and January 1, 2009, inclusive.

94803. Notwithstanding any other provision of law:

(a) Each unresolved matter submitted to the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, shall be deemed to remain pending before the bureau irrespective

of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be deemed to have elapsed from July 1, 2007, through January 1, 2009, inclusive.

(1) For the purposes of this subdivision, “matter” includes, but is not necessarily limited to, an appeal, a complaint, a claim, an evaluation, a hearing, or an investigation.

(2) For the purposes of this subdivision, “matter” does not include a Student Tuition Recovery Fund claim.

(b) Student complaints between from July 1, 2007, to December 31, 2008, inclusive, shall continue to be duly recorded and investigated and shall be determined based on law that was in effect at the time the violations or events complained of occurred.

(c) For any claims that a student had based on a violation of the Private Postsecondary and Vocational Education Reform Act of 1989 on or before June 30, 2007, Chapter 67 of the Statutes of 2007, or Chapter 635 of the Statutes of 2007, the period from June 30, 2007, to January 1, 2009, inclusive, shall be excluded in determining the deadline or the statute of limitation for filing any claim with the bureau or a lawsuit based on any claim.

(d) All claims, except claims to the Student Tuition Recovery Fund, and all complaints, including those contained in a lawsuit or other legal action, shall be determined or adjudicated based on the law that was in effect when the violations or events took place, even though those provisions have become inoperative, been repealed, or otherwise expired.

94803.5. (a) Each regulation in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations in effect on June 30, 2007, shall be in full force and effect on and after January 1, 2009. The bureau may amend Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations to amend or repeal any regulation that is inconsistent with this chapter.

(b) The bureau may adopt emergency regulations, as necessary, to allow for the immediate implementation of this chapter.

(c) Regulations promulgated pursuant to this chapter shall be consistent with the director’s, or his or her designee’s, powers and duties under Section 310 of the Business and Professions Code and legislative intent under Section 301 of the Business and Professions Code.

94804. The bureau shall succeed to any and all rights and claims of the former Bureau for Private Postsecondary and Vocational Education that may have been asserted in a judicial or administrative action pending on July 1, 2007, and shall take any action reasonably necessary to assert and realize those rights and claims in its own name. The functions of the former Bureau for Private Postsecondary and Vocational Education, and the responsibilities the former bureau had for the administration of former Chapter 7 (commencing with Section 94700) on June 30, 2007, and January 1, 2008, are transferred to the new Bureau for Private Postsecondary Education, effective January 1, 2009, as provided by this chapter. Notwithstanding any other provision of law, Section 19050.9 of the Government Code shall apply regardless of the date on which former Chapter 7 (commencing with Section 94700) became inoperative or was repealed.

94805. The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Bureau for Private Postsecondary and Vocational Education in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.

94806. (a) The Private Postsecondary and Vocational Education Administration Fund established by former Section 94932 of the Education Code, and extended and reconfigured by Chapter 635 of the Statutes of 2007, is continued in existence, and is renamed the Private Postsecondary Education Administration Fund.

(b) It is the intent of the Legislature that the Private Postsecondary Education Administration Fund be administered, and that fees be established and collected, in a manner that assures full and effective implementation of this chapter.

94807. The Student Tuition Recovery Fund established by former Section 94944 of the Education Code, extended and reconfigured by Chapter 67 of the Statutes of 2007, and continued in existence by Chapter 635 of the Statutes of 2007, is further continued in existence.

94808. (a) Any Student Tuition Recovery Fund claims received by the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, that were not processed by the former Bureau for Private Postsecondary and Vocational Education

and were not paid by the department between July 1, 2007, and December 31, 2008, inclusive, shall be processed by the bureau in accordance with this chapter based on the terms and conditions set forth in former Section 94944 of the Education Code, except that any payments of claims from the fund shall be paid from the single Student Tuition Recovery Fund as continued in Article 13 (commencing with Section 94923).

(b) Any Student Tuition Recovery Fund claims received by the department between July 1, 2007, and December 31, 2008, inclusive, shall be processed by the bureau in accordance with this chapter based on the terms and conditions set forth in former Section 94944 of the Education Code, except that any payments on claims to the fund shall be paid from the single Student Tuition Recovery Fund as continued in Article 13 (commencing with Section 94923).

(c) Student Tuition Recovery Fund claims filed with, and approved by, the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, if not already paid, shall be paid before any later approved claims.

(d) The student's right to recovery from the Student Tuition Recovery Fund shall be based on the law that was in effect when the student enrolled and a fee for the fund was charged as a part of tuition costs, even though that law has become inoperative, been repealed or otherwise expired, and whether or not a claim was filed prior to the law becoming inoperative, repealed, or otherwise expired.

94809. (a) An institution that did not have a valid approval issued by, or an application for approval pending with, the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, that began operations on or after July 1, 2007, may continue to operate through December 31, 2009, but shall comply with and is subject to this chapter, and shall submit an application to the bureau pursuant to this chapter which shall be treated in all respects as an initial application for approval.

(b) Students enrolling in institutions approved under subdivision (a) shall be notified during the enrollment process before entering into any enrollment agreement that the institution's approval to operate has not been reviewed by the bureau.

94809.5. (a) Notwithstanding any exemption from this chapter or any other provision of law, the rights and obligations established

by the Private Postsecondary and Vocational Education Reform Act of 1989 on or before June 30, 2007, as preserved by Chapter 67 of the Statutes of 2007 and extended by Chapter 635 of the Statutes of 2007, shall be determined by the law in effect on or before June 30, 2007, and any claim or cause of action in any manner based on the act that arose on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the act on or before June 30, 2007, may be ordered or maintained thereafter.

(b) The rights, obligations, claims, causes of action, and remedies described in subdivision (a) shall remain subject to the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 in effect on or before June 30, 2007, notwithstanding the inoperative status or repeal of the Private Postsecondary and Vocational Education Reform Act of 1989 on or after July 1, 2007, or the repeal of Sections 1 to 8, inclusive, of Chapter 67 of the Statutes of 2007 by Chapter 635 of the Statutes of 2007 on or after July 1, 2008.

(c) This article shall apply retroactively from June 30, 2008.

Article 3. Definitions

94810. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

94811. “Ability-to-benefit student” means a student who does not have a certificate of graduation from a school providing secondary education, or a recognized equivalent of that certificate such as a GED prior to completion of the course.

94812. “Academic year” means a period, including a minimum of 30 weeks of instructional time, in which a full-time student attending an institution that measures educational program length in credit hours completes 24 semester or trimester hours or 36 quarter hours, or an institution that measures educational program length in clock hours completes at least 900 clock hours.

94813. “Accredited” means an institution is recognized or approved by an accrediting agency recognized by the United States Department of Education.

94814. “Accrediting agency” means an agency recognized by the United States Department of Education.

94815. “Annual report” means the report required to be filed pursuant to Section 94934.

94816. “Applicant” means a person or entity that has submitted an application for renewal or approval to operate on which the bureau has not yet made a determination. An applicant shall not enroll students or offer education without an approval to operate.

94817. “Approval to operate” means the authorization to offer to the public and to provide postsecondary educational programs, as well as the written document issued by the bureau to an institution signifying its approval to operate.

94818. “Avocational education” means education offered exclusively for the purpose of personal entertainment, pleasure, or enjoyment.

94819. “Branch campus” means a site other than the main campus or a satellite location.

94820. “Bureau” means the Bureau for Private Postsecondary Education in the Department of Consumer Affairs.

94820.2. “Cancellation period” means the initial period during which a student may cancel and receive a refund under Section 94919.

94820.5. “Certified” means having passed an examination that attests to the quality and level of knowledge by a qualified certification authority or organization that is not affiliated with an institution.

94821. “Change in business organization form” means a change of a business organization’s original form, including, for example, a situation in which a sole proprietorship becomes a partnership or corporation, or when a business organization becomes a nonprofit public benefit corporation or forms a nonprofit public benefit corporation as a subsidiary to provide the educational programs for which the business organization has an approval to operate.

94822. “Change of location” means a move or relocation more than 10 miles from the site at which the institution offers instruction.

94823. “Change of ownership” means the acquisition by a person of more than 50 percent of an interest in or stock of a parent company.

94823.5. “Class” or “course” means a subject, such as English or mathematics that is taught as part of a program.

94824. “Class day” means a day a student is scheduled to attend class session, or for students receiving instruction through distance education, any calendar day except Saturday, Sunday, or any holiday enumerated in Section 6700 of the Government Code.

94825. “Class session” means part of a class day that an institution conducts instruction in a particular subject.

94825.5. “Clock hour” means 50 to 60, inclusive, minutes and is used to measure the length of any program of study that does not lead to a degree.

94826. “Commence operations” means an institution has begun to provide educational programs.

94826.5. “Completion tracking period” means the two years before the year in which the completion numbers and rates are reported and disclosed.

94827. (a) “Continuing education” means instruction in subjects that licensees are required to take solely for the purpose of continued licensure, or to enhance their skills and knowledge within their particular profession, occupation, trade, or career field.

(b) “Continuing education” does not include any of the following:

(1) A vocational program.

(2) A degree program.

(3) An educational service where any part of the charge for which is paid from the proceeds of a loan or grant subject to a governmental student financial aid program.

94827.5. “Credit hour” means the unit of measure by which institutions measure its degree coursework. The number of credit hours assigned to a course is defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit hour is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week usually consists of a combination of one hour of lecture and two hours of homework or three hours of laboratory. Semester and quarter credit hours are based on at least a 15-week term or its equivalent. A quarter credit hour is based on at least a 10-week term or its equivalent.

94828. “Curriculum” means an organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma.

94828.5. “Custodian of records” means the person responsible for maintaining records.

94829. “Default” means failure of a borrower and endorser, if any, to make an installment payment for a loan received under the federal student financial aid programs when due, or to meet other terms of the promissory note, provided that this failure persists for 270 days if payment is due monthly or 330 days if payment is due less frequently.

94830. “Degree” means any type of degree or honorary degree or title of any designation, mark, appellation, series of letters or words including, but not necessarily limited to, associate, bachelor, master, doctor, or fellow, that signifies, purports to constitute, or is generally taken to signify, satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary educational level, or is an honorary title conferred for recognition of some meritorious achievement.

94831. “Degree title” means the designated subject area of the educational program that appears on the face of the document awarded to a student.

94831.1. “Department” means the Department of Consumer Affairs.

94832. “Diploma” means a recognized educational credential, other than a degree, awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program below the associate’s level. A diploma is also known as a certificate.

94833. “Director” means the Director of Consumer Affairs.

94834. “Distance learning” means lessons for study and completion by a student at a location separate from an institution with a physical location in California by home study, correspondence, or the Internet or other electronic means, including the instruction offered in combination with instruction at the institution.

94835. “Document or record” means any document required to be maintained by this chapter.

94836. “Educational materials” means textbooks, supplies, implements, tools, machinery, computers, software, electronic devices, or other goods related to any education, training, or experience required for participation in an educational program.

94837. “Educational program” means a planned sequence composed of a single course or module, or set of related courses or modules, that provides the education, training, skill, and experience leading to the award of a recognized educational credential such as a degree or diploma.

94838. “Educational program approval” means authorization by the bureau, another government agency of this state, or a federal government agency, to provide educational programs, and is an element of an approval to operate.

94838.5. (a) “Employment” means a paid position in a job, job title, vocation, occupation, or trade to which the program was represented to lead, in which all of the following occurred:

(1) A student was employed in the paid position for at least 60 days within the employment tracking period, in an occupation for which the student received his or her degree or diploma.

(2) The position requires education beyond the high school level.

(3) The routine work in the position requires utilization of the skills and knowledge reasonably expected to be imparted in a program culminating in the degree or certificate the student received.

(4) For occupations for which the state does not require passing an examination, the period of employment must begin within six months after a student completes a program.

(5) For occupations for which the state requires passing an examination, the period of employment begins within six months after the announcement of the examination results for the first examination available after a student completes a program.

(b) Employment includes self-employment.

94838.6. “Employment tracking period” means the two years before the year in which the employment numbers and rates are reported and disclosed.

94839. “Enrollment” means the execution of an enrollment agreement.

94840. “Enrollment agreement” means a written contract between a student or a person acting on behalf of a student and an institution concerning an educational program, including any contract for related equipment.

94841. “Faculty” means the instructional staff of an institution, whether these persons are employees or independent contractors.

For purposes of this chapter, “faculty,” “instructor,” “professor,” and “teacher” are synonymous.

94841.5. “Franchise institution” means a newly established location of an existing approved institution offering postsecondary education services leading to candidacy for psychology licensure that bears the same name as the existing approved institution and about which either of the following is true:

(a) The newly established location is owned or financially controlled by an individual or individuals other than those who own or financially control the existing approved institution.

(b) The newly established location is administered by an individual or individuals other than those persons who administer the existing approved institution.

94842. “Graduate” means an individual that has been awarded a degree or diploma.

94843. “Institution” means any private postsecondary educational institution, including its branch campuses and satellite locations.

94844. “Institutional charges” means charges for an educational program paid directly to an institution.

94845. “Institution manager” means an individual who is a member of an institution’s management.

94846. “Instruction” means an institution’s specific, formal arrangements in which its faculty present a part of the curriculum.

94847. “License and examination preparation” means instruction designed to assist students to prepare for an examination for licensure, or offered for the sole purpose of providing continuing education in subjects licensees are required to take as a condition of continued licensure.

94848. “Licensure” includes any license, certificate, permit, or similar credential that a person must hold to lawfully engage in a profession, occupation, trade, or career field.

94849. “Main campus,” “main location,” or “main site” means the institution’s sole or primary teaching location. If an institution operates at only one site, that site is its main campus, main location, or main site.

94849.5. “Minor violation” means a deviation from the requirements of this chapter, or regulations adopted pursuant to this chapter, that, for the purposes of administrative actions by the bureau only, in the determination of the bureau, has not or

reasonably will not result in harm to students and is not any of the following:

- (a) Committed knowingly, willfully, or intentionally.
- (b) A repeated violation.
- (c) A falsification of a document or record.
- (d) A public offense.

94850. “Noninstitutional charges” means charges for an educational program paid to an entity other than an institution that are specifically required for participation in an educational program.

94850.2. “Out-of-state institution” means an institution that has its place of instruction or its principal location outside the boundaries of this state, that offers or conducts programs on premises maintained by the institution outside the boundaries of this state, that provides distance learning materials from a location outside the boundaries of this state, that evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or that otherwise offers or provides California students with programs through activities engaged in or conducted outside the boundaries of this state.

94851. “Owner” means a person who has a legal or equitable interest in 10 percent or more of an institution’s stocks or assets.

94852. “Ownership” means a legal or equitable interest in an institution, including ownership of assets or stock.

94853. “Parent company” means a partnership, limited liability company, or corporation that owns more than 50 percent of the stock or interest in an institution.

94854. “Period of attendance” means a semester, quarter, or trimester for programs that offer a degree, and the entire educational program for programs that offer a diploma.

94855. “Person” means a natural person or a business entity, regardless of the form or organization.

94856. “Person in control” means a person who has sufficient capacity, directly or indirectly, to direct or influence the management, policies, or conduct of an institution so that the person can cause or prevent a violation of this chapter. There is a rebuttable presumption affecting the burden of proof that an owner, director, or officer of an institution is a person in control.

94857. “Postsecondary education” means a formal institutional educational program whose curriculum is designed primarily for

students who have completed or terminated their secondary education or are beyond the compulsory age of secondary education, including programs whose purpose is academic, vocational, or continuing professional education.

94858. “Private postsecondary educational institution” means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.

94858.1. “Program” or “program of instruction” means an educational program of training, course, set of related courses, or education for which a student enrolls.

94859. “Recruiter” means an employee of an institution whose principal job responsibilities are the recruitment of students other than on the institution’s premises.

94860. “Recruitment” means actions taken by recruiters seeking enrollment of students.

94861. “Reporting period” means the institution’s fiscal year or any yearly period designated by the bureau to be covered in the institution’s annual report.

94861.1. “Representative” means an employee, an agent, as defined in Section 2295 of the Civil Code, or any person, who for compensation, does either of the following:

(a) Solicits, promotes, advertises, or refers or recruits students or prospective students for an institution.

(b) Is involved with enrollment, admissions, student attendance, administration, financial aid, instruction, or job placement assistance on behalf of an institution.

94861.2. “Admissions representative” means an employee or agent of an institution or other person who, for compensation, does any of the following:

(a) Tries to convince prospective students to enroll at the institution.

(b) Enrolls students by getting them to fill out the required documents, including the enrollment agreement, disclosures, and financial aid documents.

(c) Provides prospective students information about the school.

(d) Answers student questions even after enrollment.

94862. “Satellite location” means an auxiliary classroom or teaching site within 50 miles of the branch or main location at which all of the following apply:

(a) Only educational services that are approved at the main location shall be offered at the satellite.

(b) The permanent records of attendance or academic progress for students taking courses or enrolled in a program at the satellite shall be maintained at the main location.

(c) Advertisement of a satellite shall indicate that the satellite is an auxiliary classroom or a teaching site.

94863. “Satisfactory academic progress” means the qualitative and quantitative measures an institution uses to assess a student’s academic progress, including progress towards the completion of his or her educational program within 150 percent of the published length of the educational program.

94863.1. “Scheduled to complete” means the date the institution determined, when the student enrolled, that the student was scheduled to complete the program.

94864. “Shift in control” means a change in the ownership of an institution where a person who previously did not own at least 25 percent of the stock or interest in an institution or its parent company acquires ownership of at least 25 percent of the stock or interest in the institution or its parent company.

94865. “Site” means a main or branch campus or satellite location.

94866. “Teach-out” means the arrangements an institution makes for its students to complete their educational programs, at no additional cost over that amount agreed to in the initial enrollment agreement, when the institution ceases to operate.

94867. “Third-party payer” means an employer, government program, or other entity that directly pays a student’s total charges when no separate agreement for the repayment of the charges exists between the third-party payer and the student.

94868. “To offer” includes in addition to its usual meaning, offering, advertising, publicizing, soliciting, encouraging, or offering to a person, directly or indirectly, in any form, to perform an act as described.

94869. “To operate” means to establish, keep, or maintain any facility or location in this state where or from which or through which postsecondary educational programs are provided.

94870. “Total charge” means the total institutional and noninstitutional charge for a program or other education, instruction, or training, including the charge for tuition, equipment,

finance charges paid to the institution, and all other fees, charges, costs, and expenses paid to the institution.

94872. “Vocational program” means an educational program having all of the following characteristics:

(a) The educational program consists of a job training program or other instruction, training, or education that the institution identifies as, or represents as a program that will lead to, fit, or prepare students for employment in any particular occupation.

(b) The program is offered to students who do not possess a bachelor’s or a graduate degree in the field of training.

(c) Students who complete all or a portion of the program are awarded a diploma or an associate degree, including, but not necessarily limited to, an Occupational Associate Degree, Associate of Occupational Studies, or Associate of Applied Science.

94873. “Year” means a calendar year.

Article 4. Exemptions

94874. (a) The following private institutions are exempt from the requirements of this chapter:

(1) An institution offering education solely as avocational or recreational in nature, and offering this education exclusively.

(2) An institution offering nondegree education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization’s membership.

(3) An institution offering either of the following:

(A) Test preparation for examinations required for admission into postsecondary educational institutions.

(B) Continuing education or test preparation for licensing examinations where the institution or the program is approved, certified, or sponsored by any of the following:

(i) A government agency, other than the bureau, that licenses person in a particular profession, trade, or job category.

(ii) A state-recognized professional licensing body, including, but not limited to, the State Bar of California, that licenses persons in a particular profession, trade, or job category.

(iii) A bona fide trade, business, or professional corporation.

(4) (A) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members

of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(i) The education is limited to instruction in the principles of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of the Business and Professions Code.

(ii) The certificate or degree is limited to evidence of completion of that education.

(iii) The meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church, religious denomination, or religious organization.

(B) An institution operating under this paragraph shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(C) This paragraph expresses the legislative intent that the state shall not involve itself in the content of certificate or degree programs awarded by any institution operating under this paragraph, as long as the institution awards certificates or degrees only in the beliefs and practices of the church, religious denomination, or religious organization.

(D) An institution exempt under this paragraph shall not award certificates or degrees in any area of physical science.

(E) Any certificate or degree granted in any area of study under this paragraph shall contain on its face, in the written description of the title of the certificate or degree being conferred, a reference to the theological or religious aspect of the certificate or degree's subject area.

(F) A degree awarded under this paragraph shall reflect the nature of the degree title, such as "associate of religious studies," "bachelor of religious studies," "master of divinity," or "doctor of divinity."

(G) The use of the degree titles "associate of arts" or "associate of science," "bachelor of arts" or "bachelor of science," "master of arts" or "master of science," or "doctor of philosophy" or "Ph.D." shall only be awarded by institutions approved to operate under this chapter.

(5) Institutions solely offering nondegree programs that have a total charge of one thousand five hundred dollars (\$1,500) or less.

The bureau shall monitor these programs and may adjust this cost threshold based upon the Consumer Price Index, and post notification of the adjusted cost threshold on its Internet Web site on or after January 1, 2010, and each January 1 thereafter if the bureau determines, through promulgation of regulations, that the increase is consistent with the intent of this chapter.

(6) All private postsecondary institutions offering instruction in California which are accredited by either the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges and Universities, Western Association of Schools and Colleges.

(7) Except as provided in Article 13 (commencing with Section 94923), all private postsecondary institutions, other than those exempt under paragraph (6), offering instruction in California which are accredited by a regional accrediting agency recognized by the United States Department of Education.

(b) Except as provided in Article 13 (commencing with Section 94923), any nonprofit public benefit corporation organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and not managed or administered by an entity for profit, that meets all of the following requirements is exempt from this chapter:

(1) Accredited by an accrediting agency recognized by the United States Department of Education.

(2) Operated continuously in this state for at least 20 years.

(3) The institution's cohort default rate on guaranteed student loans does not exceed 15 percent for the three most recent years as published by the United States Department of Education.

(4) The institution submits to the bureau copies of the most recent IRS Form 990 and the Integrated Postsecondary Education Data System Report of the United States Department of Education and the accumulated default rate.

(c) To verify that any institution is exempt from this chapter, the bureau shall review and continue to monitor the accreditation status of each institution to determine if the institution received a negative accreditation action at any time. The bureau's duty under this provision does not relieve any institution from its obligation to comply with this chapter.

Article 5. Bureau Powers and Duties

94875. The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter 635 of the Statutes of 2007, is continued in existence and shall commence operations. This chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The bureau has all of the following functions and responsibilities:

(a) The administration of this chapter and promulgation of necessary, appropriate, or useful regulations consistent with the intent and purpose of this chapter.

(b) The enforcement of this chapter and the approval of institutions and programs that meet the requirements of this chapter.

(c) The development and maintenance of an Internet Web site that shall include clearly accessible and searchable information regarding approved private postsecondary institutions in California. The Internet Web site shall provide information for prospective students so that they may make informed choices regarding their educational opportunities and shall provide information for current students so they may understand their rights. The bureau's Internet Web site shall be operational by July 1, 2009, and shall include all of the following information:

(1) A directory of unapproved institutions in California which are subject to this chapter and a warning to students of the dangers of attending unapproved institutions. This shall include a disclaimer that the directory is based on the best information available on a specified date and a notice to institutions that any institution may notify the bureau if the institution believes it should not be included in the directory.

(2) A directory of approved institutions which, if feasible, shall include a link to the Internet Web site of each institution.

(3) Disciplinary history of approved schools.

(4) Status of school's approval.

(5) Pursuant to Section 94884, a summary of complaints filed against the institution.

(6) An explanation of the transition plan for the reconstituted bureau.

(7) An explanation of the bureau's scope of authority.

(d) The provision of outreach to prospective and current private postsecondary education students and high school students, providing them with information on how best to select a postsecondary institution, how to enter into a student enrollment agreement, how to protect themselves in the postsecondary education marketplace, and how to contact the bureau for assistance if problems arise. The bureau may accomplish the purposes of this subdivision in cooperation with the department.

(e) The establishment of a regular inspection program, which shall include announced and unannounced inspections during normal business hours of educational programs and institutions each year. If student or public complaints have been received by the bureau since the time of initial approval to operate all appropriate issues raised in the complaints shall be investigated. Inspections under the program may be based on, but not limited to, all of the following:

- (1) Documents submitted to the bureau by the institution.
- (2) Complaints received about the institution.
- (3) Accrediting agency documents.
- (4) The time elapsed since a previous inspection.
- (5) Any other rational basis.

(f) The review and investigation of institutions and programs approved under this chapter.

(g) The objective and regular assessment of the cost of meeting its statutory obligations, including the staffing necessary to meet those obligations, a determination whether the prevailing fee structure allows for collection of revenue sufficient to support the necessary costs, and a report of that information to the Legislature and the Governor through the annual State Budget process, and regular adjustments to the fee and cost structure, as permitted in this chapter, sufficient to ensure that the bureau accomplishes its statutory obligations. Fees shall be raised immediately if the bureau is not adequately performing its investigatory function with respect to institution reviews and the investigation of student complaints.

(h) The receipt, review, and investigation of complaints received from students and the public, and complaints transmitted by other federal, state, or local agencies, including timely responses and appropriate investigations, consistent with Section 94801.6. The performance of this function shall be the bureau's first priority.

(i) Development and maintenance of an information management system sufficient to meet the bureau's responsibilities, including, but not necessarily limited to, an Internet Web site and database, as provided in this article.

(j) To the extent funding and resources are available for this purpose, the establishment of a training program, including, but not necessarily limited to, information and support necessary for institutions to comply with this chapter, information and support to assist in the successful development of a new institution, and information and support to assist existing institutions in development that is necessary for them to become eligible for participation in student financial aid programs under Title IV of the federal Higher Education Act of 1965.

(k) Establishment of a program to identify unapproved institutions operating in violation of this chapter and to initiate appropriate action against those institutions.

94876. (a) The powers and duties set forth in this chapter are vested in the Director of Consumer Affairs, who may delegate them to a bureau chief, subject to the provisions of this section. In implementing and administering this chapter, the director, or his or her designee, shall fully exercise all powers and duties under Section 310 of the Business and Professions Code.

(b) The bureau chief shall be appointed by the Governor and confirmed by the Senate, and is exempt from the State Civil Service Act pursuant to Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code.

(c) Every power granted to, or duty imposed upon, the bureau under this chapter shall be exercised and performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may delegate any powers or duties to a designee.

(d) (1) The director, in accordance with the State Civil Service Act, shall appoint and fix the compensation of personnel as may be necessary to carry out this chapter.

(2) The bureau shall be staffed with a sufficient number of employees working at a professional level and having expertise in higher education approval and investigation and auditing of educational institutions.

(3) It is the intent of the Legislature that all employees, excluding temporary employees, of the former Bureau for Private

Postsecondary and Vocational Education as of September 30, 2006, who worked in a regulatory or oversight capacity have the opportunity to transfer to their former status, positions, and classifications in the Bureau for Private Postsecondary Education. The reestablishment of the bureau shall not in any form preclude professional staff who worked in a regulatory or oversight capacity to transfer to their former status, positions, and classifications.

(4) Section 19050.9 of the Government Code shall apply to any function or the administration of this chapter that is transferred from the Department of Consumer Affairs or the Bureau for Private Postsecondary and Vocational Education, which ceased to exist on July 1, 2007, to the Bureau for Private Postsecondary Education. The bureau shall demonstrate compliance with this section in the Budget Act of 2009–10.

94876.5. The bureau shall adopt and enforce regulations to implement this chapter pursuant to the Administrative Procedure Act in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within one year of the enactment of this chapter. The bureau may adopt emergency regulations that shall become effective immediately pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

94876.6. The bureau shall, in consultation and coordination with the director and the Attorney General, develop and implement an enforcement program to carry out this chapter, including a plan for investigating complaints filed with the bureau.

94876.7. The bureau shall adopt a five-year strategic plan by December 31, 2010, and update the plan periodically as needed.

94877. It is the intent of the Legislature that the bureau adopt, periodically review, and update internal quality review and audit procedures to ensure that bureau processes are in place to promote and achieve full compliance with this chapter.

94879. (a) To enable the bureau to exercise its powers and to perform its duties, the bureau shall adopt, by regulation, a fee schedule. The fee schedule shall set forth the fees that institutions, and others subject to this chapter, shall pay. The bureau shall set fees that are reasonably necessary to accomplish the purposes of this act. It is the intent of the Legislature that regulations promulgated under this subdivision be completed by June 30, 2009, and be codified in this chapter by December 31, 2009.

(b) All fees collected shall be deposited in the Private Postsecondary Education Administration Fund. These fees, along with any accrued interest, shall be the means of funding the implementation of this chapter.

(c) The fee schedule shall be publicly available.

(d) The bureau shall use an objective process to assess the costs of exercising its powers and performing its duties, and shall use this assessment as the basis for constructing the fee schedule.

94880. The bureau may appoint an advisory committee that shall consist of, but not necessarily be limited to, representatives of institutions, student representatives, and employers who hire students.

94881. The bureau may conduct workshops to provide applicants and institutions information on application processes, compliance with this chapter, and other subjects concerning postsecondary education.

94882. The bureau may empanel visiting committees to assist in evaluating an institution's application for an approval to operate. The members of visiting committees shall serve at no expense to the state. The members of visiting committees may be reimbursed at the rate allowed for state employees from the bureau for their actual travel and per diem expenses incurred during the evaluation. The bureau may seek reimbursement from the institution that is the subject of an evaluation.

94883. (a) Any individual serving on a visiting committee who provides information to the bureau, or its staff, in the course of evaluating any institution, or who testifies in any administrative hearing arising under this chapter, is entitled to a defense and indemnification in any action arising out of the information or testimony provided as if he or she were a public employee.

(b) Any defense and indemnification shall be solely with respect to the action pursuant to Article 4 (commencing with Section 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of, the Government Code.

94884. For all complaints that have reached final disposition, the bureau shall, upon request, make available to members of the public the nature and disposition of complaints against an institution and a summary of the violations.

94884.5. Notwithstanding paragraph (2) of subdivision (a) of Section 94838.5, the bureau may promulgate regulations

recognizing that an employment position may not require education beyond the high school level, is not a typical entry level position, and is part of an immediate career track leading directly to a job, job title, vocation, occupation, or trade to which the program was represented to lead. The regulation shall ensure that in any specific situation the institution has the burden of proof that the position meets the definition of employment.

Article 6. Approval to Operate

94886. If an institution is regulated by another state licensing agency, the institution shall, in addition to approval as specified in this article, obtain and retain the authorization of that agency.

94887. (a) The bureau shall promulgate regulations providing the minimum operating standards for institutions. These standards shall reasonably ensure that all of the following occur:

(1) The content of each educational program can achieve its stated objective.

(2) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

(3) The institution maintains a withdrawal policy and provides information regarding the calculation of refunds.

(4) The person in control, directors, administrators, and instructors are properly qualified, have not been found liable for failing to pay refunds as required by law, or have not pled guilty or no contest to, or been convicted of a crime involving the misuse of funds.

(5) The faculty has sufficient experience and education and teaching expertise to enable students to achieve the educational program goals and obtain employment.

(6) The institution is financially sound and capable of fulfilling its commitments to students.

(7) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

(8) Adequate records and standard transcripts are maintained and are available to students.

(9) The institution is maintained and operated in compliance with applicable ordinances and laws.

(10) That students receive adequate disclosures, orally and in writing, regarding all material facts which are reasonably likely to affect the prospective student's decision to enroll in the educational program.

94888. An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards.

94889. An approval to operate shall be for a term of four years.

94890. (a) Notwithstanding Sections 94887, 94888, and 94889, the bureau shall grant an institution that is accredited an approval to operate by means of its accreditation.

(b) The term of the approval to operate shall be coterminous with the term of accreditation.

(c) Institutions that are granted an approval to operate by means of the institution's accreditation shall file reports with the bureau on a form and in a manner prescribed by the bureau and shall comply with all applicable requirements of this chapter.

94891. (a) The bureau shall adopt, by regulation, the process and procedures whereby an institution may obtain a renewal of an approval to operate.

(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards. However, the granting of an initial or renewal approval to operate shall not be used as proof of, or used to establish, a presumption that the institution has complied with the provisions of this chapter.

94892. If a federal agency or a state agency, other than the bureau, provides an approval to offer an educational program, that agency's educational program approval may satisfy the requirements of this article without any further review by the bureau. The bureau may incorporate that educational program into the institution's approval to operate when the bureau receives documentation signifying the conferral of the educational program approval by that agency.

Article 7. Substantive Changes to an Approval to Operate

94893. If an institution wishes to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. If the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked.

94894. The following changes to an approval to operate may be considered substantive changes and require prior authorization:

(a) A change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution. If 50 percent or less of an educational program is not substantially the same as the approved program, it shall be considered an unrelated program.

(b) A change in ownership.

(c) A shift in control.

(d) A change in business organization form.

(e) A change of location.

(f) A change of name.

(g) A significant change in the method of instructional delivery.

(h) An addition of a separate facility more than one mile from the main or branch campus.

94895. (a) The bureau shall promulgate regulations providing for the process and procedures whereby an institution that has been granted an approval to operate by means of accreditation may make a substantive change in accordance with the standards by which the institution is accredited.

(b) The institution shall notify the bureau of the substantive change in a form and in a manner prescribed by the bureau.

Article 8. Business Practices

94896. An institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program.

94897. An institution subject to this chapter or representative of an institution subject to this chapter shall not do any of the following:

(a) Operate in this state a postsecondary educational institution subject to this chapter unless the institution is approved by the bureau.

(b) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, group, or entity is located within or without this state, unless that person, group, or entity observes and is in compliance with the minimum standards set forth in this article.

(c) Make or cause to be made any statement relative to the operation of the school that is in any manner untrue or misleading, either by actual statement, omission, or intimation.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on a diploma.

(e) Engage in any false, deceptive, misleading, or unfair act in connection with any matter, including the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a program of instruction, course length, course credits, the withholding of equipment, educational materials, or loan or grant funds from a student, training and instruction, the collection of payments, completion, licensure passage, or job placement information.

(f) Induce a person to enter into an agreement for a program of instruction by offering to compensate that person to act as the institution's representative in the solicitation, referral, or recruitment of others for enrollment in the institution.

(g) Promise or guarantee employment or otherwise overstate the availability of jobs in the local economy upon graduation.

(h) Advertise concerning job availability, degree of skill, or length of time required to learn a trade or skill unless the information is accurate and not misleading.

(i) Advertise, or indicate in promotional material, without including the fact that the educational programs are delivered by means of distance education if the educational programs are so delivered.

(j) Advertise, or indicate in promotional material, that resident instruction or programs of study are offered, without including in

all advertising or promotional material the location where the training is given or the location of the resident instruction.

(k) Advertise, or indicate in promotional material, that the institution is accredited, unless the institution has been accredited by an accrediting agency.

(l) Solicit students for enrollment by causing an advertisement to be published in “help wanted” columns in a magazine, newspaper, or publication, or use “blind” advertising that fails to identify the institution.

(m) Use a misleading name in any untrue or misleading manner implying any of the following:

(1) The institution is affiliated with any government agency, public or private corporation, agency, or association if it is not, in fact, thus affiliated.

(2) The institution is a public institution.

(3) This institution grants degrees if it in fact, does not grant degrees.

(n) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade, record of grades, attendance record, record indicating student completion, employment, or salaries, or financial information, on any record or document required by this chapter or by the bureau. This shall include the falsification, destruction, or concealment of any record or other item required to be accurately maintained by this chapter or by the bureau.

(o) Use the terms “approval,” “approved,” “approval to operate,” or “approved to operate” without stating clearly and conspicuously that approval to operate means either the institution met minimum state standards as set forth in this chapter or the minimum standards of the institution’s accrediting agency if applicable. If the bureau has granted an institution approval to operate, the institution may indicate that the institution is “licensed” or “licensed to operate,” but may not state or imply either of the following:

(1) The institution or its educational programs are endorsed or recommended by the state or by the bureau.

(2) The approval to operate indicates that the institution exceeds minimum state standards as set forth in this chapter.

(p) Misrepresent to a student or prospective student that the student is or will be qualified, upon completion of a course, for admission to a professional examination under a specific private

authority or agency licensure or certification provision or a state occupational licensing provision.

(q) Offer to pay or pay any consideration to a student or prospective student to act as a representative of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution in either of the following:

(1) During the 60-day period following the date on which the student began the program.

(2) At a subsequent time, if the student has not maintained satisfactory academic progress in acquiring the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the program is represented to lead. The institution shall have the burden of proof to establish that the student has maintained satisfactory academic progress.

(r) Direct a representative to perform any unlawful act, to refrain from complaining or reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.

(s) Pay any consideration to a person to induce that person to sign an enrollment agreement for an educational program.

(t) Compensate a representative involved in recruitment, enrollment, admissions, student attendance, or sales of equipment to students on the basis of a commission, commission draw, bonus, quota, or other similar method except as specifically allowed under federal law.

(u) Require a prospective student to provide personal contact information in order to obtain educational program information, including, but not limited to, tuition and fees, faculty qualifications, completion and placement rates information, or any item required under the consumer information requirements of Title IV of the federal Higher Education Act of 1965 from the institution's Internet Web site.

(v) Attempt to confer a degree, diploma, or certificate to a student in violation of this chapter.

94897.5. Any institution required to be approved by the bureau shall do all of the following:

(a) Comply with the minimum standards prescribed by this chapter, and provide the quality of instruction, faculty, equipment, materials, software, supplies, and internships, as represented in or

substantially equivalent to that represented in the catalog, on the Internet Web site, advertising, enrollment materials, and brochure or by the admission's representative in the enrollment process or other representative.

(b) Provide timely and accurate refunds to students, as required by this chapter, and satisfy, within 30 days of its issuance, a final judgment obtained by a student against the institution.

(c) Conduct business or instructional services only at a location approved by the bureau.

(d) Comply with any provision of law or regulation governing sanitary conditions. However, the bureau may take an action against an institution for violation of this subdivision only when the bureau is aware of the violation.

(e) (1) Maintain the records of the name, address, e-mail address, and telephone number of students who enroll in an educational program or program of instruction, including the students who begin the program, the students who cancel before completing the program, and the students who graduate from the program of instruction. For each vocational program and any other program about which the institution or any representative makes any statements about job availability for students in the job titles or occupations to which the program is represented to lead, the institution shall inquire whether students who complete an educational program obtain employment.

(2) To the extent information is available from past students, the institution shall keep a log which documents individual employment of those students who completed the educational program. The institution shall maintain records which document the completion, placement, licensing examination, and salary information the school is required to report to the bureau under Section 94928 and disclose under Section 94907 with all facts needed to substantiate the information.

94898. Each institution that has an Internet Web site shall clearly and conspicuously provide the following information on its Internet Web site, if applicable, about each program at each site of each institution:

(a) All information required to be disclosed under Section 94907.

(b) The status of the institution's approval including any disciplinary actions by the bureau against the institution in the last three years.

(c) If an institution provides information about staff or faculty on its Internet Web site, it shall provide the names of the faculty members and their prior education and qualifications to teach in the program of instruction and the date they first began teaching at the institution.

(d) The average class size and any class size limit.

(e) The specifics of any offsite training or internship.

(f) The requirements the prospective students must meet to enroll.

(g) Any bankruptcy filing by the institution.

94898.5. Information required by Section 94898 to be provided on an institution's Internet Web site shall be kept current. The information under subdivision (a) of Section 94907 shall be deemed current on the Internet Web site if the information provided is updated by January 1 of each year. The information under subdivisions (b) to (i), inclusive, and subdivision (k) of Section 94907 and under subdivisions (c) to (f), inclusive, of Section 94898 shall be deemed current if the information provided is updated at least once every three months. Matters deemed current under this section apply only to Internet Web site disclosure, not to any other disclosures required under this chapter.

94899. If an institution offers an educational program in a profession, occupation, trade, or career field that requires licensure in this state, the institution shall have been approved to conduct that educational program by the bureau and any other required agencies.

94899.5. (a) Institutions that offer short-term programs designed to be completed in one term or four months, whichever is less, may require payment of all tuition and fees on the first day of instruction.

(b) For those programs designed to be four months or longer, an institution shall not require more than one term or four months of advance payment of tuition at a time. When 50 percent of the program has been offered, the institution may require full payment.

(c) An institution that suggests lenders or refers students to lenders of, or arranges private loan funding shall ensure that a student who may be eligible for a state or federal grant or guaranteed loan is first offered that financing before being offered any private loan.

94899.6. (a) An institution shall not merge classes unless all of the students have received the same amount of instruction. This subdivision does not prevent the placement of students, who are enrolled in different educational programs, in the same class if that class is part of each of the educational programs and the placement in a merged class will not impair the students' learning of the subject matter of the class.

(b) After a student has enrolled in an educational program, the institution shall not do either of the following:

(1) Make any unscheduled suspension of any class unless caused by circumstances beyond the institution's control.

(2) Change the day or time in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, "range of time" means the period beginning with the time at which the student's first scheduled class session for the day is set to start and ending with the time the student's last scheduled class session for that day is set to finish.

(c) If an institution enrolls a student in an educational program that is conducted at a specific site at the time of enrollment, the institution shall not convert the educational program to another method of delivery, such as by means of distance education.

(d) An institution shall not move the location of class instruction more than 10 miles from the location of instruction at the time of enrollment unless any of the following occur:

(1) The institution discloses in writing to each student before enrollment in the educational program that the location of instruction will change after the educational program begins and the address of the new location.

(2) The institution applies for, and the bureau grants, approval to change the location. The bureau shall grant the application within 60 days if the bureau, after notice to affected students and an opportunity for them to be heard as prescribed by the bureau, concludes that the change in location would not be unfair or unduly burdensome to students. The bureau may grant approval to change the location subject to reasonable conditions, such as requiring the

institution to provide transportation, transportation costs, or refunds to adversely affected students.

(3) The institution offers a full refund to students enrolled in the educational program who do not voluntarily consent to the change.

(4) An unforeseeable and unavoidable circumstance outside of the control of the institution requires the change in the location of instruction.

94899.7. (a) An institution that provides medical training providing for students to interact with health care patients, and that is required to provide criminal background checks, medical blood tests, or drug tests on its students, shall keep complete, accurate, and up-to-date files of these checks and test results.

(b) Records kept under this section shall be available for review by the medical facility in which the students are obtaining their clinical rotation work, by law enforcement personnel, and by the bureau.

(c) An institution shall implement procedures to ensure that records kept under this article are safeguarded and that the privacy rights of students are protected.

94899.8. (a) An institution shall maintain, for a period of not less than five years at its principal place of business in this state, complete and accurate records, evidencing all of the following:

(1) The programs of study offered by the institution and the curriculum for each.

(2) The names and addresses of its faculty, together with a record of the educational qualifications of each.

(3) The records required to be maintained by this chapter.

(b) For each student the institution shall maintain permanent records of the degree or certificate granted, the date it was granted, the courses and units of each on which the certificate or degree was based, and the grades earned in those courses.

(c) Notwithstanding any other provision of this chapter, an institution may not disclose the personal student records maintained pursuant to this section unless production of those records is required by any law or by subpoena or court order.

(d) All records that an institution is required to maintain by this chapter or that relate to an institution's compliance with this chapter shall be made immediately available by the institution for inspection and copying during normal business hours, upon request,

by the bureau, the Attorney General, any district attorney or city attorney, or the Student Aid Commission.

Article 9. Recruiters

94900. An institution's recruiters shall be employees.

94901. (a) An institution shall issue identification to each recruiter identifying the recruiter and the institution.

(b) The recruiter shall have the issued identification with him or her while recruiting.

Article 10. Enrollment Agreements and Disclosures

94902. (a) Before a person executes an agreement obligating that person to pay any money to an institution for a program or related equipment, the institution shall:

(1) Provide to that person a copy of the enrollment agreement containing, at a minimum, the information required by Section 94906.

(2) Provide to that person a written schedule of the total charge for the program, separately itemized into tuition, assessments for the Student Tuition Recovery Fund, the cost of each item of equipment, including textbooks, shop and studio fees, and any other fees the student will pay to the institution in order to complete the program, with a statement of the purpose for each of these charges. The schedule shall clearly indicate and differentiate all mandatory and optional charges. The schedule shall clearly identify all charges and deposits that are nonrefundable.

(3) If a state board, bureau, department, or agency has established the minimum number of classes or class hours or the minimum criteria of a program necessary for licensure in an occupation and an institution offers a program differing from the state entity's minimum requirements, disclose in writing the state entity's minimum requirements and how the program differs from those requirements.

(4) If the institution provides a program of study for which program approval by a specific authority or agency is necessary, or absent experience in the field, it is necessary for those who complete the program to qualify to take an examination for certification, licensure, or other similar approval allowing the

student to perform services in the field of study, or if the institution knows or reasonably should know that certification, licensure, or other similar approval, while not necessarily required to perform services in the field of study, is widely requested or required by employers, disclose in writing to the student before enrollment if the program does not have the program approval which will qualify graduates to take the examination.

(5) A copy of the catalog or brochure as described in Section 94903.

(b) The disclosures required by subdivision (a) shall be in English unless the solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in which case, the disclosures shall be in that other language.

(c) Notwithstanding any other provision of this section, an institution offering a distance learning program need not orally make the disclosures required by subdivision (a) in connection with that course if the institution did not orally solicit or recruit the student for enrollment and the student enrolled by mail or electronically.

94903. (a) An institution shall provide to prospective students, prior to enrollment, a catalog or brochure containing, at a minimum, all of the following information:

(1) Descriptions of the instruction provided under each course offered by the institution, including the length of programs offered, and the occupations or job titles, if any, to which the program of instruction is represented to lead.

(2) The number of credit hours or clock hours of instruction or training per unit or units required for completion of the educational degree or certificate program.

(3) The attendance, dropout, and leave-of-absence policies.

(4) The faculty, including their relevant qualifications as of the date of the publication of the catalog or brochure. This shall include each degree held by staff and the name and location of the institution from which each degree was earned.

(5) The schedule of tuition payments, fees, and all other charges and expenses known to or arranged by the institution and necessary for the term of instruction and the completion of the course of study.

(6) The cancellation and refund policies.

(7) For institutions that participate in federal and state financial aid programs, all consumer information that the institution is required to disclose to the student.

(8) A description of a student's rights under the Student Tuition Recovery Fund.

(9) The institution's admissions policies, including the institution's policies regarding the acceptance of units of credit earned by the student at other institutions or through challenge examinations and standardized tests.

(10) If an institution represents that it provides job placement services, a description of the nature and extent of the placement services that indicates when they are available to students.

(11) All other material facts concerning the institution and the educational program or course of instruction that are reasonably likely to affect the decision of the student to enroll.

(12) A list describing all transfer agreements or articulation agreements between the institution and any other colleges or universities that provide for a transfer of credits earned in the program of instruction in which the student seeks to enroll. If no transfer agreements or articulation agreements exist that relate to the particular program of instruction in which the student seeks to enroll, the institution shall disclose this.

(b) The institution shall provide the catalog or brochure to any person upon request.

(c) A written contract signed by a student is not enforceable unless the student has first received the institution's catalog or brochure containing the information required by this section and as required by Section 94903.5.

94903.5. (a) An institution shall not require the signature of a person to an agreement obligating that person to pay any money to the institution until the person has had at least one business day from the date of the oral disclosures under Section 94907.5, to read and review all of the items required to be provided to that person by this article.

(b) Nothing in this chapter shall be construed in any manner to relieve a student or prospective student from any legal duty there may be to read and comprehend all disclosures and documents presented by the institution.

94903.6. (a) An institution shall not offer English-as-a-second-language (ESL) instruction without the prior approval of the bureau.

(b) An institution that offers ESL instruction to a student shall not enroll the student in any educational service presented in the English language, other than that ESL instruction, unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to comprehend instruction in English.

(c) A student who has completed ESL instruction at an institution shall not be enrolled in any course of instruction presented in the English language at that institution unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to be successfully trained by English language instruction to perform tasks associated with the occupations or job titles to which the educational program is represented to lead.

(d) If an institution offers ESL instruction to a student to enable the student to use already existing knowledge, training, or skills in the pursuit of an occupation, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained adequate proficiency in oral and written English to use his or her existing knowledge, training, or skills. Before enrolling the student in ESL instruction, the institution shall document the nature of the student's existing knowledge, training, or skills and that the ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.

(e) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.

(f) If the results of a test administered pursuant to subdivision (b), (c), (d), or (e) indicate that the student has not attained adequate English language proficiency after the completion of ESL instruction, the institution shall offer the student additional instruction without charge, for a period of up to 50 percent of the

number of hours of instruction previously offered by the institution to the student, to enable the student to attain adequate English language proficiency.

(g) This section does not apply to grantees funded under Section 1672 of Title 29 of the United States Code.

(h) The institution, for five years, shall retain an exemplar of each language proficiency test administered pursuant to this section, an exemplar of the answer sheet for each test, a record of the score for each test, the answer sheets or other responses submitted by each person who took each test, and the documentation required by subdivision (d).

(i) For the purpose of determining compliance with this article, ESL instruction shall be deemed a program, and a charge shall be deemed to be made for ESL instruction if a student is obligated to make any payment in connection with the educational service, including, but not necessarily limited to, the ESL instruction that is offered by the institution.

(j) The tests used by an institution pursuant to this section shall be tests that are approved by the USDE, or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System, that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall demonstrate to the bureau that the tests and passing scores that it uses establish that students have acquired the degree of proficiency in oral and written English required by subdivision (b), (c), (d), or (e), whichever is applicable. The required level of proficiency in oral and written English shall not be lower than the sixth grade level.

(k) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a direct or indirect financial interest in the institution other than the arrangement to administer the test. The bureau shall adopt regulations that contain criteria to ensure independent tests administered including the criteria established by the USDE and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.

94903.7. For purposes of compliance with Section 94903.6, the bureau shall do the following:

(a) Promulgate regulations concerning the manner of documenting the nature of a student's existing knowledge, training, and skill and that ESL instruction offered by the institution is necessary to enable the student to use that existing knowledge, training, and skill, as prescribed in subdivision (d) of Section 94903.6. The regulations shall specify all of the following:

(1) Reliable sources of information, independent of the student and the institution, from which documentation of a student's existing knowledge, training, and skill shall be obtained.

(2) Circumstances that must be documented by the institution to establish that information from a designated reliable source of information cannot reasonably be obtained.

(3) Alternate acceptable sources of information if designated reliable sources are not available.

(4) The nature of all required types of documentation.

(b) Develop and distribute instructions, informational materials, or forms to assist institutions in developing the documentation described in this section. These instructions, materials, and forms shall not be subject to review or approval by the Office of Administrative Law pursuant to any provision of the Government Code.

94904. Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.), as it is, from time to time, amended. The student may not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered. If the United States Department of Education does not have a list of relevant examinations that pertain to the intended occupational training, the bureau may publish its own list of acceptable exams.

94905. (a) (1) An institution offering educational programs represented to lead to employability in a profession, occupation, trade, or job or job title for which licensure is required shall be

familiar with those conditions that would make a person ineligible to obtain licensure after completion of the program.

(2) No institution offering programs represented to lead to employability in an occupation or with a job title for which licensure is required, shall enter into an agreement to provide an educational program to a person whom the institution knows or, by the exercise of reasonable care, should know, would be ineligible to obtain that licensure after completion of the program.

(b) During the admission or enrollment process, if an institution represents that it offers job placement assistance for students while they attend school shall also disclose to prospective students the number of requests it had for that assistance during the past calendar year and the number of those who requested that assistance whom the institution referred to a job for which the student was hired while attending the institution.

(c) During the admission or enrollment process, an institution shall not discuss salaries except as provided in subdivision (a) of Section 94907.

94905.2. The bureau shall promulgate regulations for purposes of carrying out the intent of this article. These regulations may include, but are not limited to, the following:

- (a) Recruiting.
- (b) Advertising, including advertising on the Internet or by electronic mail.
- (c) Entrance exams and minimum qualifications of students.
- (d) Transfer of credits.
- (e) Refund policies.
- (f) Fees paid by students.
- (g) Total student costs.
- (h) Preparing students for careers.
- (i) Financial aid.
- (j) Accreditation.
- (k) Facilities, including satellites.
- (l) Instructors, including qualifications.
- (m) Actions by agents.
- (n) Actions by employees.
- (o) Recordkeeping.

94906. The enrollment agreement shall include all of the following required terms:

(a) On the first page of the enrollment agreement, in at least 12-point boldface type, the following statement:

“Any questions a student may have regarding this enrollment agreement that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).”

(b) The name and description of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

(c) The name and address of the institution and the address where class sessions shall be held.

(d) A schedule of the total charge, including a list of any charges that are nonrefundable, clearly identified as nonrefundable charges.

(e) In underlined capital letters on the same page of the enrollment agreement in which the student’s signature is required, the total charge for a period of attendance or the entire educational program.

(f) A statement that the student is responsible for paying the state assessment amount for the Student Tuition Recovery Fund.

(g) A clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution.

(h) The following statement in at least 12-point, boldface type above the space for the student’s signature:

“My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution’s cancellation and refund policies have been clearly explained to me.”

(i) Description of the instruction to be provided, including the length of programs offered, and the occupations or job titles, if any, to which the program of instruction is represented to lead.

94906.5. It shall be a violation of this chapter for any institution or representative of an institution to sign, ask, or induce any person to sign the student statement specified in Section 94906 if the

institution or representative has not fully and clearly explained the student's rights, responsibilities, and the institution's policies.

94907. An institution shall clearly and conspicuously make the following disclosures on its Internet Web site, if it has an Internet Web site, about each program at each of the institution's sites, in writing, to each student before execution of the enrollment agreement about each program in which the student expressed interest in enrolling:

(a) A "School Performance Facts Sheet" that discloses the following information:

(1) Completion numbers and rates, calculated as follows:

The number and percentage of students who began the program, did not cancel within the cancellation period, and were originally scheduled at the time of enrollment to complete the program during the completion tracking period, and the number and percentage of them who completed the program during that completion tracking period.

(2) For each vocational program and any other program about which the institution or any representative makes statements about job availability for students or graduates in the job titles or occupations to which the program is represented to lead, the employment numbers and rates, calculated as follows:

(A) For programs for which employment in the occupation does not require passing a state examination, the number of students who completed the program during the employment tracking period, but at least eight months before its end, and the number and percentage of those students who obtained employment, excluding self-employment, during the employment tracking period.

(B) For programs for which employment in the occupation does require passing a state examination, the number of students who completed the program and for whom the announcement of the examination results for the first examination available after the student completed the program occurred during the employment tracking period, but at least eight months before its end, and the number and percentage of those students who obtained employment, excluding self-employment, during the employment tracking period.

(C) For any students the institution documents are self-employed, the employment calculation shall be made

separately and calculated as set forth in subparagraph (A) or (B), as applicable, and unless the institution has documentation to the contrary, a statement to the effect that the school does not have information about whether the self-employment is part time or full time.

(3) If the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing a program, such as a claim that the student may be able to repay a student loan from the salary received at a job obtained following completion of the program, compensation information shall be disclosed as follows:

(A) The total number of students who completed the program and were counted under paragraph (2), and the number and percentage of those who earned salaries at or above the claimed level during the employment tracking period.

(B) The average annual salary earned during the employment tracking period by the students counted under paragraph (2).

(4) If the institution or a representative of the institution in any manner represents that the program might lead to employment in an occupation or job title for which a state examination is required, the following:

(A) All licensure or certification requirements established by the state for the occupation or job title category.

(B) The number of students counted under paragraph (2) who completed a course for which employment requires passing a state licensing examination, and the number and percentage of them who took the required exam the first time it was available after completion of the program, and the number and percentage of those who took it and passed it.

(5) If a program is too new to provide data for any of the categories listed in this subdivision, the institution shall state on its fact sheet:

“This program is new. Therefore, the number of students who graduate, the number of students who are placed, or the starting salary you can earn after finishing the educational program are unknown at this time. Information regarding general salary and placement statistics may be available from government sources or from the institution’s research, but it is not the same as actual performance data.”

(b) Any other information necessary to substantiate the truth of any claim made by the institution as to job placement.

(c) Costs of attendance, including a schedule of the total charges and a list of any charges that are nonrefundable, clearly identified as nonrefundable charges. The disclosure required under paragraph (2) of subdivision (a) is deemed to comply with this requirement.

(d) (1) A statement specifying that, if the student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund applied to the balance due on the loan.

(2) Prospective students shall be provided with information about all loan and financial aid programs offered or arranged by the institution.

(e) A transferability disclosure. An institution shall provide to each prospective student for a degree, diploma, or certificate program, a written statement on a separate piece of paper in at least 12-point type that contains the following statement:

“NOTICE CONCERNING THE TRANSFERABILITY OF UNITS AND DEGREES EARNED AT OUR SCHOOL:

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer.

Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. For example, if you entered our school as a freshman, you may still be a freshman if you enter another college or university at some time in the future, even though you earned credits here at our school.

In addition, if you earn a degree, diploma, or certificate in our (fill in the name of the program) program, it is possible that it may not serve as a basis for obtaining a higher level degree at another college or university.

For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to

transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer.

If this institution has any transfer agreements with other colleges or universities, it must give you a written list and description of those agreements.”

(f) (1) A disclosure with a clear and conspicuous caption:

“BUYER’S RIGHT TO CANCEL

You have a temporary right to cancel this agreement and will owe only the registration fee of \$(insert amount). The school will notify you in writing at least three days prior to the date you may cancel to receive a full refund. You must cancel in writing. After (insert appropriate phrase as specified in Section 94919), you will have the right to a partial refund if you cancel this agreement. This notice explains your cancellation and refund rights and how to cancel. These rights are also explained in the school’s catalog and you will receive a cancellation form on your first day of class.”

(2) The disclosure shall contain a clear written statement of the institution’s refund policy, a table of the amount of the refund to which the student would be entitled if the student withdrew from the program after completing a period of days or weeks of instruction equivalent to 10 percent, 25 percent, 50 percent, 60 percent, and 75 percent of the period of attendance, and a statement that, if the student has received federal student financial aid funds, the student is entitled to a refund of moneys not paid from federal student financial aid program funds.

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund, including the title and address of the institution manager to whom the notice shall be sent or delivered.

(4) If the institution solicited the student or negotiated the agreement in a language other than English, the disclosure shall be in that same language.

(g) A statement, provided by the bureau, specifying that it is a state requirement that a student who pays his or her tuition, either directly or through a loan, is required to pay a state-imposed fee

for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the eligibility requirements for the Student Tuition Recovery Fund. This statement may be included in the same document as required under subdivision (c).

(h) A statement providing disclosures as required by Section 69800 of the Education Code. This subdivision shall become operative only if Senate Bill 1355 of the 2007–08 Regular Session is enacted.

(i) A statement specifying that, if the student is eligible for a loan guaranteed by the federal or state government and the student defaults on the loan, both of the following may occur:

(1) The federal or state government or a loan guarantee agency may take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(2) The student may not be eligible for any other federal student financial aid at another institution or other government assistance until the loan is repaid.

(j) A statement specifying that the institution is not a public institution.

(k) A statement specifying whether the institution has a pending petition in bankruptcy or has had a petition in bankruptcy filed against it.

(l) The objective sources of the information substantiating the truthfulness of any claim by the institution or its representative about salaries earned in any specific job, job title, vocation, occupation, or trade. Objective sources shall include, but not be limited to, the California Employment Development Department and the United States Department of Labor Bureau of Labor Statistics.

94907.5. (a) An institution shall clearly and conspicuously orally disclose all of the following information when providing the required related written disclosure:

(1) The information required to be disclosed pursuant to subdivision (a) of Section 94907.

(2) A statement pointing out on the written disclosure required by subdivision (c) of Section 94907 the total being charged, the schedule of payments, and which charges are nonrefundable.

(3) The information required to be disclosed pursuant to paragraph (1) of subdivision (d) of Section 94907.

(4) The information required by subdivision (e) of Section 94907.

(5) The information required by paragraph (1) of subdivision (f) of Section 94907.

(6) The information required by subdivision (h) of Section 94907.

(b) The disclosures required by subdivision (a) shall be made to each prospective student at least one business day prior to the student's execution of the enrollment agreement.

(c) The disclosures required by paragraphs (1), (2), (4), and (5) of subdivision (a) shall be made about each program in which the student expressed interest in enrolling.

(d) At the conclusion of providing the required oral information, the institution shall advise the prospective student to read and review the materials provided and ask questions about the content of the documents that he or she does not understand.

(e) The institution shall have a uniform procedure sufficient to ensure the disclosures are made as required by this section, including a method to monitor compliance.

94908. Each disclosure in Section 94907 shall be acknowledged by the signature of a person representing the institution on a single form acknowledging delivery of the individually identified disclosures.

94909. A student may not waive any required term, or receipt of any disclosure, required by this article.

94910. An enrollment agreement shall be written in language that is easily understood. If English is not a student's primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall be provided a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language.

94911. If the recruitment leading to enrollment was conducted in a language other than English, the enrollment agreement, disclosures, and statements shall be in that language.

94912. An enrollment agreement shall become operative when the student attends the first class session.

94913. An enrollment agreement shall not contain a provision that requires a student to invoke an internal institutional dispute

procedure before enforcing any contractual or other legal rights or remedies.

94914. An enrollment agreement, note, or other instrument of indebtedness, or contract relating to payment for educational services is not enforceable by an institution within or outside this state governed by this chapter unless, at the time of execution of that note, other instrument of indebtedness, enrollment agreement, or contract, the institution has a valid approval to operate pursuant to this chapter.

Article 11. Consumer Loans to Students

94916. (a) (1) For each student who will enter or has entered into any consumer credit contract that would be subject to Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations as it exists and as it is amended thereafter, to pay for any part of the total charge, the institution shall include the following statement in any written contract or agreement for educational services:

“NOTICE

YOU MAY ASSERT AGAINST THE HOLDER OF ANY CONSUMER CONTRACT YOU SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER ANY CONSUMER CONTRACT.”

(2) An institution that fails to comply with paragraph (1) shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or other holder of any evidence of indebtedness on account of the absence of that notification.

(b) Notwithstanding the presence or absence of the notification required in subdivision (a), and notwithstanding an agreement in which a student waives the right to assert a claim or defense, an institution making a loan or extending credit and any transferee, assignee, or holder of any evidence of indebtedness, are subject to all defenses and claims that could be asserted against the institution that was to render or furnish those educational services by a party to that evidence of indebtedness or by the person to

whom these educational services were to be rendered or furnished up to the amount paid thereon.

(c) Any consumer credit contract for financing provided under a federal student assistance program and that complies with the financial disclosure and notification requirements for those programs is in compliance as to that financing with the standards prescribed by this section.

(d) For any term defined under Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations and used in this section, the definition under Part 433 shall apply to that term in this section.

94918. In making consumer credit available to students, an institution shall also comply with the requirements of the Federal Truth in Lending Act pursuant to Title 15 of the United States Code.

Article 12. Cancellations, Withdrawals, and Refunds

94919. (a) A student shall have the right to cancel an enrollment agreement, set forth in subdivision (b) and as follows:

(1) For degree programs, the student shall have the right to cancel prior to or on the first day of instruction.

(2) For nondegree programs in excess of 50 days, the student shall have the right to cancel until midnight of the fifth business day after the day on which the student attended the first class of the program of instruction that is the subject of the agreement.

(3) For nondegree programs of 50 or fewer days, the student shall have the right to cancel the agreement until midnight of the date that is one business day for every 10 days of scheduled program length, rounded up for any fractional increments thereof.

(4) For distance learning programs, if the first lesson is sent to the student by mail, the institution shall send it by first-class mail, postage prepaid, documented by a certificate of mailing, and the student shall have a right to cancel until midnight of the eighth business day after the first lesson was mailed. If the first lesson is sent to the student electronically, the student shall have the right to cancel until midnight of the third business day after the first lesson was electronically received by the student.

(b) The period for cancellation under this section begins as set forth in subdivision (a), when either of the following occurs:

(1) The student receives a copy of the notice of cancellation as provided in Section 94921.5.

(2) The student receives a copy of the enrollment agreement and the disclosures as required by Section 94907 and Section 94907.5, whichever is later.

(c) Cancellation shall occur when the student gives written notice of cancellation to the institution at the address specified in the agreement.

(d) The written notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid and if given by e-mail, is effective when e-mailed to the e-mail address, if any, specified in the agreement.

(e) The written notice of cancellation need not take a particular form and, however expressed, is effective if it indicates the student's desire not to be bound by the agreement.

(f) Except as provided in subdivision (g) of Section 94920.1, if the student cancels the agreement, the institution shall refund, without penalty or obligation, 100 percent of the amount paid to that institution by or on behalf of the student, less a reasonable registration fee not to exceed one hundred fifty dollars (\$150) or one hundred dollars (\$100) for distance education, within 20 days after the institution receives notice of the cancellation.

(g) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the notice of cancellation. If the student fails to return the equipment within this 10-day period, the institution may retain that portion of the consideration paid by the student equal to the documented cost to the institution of the equipment, but not more than the equipment's fair market value, and shall refund the portion of the consideration exceeding the documented cost to the institution of the equipment within 20 days after the institution receives notice of the cancellation. The school shall have the burden of proof to establish each item of the equipment's fair market value. The student may retain the equipment without further obligation to pay for it.

94920. (a) If a student withdraws from a program of instruction after the applicable period described in Section 94919, the institution shall remit a refund as provided in Section 94920.1 within 30 days following the student's withdrawal.

(b) If any portion of the tuition was paid from the proceeds of a loan, the refund shall be sent to the lender or, if appropriate, to the state or federal agency that guaranteed or reinsured the loan. Any amount of the refund in excess of the unpaid balance of the loan shall be first used to repay any student financial aid program from which the student received benefits, in proportion to the amount of the benefits received, and any remaining amount shall be paid to the student.

(c) Within 10 days of the day on which the refund is made, the institution shall notify the student in writing of the date on which the refund was made, the amount of the refund, the method of calculating the refund, and the name and address of the entity to which the refund was sent. The following statement shall be placed at the top of the notice in at least 10-point boldface type: “This Notice is Important. Keep It For Your Records.”

(d) Except for subdivision (a), this section shall not apply to a student if both of the following occur:

(1) All of that student’s tuition and fees are paid by a third-party organization, such as a Job Training Partnership Act agency, a regional occupational program or regional occupational center, a private industry council, or a vocational rehabilitation program, if the student is not obligated to repay the third-party organization or does not lose time-limited educational benefits.

(2) The third-party organization and the institution have a written agreement, entered into on or before the date the student enrolls, that no refund will be due to the student if the student withdraws prior to completion. The institution shall provide a copy of the written agreement to the bureau. The institution shall disclose to any student whose refund rights are affected by this agreement, in all disclosures required to be given to the student by this chapter, that the student is not entitled to a refund. It is the intent of the Legislature that this paragraph not apply to any student whose tuition and fees are paid with funds provided to the third-party organization for the student’s benefit as part of any program that provides funds for training welfare recipients or that is related to welfare reform.

94920.1. (a) Except as provided in subdivision (b) and Section 94919, an institution shall refund the unused portion of tuition fees and other charges if a student does not register for the period of attendance, withdraws at any time prior to completion of the period

of attendance, or otherwise fails to complete the period of attendance as provided in this section.

(b) For students enrolled in a degree program, the institution shall provide a pro rata refund to students who completed 60 percent or less of the period of attendance.

(c) Except as provided in subdivision (d), the refund shall be calculated as follows:

(1) Deduct a reasonable registration fee not to exceed one hundred fifty dollars (\$150) from the total charge for the program or period of attendance, as applicable.

(2) Divide this figure by the number of credit or clock hours in the program or period of attendance.

(3) The quotient derived in paragraph (2) is the hourly charge.

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction and adding to that product the amount of the registration fee specified in paragraph (1).

(5) The refund shall be any amount in excess of the figure derived in paragraph (4) that was paid by the student.

(6) The refund amount shall be adjusted as provided in subdivision (f) or (g) for equipment and as provided in subdivision (h) for resident instruction, if applicable.

(d) For an educational service offered by distance learning, the refund shall be calculated as follows:

(1) Deduct a reasonable registration fee not to exceed one hundred dollars (\$100) from the total charge for the program or period of attendance, as applicable.

(2) Divide this figure by the number of lessons for the program or period of attendance, as applicable.

(3) The quotient derived in paragraph (2) is the per lesson charge.

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total number of lessons completed by the per lesson charge calculated in paragraph (3) and adding to that product the amount of the registration fee specified in paragraph (1).

(5) The refund shall be any amount in excess of the figure derived in paragraph (4) that was paid by the student.

(6) For the purposes of this section, an institution may specify in an enrollment agreement the time limits within which a student is required to complete the requirements of a distance learning program.

(e) Notwithstanding any provision in any agreement, all of the following shall apply:

(1) All amounts that the student has paid, however denominated, shall be deemed to have been paid for instruction, unless the student has paid a specific charge for equipment set forth in the agreement for the program of instruction.

(2) In the case of an educational service offered by distance learning, all amounts that the student has paid, however denominated, shall be deemed to have been paid for lessons unless the student has paid a specific charge for equipment or resident instruction as set forth in the agreement for the educational service.

(3) The total number of hours necessary to complete each lesson of distance learning instruction shall be substantially equivalent to each other lesson unless otherwise permitted by the bureau.

(4) An equal charge shall be deemed to have been made for each class or credit hour of instruction or each lesson.

(f) If the institution specifies in the agreement a separate charge for equipment that the student actually obtains and the student returns that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution shall refund the charge for the equipment paid by the student. If the student fails to return that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution may offset against the refund calculated under subdivision (c) or (d), as applicable, the documented cost to the institution of that equipment. The student shall be liable for the amount, if any, by which the documented cost for equipment exceeds the refund amount calculated under subdivision (c) or (d), as applicable. For the purposes of this subdivision, equipment cannot be returned in good condition if the equipment cannot be reused because of clearly recognized health and sanitary reasons and this fact is clearly and conspicuously disclosed in the enrollment agreement.

(g) If the institution specifies in the enrollment agreement a separate charge for equipment, which the student has not obtained

at the time of the student's withdrawal, the refund also shall include the amount paid by the student that is allocable to that equipment.

(h) If an agreement for educational service offered by distance learning includes a separate charge for resident instruction, which the student has not begun at the time of the student's withdrawal, the institution shall refund the charge for the resident instruction paid by the student. If the student withdraws from the educational service after beginning the resident instruction, the institution shall pay a refund equal to the amount the student paid for the resident instruction multiplied by a fraction, the numerator of which is the number of hours of resident instruction which the student has not received but for which the student has paid, and the denominator of which is the total number of hours of resident instruction for which the student has paid.

(i) For the purpose of determining a refund under this section, a student shall be deemed to have withdrawn from a program of instruction when any of the following occurs:

(1) The student notifies the institution of the student's withdrawal or of the date of the student's withdrawal, whichever is later.

(2) The institution terminates the student's enrollment as provided in the agreement.

(3) The student has failed to attend classes for a three-week period. For the purpose of determining the amount of the refund, the date of the student's withdrawal shall be deemed the last date of recorded attendance. For the purposes of determining when the refund must be paid pursuant to subdivision (a) of Section 94920, the student shall be deemed to have withdrawn at the end of the three-week period.

(4) The student has failed to submit three consecutive lessons, or has failed to submit a completed lesson within 60 days of its due date as set by an educational service offered by distance learning. For the purpose of determining the amount of the refund, the date of the student's withdrawal shall be deemed to be the date on which the student submitted the last completed lesson. For the purposes of determining when the refund must be paid pursuant to subdivision (a) of Section 94920, the student shall be deemed to have withdrawn at the end of the 60 days or the date the student failed to timely submit the third consecutive lesson.

(j) An institution shall have the burden of proof to establish the validity of the amount of every refund. The institution shall maintain records for five years of all the evidence on which the institution relies for the determination of refund amounts.

94921. A degree granting institution offering an educational program for which the refund calculations set forth in this article cannot be utilized because of the unique way in which the program is structured may petition the bureau for an alternative method of calculating tuition refunds. The bureau shall determine the details of an alternative refund policy, by regulation, and shall take into consideration the enrollment agreement entered into with the student, as well as the length and character of the educational program in determining standards for refunds. The decision of the bureau shall be final.

94921.1. (a) For purposes of this section, any reference to an institution also includes its representatives who are involved with financial aid. All institutions subject to the approval requirements of this chapter shall identify each student who makes an application for, and receives, loan moneys other than loans provided under a governmental student financial aid program, to the extent that this information is reasonably available to the institution, including, but not necessarily limited to, students for whom the institution makes a referral to a lender, students for whom the institution acts as lender or an agent of the lender, students receiving loan proceeds from a lending entity in which the institution has a financial interest, or students for whom loan proceeds are received by the institution on behalf of the student. For purposes of this section, “financial interest” excludes ownership of mutual fund shares in a mutual fund that directly owns shares of the lender.

(b) The institution shall ensure, either by providing the service or by documenting that the service has been provided by the lending entity, that each student has received information regarding the student’s rights and obligations related to loans at the time of signing a promissory note or other loan document, and at the end of a student’s academic program. If a student leaves a program prior to completion of the program, the institution shall make an attempt to contact that student at the last known student address to ensure the student has received information from the lending entity or to provide information to the student itself, and shall keep evidence of its attempt to do so.

(c) An institution that participates in private student loan programs and suggests those programs to its students or refers students to those programs, shall do all of the following:

(1) Disclose to the student any formal or informal relationship between the institution and the lender, including, but not necessarily limited to, an agreement between the institution and lender to make referrals to the lender, to place that lender in a preferred status for students of that institution, or to provide any benefit, financial or otherwise, to the institution as a result of referral or student borrowing from the lender, and shall disclose any financial interest of the institution in the lending entity.

(2) Clearly and fully disclose to students the criteria and process used to select the preferred lenders. For purposes of this section, lenders shall be considered to be “preferred” or have a “preferred status” if the institution recommends or suggests specific lending institutions to its students or potential students to use to obtain loans to finance their education.

(3) Clearly and fully disclose to students and their families their right and ability to choose a lender of their choice regardless of whether or not the lender is a preferred lender.

(4) Clearly and fully disclose to students and their families all of the students’ options under Title IV of the federal Higher Education Act as amended, including information about any terms or conditions of available loans under that title that are more favorable to the student in terms of available loans and grants under this title, before the institution refers or suggests that the students use lenders making private educational loans.

(5) Disclosure under this subdivision shall be made, prior to the signing of the indebtedness, whenever the institution has a reasonable opportunity to know of the student’s application for the loan.

(6) Disclosure under this subdivision shall be included in the information and materials provided to the student at the time of negotiation of the enrollment contract, whenever the institution has a reasonable opportunity to know of the student’s application for that loan.

(d) Institutions that participate in private student loan programs shall not do any of the following:

(1) Receive a gift or other consideration or anything of value of more than one hundred dollars (\$100) in total value from a lender in a calendar year.

(2) Provide preferred lender status to a lender unless the decision is based solely on the best interests of the students and their families.

(3) Receive anything of value for serving on an advisory board or committee of any provider of student private loans.

(4) Give any lender preferred status unless the lender provides assurances to the institution and to borrowers, who take out the loans from such lenders, that the advertised benefits during any deferral period and during repayment will continue to inure to the benefit of borrowers regardless of whether the lender's loans are sold.

(5) Give any lender preferred status in exchange for benefits provided by the lender to the institution or to the institution's students in connection with a different type of student loan.

(e) The institution shall keep sufficient records to demonstrate compliance with this section.

(f) Where federal statutes and regulations conflict with or exceed the disclosure provisions of this section with respect to private educational loans, the federal statutes and regulations shall take precedence for institutions subject to approval under this chapter that are eligible to participate in student financial aid programs under Title IV of the federal Higher Education Act of 1965.

94921.5. (a) When a person executes an agreement obligating that person to pay any money to an institution for a course program of instruction or related equipment, the institution shall provide the person with a document containing only the following notice:

“NOTICE OF CANCELLATION, REFUND AND OTHER RIGHTS”

“1. You may cancel your contract for school, without any penalty or obligations other than payment of the registration fee of \$(insert amount) as described in the Notice of Cancellation form that will be given to you (insert ‘on the first day of class’ or ‘with the first lesson in a distance learning program,’ whichever is applicable).

“Read the Notice of Cancellation form for an explanation of your cancellation rights and responsibilities. If you have lost your Notice of Cancellation form, ask the school for another form.

“2. After the end of the cancellation period, you also have the right to stop school at any time, and you have the right to receive a refund based on the part of the program you completed. Your refund rights are described in the contract. If you have lost your contract, ask the school for a description of the refund policy.

“3. If the school closes before you graduate, you may be entitled to a refund. Contact the Bureau for Private Postsecondary Education at the address and telephone number printed below for information.

“4. If you have any complaints, questions, or problems that you cannot work out with the school, write or call the Bureau for Private Postsecondary Education:

(insert mailing address, e-mail address, and telephone number of the Bureau for Private Postsecondary Education)”

(b) Except as otherwise provided in subdivision (a), the notice required by subdivision (a) shall be printed in 10-point type or larger in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

(c) The institution shall also make its refund policy known to currently enrolled students.

(d) A copy of the notice, in each language in which the notice was printed pursuant to subdivision (b), shall be posted at all times in a conspicuous place at the main entrance of the institution, in each admissions office, and in each room used for instruction. The bureau may prescribe the size and format of the posted notice. This subdivision does not apply to an institution that exclusively offers distance learning programs.

(e) Upon request, the institution shall provide a student with a copy of a Notice of Cancellation form, a written description of the student’s refund rights, a copy of the contract executed by the student, a copy of documents relating to loans or grants for the student, and a copy of any document executed or initialed by the student.

(f) The bureau may provide for the inclusion of additional information in the notice set forth in subdivision (a).

94921.7. An institution shall provide the student with two cancellation forms at the first class attended by the student or with

the first lesson in a distance learning course submitted by the student. The form shall be completed in duplicate, in 12-point or larger type, captioned “Notice of Cancellation,” and shall contain the following statement:

“Notice of Cancellation

(Date)

(Insert date of first class, date first lesson received, date first lesson was received electronically, or date first lesson was mailed, whichever is applicable)

“You may cancel this contract for school, without any penalty or obligation (other than payment of the \$[insert amount of registration fee] registration fee) by the date stated below.

“If you cancel, any payment you have made, other than the registration fee, and any negotiable instrument signed by you shall be returned to you within 30 days following the school’s receipt of your cancellation notice.

“But, if the school gave you any equipment, you must return the equipment within 30 days of the date you signed a cancellation notice. If you do not return the equipment within this 30-day period, the school may keep an amount out of what you paid that equals the cost of the equipment, but no more than what the school can show is the equipment’s fair market value.

“The total amount charged for each item of equipment shall be separately stated. The school is required to refund any amount over that as provided above, and you may keep the equipment.

“To cancel the contract for school, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to:

_____, at

_____.

(Insert name of institution) (Insert address of institution and e-mail address if available)

“NOT LATER THAN MIDNIGHT OF _____

(Insert the date applicable under Section 94919)

“I cancel the contract for school.

(Date)

(Student’s signature)

“REMEMBER, YOU MUST CANCEL IN WRITING. You do not have the right to cancel by just telephoning the school or by not coming to class. “If you have any complaints, questions, or problems which you cannot work out with the school, write or call the Bureau for Private Postsecondary Education:

(insert mailing address, e-mail address, and telephone number of the Bureau for Private Postsecondary Education)”

94922. A student may not waive any provision of this chapter.

Article 13. Student Tuition Recovery Fund

94923. The Student Tuition Recovery Fund is continued in existence. All assessments and fees collected pursuant to this article shall be credited to this fund, along with any interest on the moneys, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the bureau without regard to fiscal year for the purposes of this article.

94923.1. This article applies to the following:

(a) Institutions, and students and former students of the institutions, subject to this chapter.

(b) Institutions, and students and former students of the institutions exempt under paragraph (7) of subdivision (a) of, and under subdivision (b) of, Section 94874.

94923.2. It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student’s program, the student shall have the option for a teach-out at another institution approved by the bureau. The bureau shall seek to promote teach-out opportunities wherever possible and shall inform the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.

94923.5. The bureau shall assess an institution, except for an institution that receives all of its students’ total charges from third-party payers, for the purpose of compliance with the provisions of this chapter that are related to the Student Tuition

Recovery Fund. A student who receives third-party payer benefits for his or her total charge is not eligible for benefits from the Student Tuition Recovery Fund.

94923.6. (a) (1) The amount assessed each institution shall be calculated only for those students who are eligible to be reimbursed from the fund and shall be based on the actual amount charged each of these students as the total charge, regardless of the portion that is paid or prepaid. The amount of the assessment on an institution shall be determined in accordance with subdivisions (b) and (c).

(2) Each institution shall collect the amount assessed by the bureau in the form of a Student Tuition Recovery Fund fee from its new students, except that an institution may waive collection of the Student Tuition Recovery Fund fee and assume the fee as a debt of the institution. Each institution shall remit these fees to the bureau during the quarter immediately following the quarter in which the fees were collected from the students, or from loans funded on behalf of the students, or for an institution that assumes the fee as its own debt, in the quarter immediately following the quarter in which the institution collected any initial payment from or on behalf of the student. For institutions that do not operate on the quarter system, the institution shall remit these fees to the bureau during the 10-week period immediately following the 10-week period in which the fees or payments were collected unless the bureau establishes a different time period for such institutions. The fees collected by the institution shall be placed in a separate trust account and not commingled with any other moneys until the institution remits those fees to the bureau. The student's subsequent disenrollment after the cancellation period shall not relieve the institution of the obligation to pay the fee to the bureau, nor be the basis for refund of the fee to the student. An institution may not charge a fee of any kind for the collection of the Student Tuition Recovery Fund fee. An institution shall refuse to enroll a student who has not paid, or made provisions to pay, the appropriate Student Tuition Recovery Fund fee.

(b) A Student Tuition Recovery Fund fee shall be set at the rate of two dollars and fifty cents (\$2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars.

(c) If, at any time, the balance in the Student Tuition Recovery Fund is more than ten million dollars (\$10,000,000), after deducting

the estimated liability associated with any pending claims, the bureau may reduce the amount of the Student Tuition Recovery Fund fees from which the assessment is paid to less than two dollars and fifty cents (\$2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars, or suspend collection of the fee for a period determined by the bureau, so as to maintain a fund balance of between ten million dollars (\$10,000,000) and twenty-five million dollars (\$25,000,000) after deducting the estimated liability associated with any pending claims. Prior to any reduction in the assessment, the bureau shall demonstrate that amounts in the fund would be reasonably sufficient to pay any pending or future claims.

(d) (1) The bureau may by regulation levy additional reasonable special assessments on an institution under this section only if these assessments are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying reasonably anticipated student claims.

(2) The bureau shall levy a special assessment when the balance in the Student Tuition Recovery Fund falls below one million dollars (\$1,000,000) as certified by the Secretary of State and Consumer Services.

(3) The bureau shall provide at least 90 days' notice of an impending special assessment to each affected institution. This notice shall be posted on the bureau's Internet Web site and shall be sent electronically to the affected institutions.

(e) The assessments, fees, and special assessments shall be paid into the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students.

94923.7. Moneys deposited in the Student Tuition Recovery Fund are exempt from execution and may not be the subject of litigation or liability on the part of creditors of those institutions or students.

94923.8. (a) The bureau shall adopt a procedure allowing for payments to the fund to be made through online transactions and other electronic means.

(b) The bureau shall adopt audit and accounting procedures to ensure that institutions fully pay the amounts that are due to the fund.

94923.9. The bureau's costs of administration of the Student Tuition Recovery Fund authorized by this article shall not be paid from the fund, but shall be paid from the Private Postsecondary Education Fund.

94924. In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be recovered. Any payments from the fund made to students on behalf of any institution shall be recovered from that institution.

94925. In addition to civil remedies, the bureau may order an institution to pay previously unpaid Student Tuition Recovery Fund fees or to reimburse the bureau for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the bureau shall provide written notice to the institution and notice of the right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the bureau may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the bureau shall have all the powers prescribed in that chapter. Within 30 days after the effective date of the issuance of the order, the bureau may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

94925.5. Payment of Student Tuition Recovery Fund fees is due within 30 days of the bureau's demand for payment. A penalty of 20 percent of the amount due shall be added for late payment.

94925.6. (a) A student or former student who was enrolled in an institution, paid all or part of the total charge, and meets any of the following conditions is eligible for reimbursement from the fund:

(1) The student suffered economic loss as a result of the closure of the institution. For the purposes of this section, "closure" includes the closure of the entire institution or of the site the student is attending, the termination of either the distance learning or residence portion of a distance learning program, and the termination of a program for some or all of the students enrolled in the program before the time these students were originally scheduled to complete it, or before a student who has been

continuously enrolled in a program has been permitted to complete all the educational services and classes that comprise the program. For purposes of this paragraph, “closure” does not include the relocation of a site to a new location within 20 miles where the student continues to attend classes.

(2) The student obtained a final judgment against the institution based on a violation of this chapter, and the student certifies that the judgment cannot be collected after diligent collection efforts.

(3) The institution failed to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution.

(4) The institution’s failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds from whatever source received by the institution prior to closure in excess of tuition and other costs.

(5) The commission of a breach or anticipatory breach of the agreement for the program.

(6) A decline in the quality or value of the course of instruction within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the bureau.

(7) The commission of a fraud by the institution during the solicitation or enrollment of, or during the program participation of, the student.

(b) A claim based on paragraph (1) or (6) of subdivision (a), shall be filed within three years after a closure or after the student or former student receives both the explanation of rights and the claim form under Section 94925.7, whichever is later. A claim based on paragraph (2) of subdivision (a), shall be filed within three years after the judgment is final. A claim based on paragraph (3), (4), (5), or (7) of subdivision (a), shall be filed within three years of discovery.

(c) The time for filing a claim shall be tolled from the date a student files a claim for a federal discharge or compromise on any guaranteed loan received in connection with the student’s program until the decision accepting or rejecting the claim for discharge or compromise becomes final. The time for filing a claim shall be tolled from the date a student who has a private educational loan

received in connection with the student's program seeks a discharge from the lender by asserting against the lender the claims and defenses he has against the school until a decision on that assertion becomes final.

94925.7. (a) The institution shall provide to the bureau, at the time of the institution's closure, the names and addresses of persons who were students of an institution within 60 days prior to its closure, and shall give notice to these students, within 30 days of the institution's closure, of their rights under the fund and how to apply for payment, and shall provide a claim application to each student. If the institution fails to comply with this subdivision, the bureau shall make its best effort to obtain the names and addresses of these students and shall give them notice, within 90 days of the institution's closure, of their rights under the fund and how to apply for reimbursement from the fund, and shall provide a claim application. The notice and claim application required by this subdivision shall be as described in subdivision (b).

(b) The bureau shall develop a form notice fully explaining a student's rights in plain language, which shall be used by the institution or the bureau to comply with the requirements of subdivision (a). The form notice shall include, or be accompanied by, a claim application and an explanation of how to complete the application.

(c) The bureau shall determine and maintain a record of the names of the persons in control at the institution which is closing or has been closed with unpaid funds.

94925.8. A student applying for payment from the Student Tuition Recovery Fund shall file with the bureau in a form and manner prescribed by the bureau.

94925.9. Whenever the bureau receives from a student a completed application for payment from the Student Tuition Recovery Fund, the bureau shall, as soon as is practicable, cause to be delivered to that student a written notice specifying, in plain language, the rights of a student under this article.

94925.10. (a) If the bureau pays a claim in accordance with this article, the amount of the payment shall be (1) the greater of either (A) the total student loan debt incurred by the student in connection with attending the institution, including any interest, fees and costs, including collection charges on the student loans, or (B) the student's total charge for the program, less (2) the

amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the bureau's payment of the claim in connection with the student loan debt or total charge for the program. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for licensing fees or any other purpose. However, if the claim is based solely on a final judgment being awarded, the amount of the payment shall be the amount of the portion of the judgment attributable to loss suffered by the student, but no more than the amount otherwise allowed by this section.

(b) The amount of the payment determined under this subdivision is not dependent on the amount of the refund to which the student would have been entitled after a voluntary withdrawal.

(c) Upon payment of a claim, all of a student's rights against an institution shall be deemed assigned to the bureau to the extent of the amount of the payment.

94925.11. If the bureau denies a student's claim, or reduces the amount of a claim, the bureau shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the bureau. The 60-day period for requesting a hearing may be extended for good cause on request. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the bureau's decision shall be final. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

94925.12. Whenever reasonably possible, the bureau shall negotiate with a lender, holder, guarantee agency, or the United States Department of Education for the full compromise or discharge of student loan obligations to relieve students of loss, and thereby reduce the amount of student claims charged against the fund.

94925.13. The bureau, with the student's permission, may pay a student's claim directly to the lender, holder, guarantee agency, or the United States Department of Education under a federally guaranteed student loan program only if the payment of the claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.

94925.14. (a) Within 60 days of the bureau's receipt of a completed application for payment, the bureau shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The bureau, for good cause, may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.

(b) The bureau may also delay the payment of a claim from the fund pending the resolution of the bureau's attempt to obtain a compromise or discharge of the claimant's student loan obligation from the federal government, the guarantee agency, a private lender, or their representatives.

(c) If any adverse action that is not stayed is taken against the claimant, including the commencement of a civil or administrative action, tax offset, the enforcement of a judgment, or the denial of any government benefit, the bureau shall immediately pay a valid claim without regard to any extension or delay the bureau previously allowed or could otherwise allow.

Article 14. Orderly Institutional Closure and Teach-outs

94926. At least 30 days prior to closing, the institution shall notify the bureau in writing of its intention to close. The notice shall be accompanied by a closure plan, which shall include, but not necessarily be limited to, all of the following:

(a) A plan for providing teach-outs of educational programs, including any agreements with any other postsecondary educational institutions to provide teach-outs.

(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.

(c) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning these programs and institutional closures.

(d) A plan for the disposition of student records.

94927. An institution shall be considered in default of the enrollment agreement when an educational program is discontinued or canceled or the institution closes prior to completion of the educational program. When an institution is in default, student

institutional charges may be refunded on a pro rata basis if the bureau determines that the school has made provision for students enrolled at the time of default to complete a comparable educational program at another institution at no additional charge to the student beyond the amount of the total charges in the original enrollment agreement. If the institution does not make that provision, a total refund of all institutional charges shall be made to students.

94927.5. Prior to closing, an institution shall provide the bureau with pertinent student records, including transcripts, as determined by the bureau by regulation.

Article 15. Completion and Placement Requirements

94928. An institution shall report annually to the bureau the information required to be disclosed in the institution's "School Performance Fact Sheet" statement pursuant to Section 94907.

94929. Nothing contained in subdivision (a) of Section 94907 prevents an institution from disclosing to students, but not in the School Performance Fact Sheet, the institution's completion, employment, salary, or licensure numbers and rates, at the site and for the program in which the student is interested, determined in accordance with the accreditation standards applicable to the institution or another California state agency's regulatory standards applicable to the institution, if the institution complies with all of the following:

(a) The other disclosures are not misleading and do not detract attention from the information required to be disclosed by subdivision (a) of Section 94907.

(b) The criteria used to determine the numbers and rates of other disclosures must be disclosed in immediate proximity to the disclosed numbers or rates determined by those other criteria.

(c) The disclosures required by subdivision (a) of Section 94907 are prominently disclosed before any other numbers or rates.

(d) The institution discloses to the bureau in its application and its annual report any other disclosures about completion, employment, salaries, or licensure passage that it has made during the previous year, the format of any written disclosures used and any it intends to make in the following year, along with the basis for calculating the other applicable standards.

Article 16. Compliance, Enforcement, Process, and Penalties

94931. The bureau shall determine an institution's compliance with the requirements of this chapter. If the bureau has reason to believe that there may have been a violation of this chapter or regulations adopted by the bureau, the bureau shall conduct a timely investigation of the institution. As part of its compliance program, the bureau may perform unannounced inspections of institutions. The bureau shall have the authority to require institutions to comply with requests for reports and other documents necessary to complete audits, investigations, inquiries, and inspections. If the bureau determines, after completing an investigation, that an institution has violated any applicable laws or regulations, the bureau shall take action against the institution pursuant to this article as it deems appropriate.

94931.1. The bureau, with the assistance and guidance of, and in cooperation with, the Attorney General, shall develop an enforcement program. The enforcement program shall include, but not necessarily be limited to, all of the following:

- (a) Initial and periodic training of bureau staff.
- (b) The enforcement process shall ensure that all institutions subject to this chapter are in compliance with this chapter and that the bureau takes appropriate action, pursuant to this article, against institutions not in compliance.
- (c) Site visits that include a review of records, inspection of facilities, interviews of administrators, faculty and students, and observation of class instruction.
- (d) Audits, site visits, and investigations that are triggered by complaints and where the bureau has reasonable cause to believe an institution commits one or more acts constituting grounds for discipline. The audits and site visits may be unannounced and may include a qualitative review and assessment encompassing minimum standards, interviews with administrators, faculty, staff, and students, inspection of facilities, records, and recordkeeping, and all records required to be maintained under subdivision (b) of Section 94862, subdivisions (b) and (c) of Section 94899.7, and Sections 94887 and 94920.1, or necessary to show compliance with this chapter.

94931.3. The bureau shall promulgate regulations to implement the intent of this article, including, but not limited to, the probation and suspension of an approval to operate.

94932. The bureau may provide the institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate as it deems appropriate to the severity of an institution's violations of this chapter, and the harm caused to students. In addition to any other action that the bureau may take under this chapter, the bureau may suspend or revoke an institution's approval to operate because of the institution's failure to pay Student Tuition Recovery Fund fees and pay penalties.

94933. As much as is practicable, the bureau shall seek to resolve instances of noncompliance, including the use of alternative dispute resolution procedures in Chapter 4.5 (commencing with Section 11420.10) of Part 1 of Division 3 of Title 2 of the Government Code.

94934. (a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

- (1) The total number of students enrolled by level of degree or for a diploma.
- (2) The number of degrees, by level, and diplomas awarded.
- (3) The degree levels and diplomas offered.
- (4) The records required by subdivision (e) of Section 94897.5.
- (5) The total charges for each educational program by period of attendance.
- (6) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.
- (7) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

(b) The bureau shall prescribe the annual report's format and method of delivery.

94935. (a) Bureau staff who, during an inspection of an institution, detect a minor violation of this chapter, or regulations adopted pursuant to this chapter, shall issue a notice to comply before leaving the institution. The bureau shall establish a voluntary

informal appeal process, by regulation, within one year of the enactment of this chapter.

(b) An institution that receives a notice to comply shall have no more than 30 days from the date of inspection to remedy the noncompliance.

(c) Upon achieving compliance, the institution shall sign and return the notice to comply to the bureau.

(d) A single notice to comply shall be issued listing separately all the minor violations cited during the inspection.

(e) A notice to comply shall not be issued for any minor violation that is corrected immediately in the presence of the bureau staff. Immediate compliance may be noted in the inspection report, but the institution shall not be subject to any further action by the bureau.

(f) A notice to comply shall be the only means the bureau shall use to cite a minor violation discovered during an inspection. For minor violations, the bureau shall not take any other enforcement action specified in this chapter against an institution that has received a notice to comply if the institution complies with this section.

(g) If an institution that receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged minor violations listed in the notice to comply, an institution shall send the bureau a written notice of disagreement. The agency may take administrative enforcement action to seek compliance with the requirements of the notice to comply.

(h) If an institution fails to comply with a notice to comply within the prescribed time, the bureau may take administrative enforcement action.

94936. (a) As a consequence of an investigation, the bureau may issue a citation to an institution for violation of this chapter, or regulations adopted pursuant to this chapter.

(b) The citation may contain either or both of the following:

(1) An order of abatement that may require an institution to demonstrate how future compliance with this chapter or regulations adopted pursuant to this chapter will be accomplished.

(2) Notwithstanding Section 125.9 of the Business and Professions Code, an administrative fine not to exceed ten thousand dollars (\$10,000) for each violation. The bureau shall base its assessment of the administrative fine on:

- (A) The nature and seriousness of the violation.
- (B) The persistence of the violation.
- (C) The good faith of the institution.
- (D) The history of previous violations.
- (E) The purposes of this chapter.

(c) (1) The citation shall be in writing and describe the nature of the violation and the specific provision of law or regulation that is alleged to have been violated.

(2) The citation shall inform the institution of its right to request a hearing in writing within 30 days from service of the citation.

(3) If a hearing is requested, the bureau shall select an informal hearing pursuant to Chapter 4.5 (commencing with Section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) If a hearing is not requested, payment of the administrative fine is due 30 days from the date of service, and shall not constitute an admission of the violation charged.

(5) If a hearing is conducted and payment of an administrative fine is ordered, the administrative fine is due 30 days from when the order is entered.

(6) The bureau may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure.

(d) All administrative fines shall be deposited in the Private Postsecondary Education Administration Fund.

94937. (a) As a consequence of an investigation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:

- (1) Obtaining an approval to operate by fraud.
- (2) Material or repeated violations of this chapter or regulations adopted pursuant to this chapter that resulted in harm or may reasonably be expected to result in harm to students.

(b) The bureau shall adopt regulations governing probation and suspension of an approval to operate.

(c) The bureau may seek reimbursement for the costs of an investigation pursuant to Section 125.3 of the Business and Professions Code.

(d) An institution shall not be required to pay the same cost of investigation to more than one agency.

(e) This section shall not apply to any minor violation of the chapter.

94938. (a) If the bureau determines that it needs to make an emergency decision to protect students, prevent misrepresentation to the public, or prevent the loss of public funds or moneys paid by students, it may do so pursuant to Chapter 4.5 (commencing with Section 11460.10) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The bureau shall adopt regulations to give this subdivision effect pursuant to Section 11460.20 of the Government Code.

94939. (a) The bureau may bring an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

(b) The remedies provided in this section supplement, and do not supplant, the remedies and penalties under other provisions of law.

94940. As a consequence of an adverse administrative action by the bureau under this chapter against an institution, the institution may request a hearing pursuant to Chapter 4.5 (commencing with Section 11445.10) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

94941. (a) An individual who has cause to believe that an institution has violated this chapter, or regulations adopted pursuant to this chapter, may file a complaint with the bureau against the institution. The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.

(b) Taking into account the nature and seriousness of the alleged violation, the bureau shall take action to ascertain the facts and to verify the complaint. The action may include interviewing institution management or employees, students and others about the student's complaint, the institution's response, the student's response to the institution's response or other relevant

circumstances, conducting an investigation, holding an informal hearing, or other appropriate investigative activity.

(c) Upon the facts discovered, the bureau may take appropriate adverse administrative enforcement action.

(d) If the bureau finds that an institution's violation of this chapter has caused damage or loss to a student or group of students, the bureau may take adverse administrative action including, but not limited to, an order that the institution provide appropriate restitution to that student or group of students.

(e) If the bureau determines that a minor violation occurred, the only adverse actions that may be taken in connection with the minor violation are those that would be allowed under Section 94935.

(f) A person entitled to bring an action for the recovery of damages or other relief which is based on a violation of this chapter shall not be required to file a complaint pursuant to this section, or to pursue or exhaust any administrative process or remedy before bringing the action.

94943. The following violations of this chapter are public offenses:

(a) Willfully operating a private postsecondary institution without an approval to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code.

(b) Willfully providing false information to the bureau on an application for an approval to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code.

94943.5. (a) The Attorney General, a district attorney, or a city attorney may make investigations as may be necessary to carry out this chapter, including investigations of complaints. The bureau may jointly bring actions as necessary to enforce this chapter, including civil actions for injunctive relief.

(b) Nothing in this section or this chapter precludes the Attorney General, a district attorney, or a city attorney from taking any action each is otherwise lawfully authorized to take.

94944. An institution shall designate and maintain an agent for service of process within this state, and provide the name, address, and telephone number of the agent to the bureau. The bureau shall furnish the agent's name, address, and telephone number to a person upon request.

94945. Notwithstanding any other provision of law, the bureau shall cite any person in control, and that person shall be subject to a fine not to exceed fifty thousand dollars (\$50,000), for operating an institution without proper approval to operate issued by the bureau pursuant to this chapter.

94945.1. (a) Each institution subject to this chapter shall be deemed to have authorized the bureau or accrediting agency to provide to the Attorney General, any district attorney or city attorney, or the Student Aid Commission, within 30 days of written notice, copies of all documents and other material concerning the institution that are maintained by the accrediting agency.

(b) Within 30 days of receiving written notice from the Attorney General, any district attorney or city attorney, or the Student Aid Commission, an accrediting agency shall provide, free of charge, the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice.

(c) If the Attorney General, any district attorney or city attorney, or the Student Aid Commission is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation.

(d) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars (\$2,500) or more than twenty-five thousand dollars (\$25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or any successor fund.

94945.2. If any person in control willfully violates this chapter and the violation results in the closure of an institution, that person shall pay to all students of the closed institution full refunds or full compensation for actual damages resulting from the closure that were not paid by the closed institution. This section shall not apply to any minor violation of this chapter.

94945.3. If the bureau determines after an investigation that an institution has violated this chapter, the bureau may order the institution to pay the costs and expenses incurred in connection with the investigation and any civil or administrative proceeding involving the violation that was investigated, including charges

made by the Attorney General for his or her services, and any expenses incurred by a district attorney. Before any order for the payment of costs and expenses is made under this section, the bureau shall provide the institution with written notice, including notice of the institution's right to request a hearing within 15 days of service of the notice. If a hearing is not timely requested, the bureau may order payment. If a hearing is requested, the bureau shall select an informal hearing pursuant to Chapter 4.5 (commencing with Section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Within 30 days after the effective date of the order, the bureau may enforce the order as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure. Alternatively, the bureau may seek the costs and expenses allowed under this section in a civil proceeding. An institution shall not be required to pay the same costs and expenses incurred in connection with the investigation and any civil or administrative proceeding to more than one investigating agency.

94945.4. Nothing in this chapter shall be construed to stay, limit, or preclude the enforcement of rights or remedies under any other applicable statute or law.

Article 17. Severability

94946. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

94946.5. This chapter shall be liberally construed to effectuate its intent and achieve its purposes.

Article 18. Reporting

94947. The bureau shall provide regular updates to the Legislature by participating in annual oversight hearings conducted by the appropriate committees and subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress

in adopting and enforcing regulations and the provisions of this chapter.

94948. On or before July 1, 2013, the Office of the Legislative Analyst shall conduct a comprehensive review of the bureau and report to the Legislature and the Governor on the extent to which the bureau has implemented the provisions of this chapter.

94948.5. (a) It is the intent of the Legislature that all of the following occur:

(1) The Bureau of State Audits, through an audit request approved by the Joint Legislative Audit Committee, conducts an audit pursuant to Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code that assesses the extent accreditation by accrediting bodies provides sufficient assurance that the various goals and requirements of this chapter are met, including, but not limited to, the degree to which the accreditation process ensures the quality and effectiveness of education at accredited institutions and affords meaningful and effective student protections.

(2) In conducting the audit, the Bureau of State Audits protects the confidentiality of information obtained from private individuals and organizations pursuant to subdivision (a) of Section 8545 of the Government Code.

(3) In conducting the audit, the Bureau of State Audits may perform, but is not limited to, all of the following acts:

(A) Examine accrediting bodies that accredit institutions which are subject to this chapter. These shall include a sample of regional and national accrediting bodies. The auditor shall recognize that the bureau by statute must approve accredited schools and rely on that accreditation to the extent that those schools comply with this chapter.

(B) To the extent deemed necessary to meet the audit standards the Bureau of State Audits is required to comply with Section 8546.1 of the Government Code, contacting and obtaining information from institutions or programs operated by institutions accredited by the accrediting bodies.

(4) The Bureau of State Audits issues a public report on the results of the audit not later than December 31, 2011.

(b) It is further the intent of the Legislature that all of the following occur:

(1) The accrediting bodies, and any of the institutions or programs operated by those institutions accredited by those bodies, provide the Bureau of State Audits with full access to any information, records, or individuals that the State Auditor determines are necessary to perform the audit specified in subdivision (a), in a manner consistent with Section 8545.2 of the Government Code.

(2) Upon receiving the information provided pursuant to paragraph (1), the Bureau of State Audits protects the confidentiality of that information as required by subdivision (a) of Section 8545, Section 8545.1, and subdivision (b) of Section 8545.2 of the Government Code. In keeping information confidential as required by those provisions, the Bureau of State Audits shall provide reasonable assurances to the accrediting bodies and institutions that any information used to support the conclusions and facts in the audit report will be used in a manner that does not disclose confidential information that the accrediting body or the institution reasonably claims is not subject to public disclosure under state or federal law.

(3) If any of the entities described in paragraph (1) refuse to provide the Bureau of State Audits access to the information, records, or individuals the Bureau of State Audits determines are necessary to perform the audit, the Bureau of State Audits notifies the Legislature and the Governor, in writing, of that fact, and that notification shall become a public record.

(c) It is the intent of the Legislature that this article be amended before January 1, 2012, to reflect the findings and recommendations of the report completed pursuant to this section.

Article 19. Termination

94949. It is the intent of the Legislature that the termination of this chapter be resolved in a comprehensive measure that resolves this issue for all boards and bureaus within the Department of Consumer Affairs. The sunseting of the prior law has been to the detriment of both students and schools and should be avoided in the future.

SEC. 20. Section 11105.8 is added to the Vehicle Code, to read:

11105.8. Beginning January 1, 2009, a person may not own, operate, or provide instruction for an institution for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight unless all of the following conditions are met:

(a) The institution has been approved by the Department of Motor Vehicles.

(b) The institution, at the time of application and thereafter, maintains both of the following:

(1) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving institution owner, pursuant to Section 11103, unless the Department of Motor Vehicles deems it necessary to establish a higher level of insurance coverage.

(2) A satisfactory safety rating by the Department of the California Highway Patrol is established pursuant to Division 14.8 (commencing with Section 34500).

(c) The institution, at all times, shall maintain the vehicles used in driving training in safe mechanical condition. The institution shall keep all records concerning the maintenance of the vehicles.

(d) The driving instructions meet the requirements set forth in Section 11104.

(e) Any other terms and conditions required by the Department of Motor Vehicles to protect the public safety or to meet the requirements of this chapter.

SEC. 21. Section 4980.36 of the Business and Professions Code, as added by Section 11 of this act, shall become operative only if both this bill and Senate Bill 1218 of the 2007–08 Regular Session are enacted, and in that event, Section 4980.36 of the Business and Professions Code becomes operative on January 1, 2009.

SEC. 22. Section 4980.37 of the Business and Professions Code, as amended by Section 12 of this act, shall become operative only if both this bill and Senate Bill 1218 of the 2007–08 Regular Session are enacted and, in that event, Section 4980.37 of the Business and Professions Code becomes operative on January 1, 2009.

SEC. 23. Section 4980.40 of the Business and Professions Code, as amended by Section 13 of this act, shall become operative only if this bill is enacted and SB 1218 of the 2007–08 Regular Session is not enacted.

SEC. 24. 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.

Approved _____, 2008

Governor