

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JULY 12, 2007

AMENDED IN ASSEMBLY JUNE 27, 2007

**SENATE BILL**

**No. 1048**

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**Introduced by Committee on Business, Professions and Economic  
Development (Senators Ridley-Thomas (Chair), Aanestad,  
Corbett, Denham, Florez, Harman, Simitian, and Yee)**

March 22, 2007

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An act to amend Sections 337, 1209, 1701.1, 1725, 1750, 1750.1, 1750.2, 1750.3, 1750.4, 1751, 1752, 1752.1, 1752.2, 1752.5, 1752.6, 1753, 1753.1, 1754, 1756, 1757, 1770, 2177, 2225, 2313, 2335, ~~2397~~, 2416, 2497.5, ~~2570.7~~ 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, 2570.7, 2570.9, 2570.10, 2570.13, 2570.16, 2570.18, 2570.20, 2717, 2732.05, 3057, 3527, 3634, 4068, 4084, 4101, 4160, 4161, 4162, 4162.5, 4200, 4200.1, 4200.2, 4208, 4314, 4315, 4980.01, 4980.38, 4980.40, 4980.44, 4980.54, 4980.57, 4980.80, 4980.90, 4982, 4984.1, 4984.4, 4989.36, 4989.42, 4989.54, 4992.3, 4996.4, 4996.6, 4996.18, and 4996.22 of, to add Sections 1672, 2471, 2570.8, 4984.01, 4984.72, 4992.10, and 4996.28 to, and to repeal and add Sections 3530, 4984.7, 4984.8, 4996.3, 4996.14, and 4997 of, the Business and Professions Code, and to amend Sections 11372, 12529, and 12529.5 of the Government Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1048, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law provides for the regulation and licensure of clinical laboratories and clinical laboratory personnel, including laboratory directors.

*This bill would prohibit a laboratory director from directing more than 5 licensed clinical laboratories or, if any of the licensed clinical laboratories provides gynecologic cytology services, from directing more than 3 licensed clinical laboratories.*

(1)

(2) Existing law, the Dental Practice Act, establishes the Dental Board of California and provides for the licensure and regulation of the practice of dentistry. The act makes the willful practice, attempt to practice, or advertisement to practice without appropriate authorization in circumstances causing harm, as specified, a misdemeanor offense. The act also provides for the licensure of various types of dental auxiliaries and for their licensure fees to be established by board resolution. *The act also provides for the establishment by board resolution of fees for the review of radiation courses and specialty registration courses.* The act defines the functions certain dental auxiliaries are authorized to perform and revises the criteria for licensure and the functions certain dental auxiliaries are authorized to perform, on and after January 1, 2008. Under the act, commencing on that date, the board is authorized to issue dental auxiliary licenses for a registered orthodontic, surgery, and restorative assistant, and a dentist is authorized to train and educate employees in those licensure categories pursuant to specified procedures. The act requires the board, commencing January 1, 2008, to adopt regulations governing the procedures that dental auxiliaries are authorized to perform.

This bill would delay from January 1, 2008, to January 1, 2010, the operation of provisions revising the duties and licensure criteria for certain dental auxiliaries and requiring the board to adopt regulations governing the procedures dental auxiliaries are authorized to perform. The bill would similarly delay the board's licensure of the additional dental auxiliary categories and would revise the procedures applicable to a dentist training his or her employees in those categories. The bill would revise the licensure fee provisions for dental auxiliaries and *would apply the fee provisions applicable to review of radiation courses or specialty registration courses to the review of any course approval application.* The bill would make other related changes to the dental auxiliary provisions of the Dental Practice Act. The bill would also increase the punishment for unauthorized practice under the Dental

Practice Act in circumstances causing harm, as specified, by making it a felony offense. The bill would authorize the board to require a licensee to pay the costs of monitoring probationary terms or conditions imposed on his or her license and would prohibit the board from renewing or reinstating a license if those costs are unpaid.

(2)

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (the medical board) and for the licensure and regulation of podiatrists by the California Board of Podiatric Medicine (the podiatric board), within the jurisdiction of the medical board. Existing law creates the Health Quality Enforcement Section within the Department of Justice with the primary responsibility of prosecuting proceedings against licensees and applicants within the jurisdiction of the medical board and various other boards. Under existing law, a panel of administrative law judges, the Medical Quality Hearing Panel within the Office of Administrative Hearings, conducts disciplinary proceedings against licensees of the medical board and of boards under its jurisdiction. Existing law requires the podiatric board and the Division of Medical Quality of the medical board to issue an order of nonadoption of a proposed decision by the Medical Quality Hearing Panel within 90 days of receipt of the decision. Existing law requires that all complaints or relevant information concerning licensees that are within the jurisdiction of the medical board or the Board of Psychology be made available to the Health Quality Enforcement Section and requires the Division of Medical Quality of the medical board to report annually specified information to the Legislature relating to its operations and to the licensees of the medical board.

This bill would specify that an applicant remains eligible for a physician's and surgeon's certificate issued by the medical board after having obtained a passing score on the licensure examination in more than 4 attempts. The bill would authorize the podiatric board to employ, within the limits of the funds received by the podiatric board and subject to specified limitations, all personnel necessary to carry out the licensing and regulatory provisions applicable to podiatrists. The bill also would clarify that the provisions concerning the responsibilities of the Health Quality Enforcement Section within the Department of Justice apply to complaints and proceedings concerning licensees of the podiatric board. The bill would extend to 100 days the time period within which the podiatric board and the Division of Medical Quality are required to

issue an order of nonadoption of a proposed decision by the Medical Quality Hearing Panel and would revise the information the division is required to include in its annual report to the Legislature.

(3)

(4) Existing law, the Occupational Therapy Act, establishes the California Board of Occupational Therapy and makes it responsible for issuing an occupational therapist's license and an occupational ~~therapist~~ *therapy assistant* certification. The act requires that licensure and certification examinations be given at least twice each year at a place determined by the board and that the board provide notice of the examinations. *The act also prohibits a person not certified as an occupational therapy assistant from using certain titles.*

This bill would delete these particular provisions relating to licensure and certification examinations and would specify that the information on the board's Internet Web site is adequate for licensure verification purposes. *The bill would provide for approval of occupational therapy assistants instead of certification and revise the prohibited titles related to occupational therapy assistants, as specified.*

(4)

(5) Existing law, the Nursing Practice Act, provides for the registration and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law requires an employer of, or agent for, a registered nurse to ascertain that the nurse is authorized to practice as a registered professional nurse. A violation of the Nursing Practice Act is a crime.

This bill would require an employer of, or agent for, a registered nurse required to hold a board-issued certification, as specified, or a temporary licensee or interim permittee to practice nursing to ascertain that the person is currently authorized to practice pursuant to the board-issued certification or as a temporary licensee or interim permittee. Because this bill would impose new requirements under the Nursing Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

(5)

(6) Under existing law, the Optometry Practice Act, the State Board of Optometry licenses and regulates persons engaged in the practice of optometry and makes a violation of the act a crime. Existing law requires an applicant for licensure to meet certain requirements, including signing a release allowing disclosure of information from the National Practitioner Data Bank.

This bill would instead require an applicant for licensure to sign a release allowing disclosure of information from the Healthcare Integrity and Protection Data Bank.

(6)

(7) Existing law, the Physician Assistant Practice Act, provides for the licensing and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law provides for the submission of applications for reinstatement, restoration, or modification of probation with respect to the revocation of a license or approval of a physician assistant after a specified period of time.

This bill would delete those provisions and would instead authorize a person whose license or approval has been revoked or suspended or placed on probation to petition the committee to reinstate the license or approval or modify the penalty after specified minimum periods of time, would require the petitioner to submit certain information, and would provide for a hearing by the committee, as specified. The bill would authorize the committee to require a licensee to pay the costs of monitoring probationary conditions imposed on his or her license.

(7)

(8) Existing law provides for the licensure and regulation of naturopathic doctors. Existing law requires a licensee to pass a recertifying examination before the 10th anniversary of his or her initial licensure, and requires the bureau to establish standards for recertification.

This bill would delete the requirements that a licensee pass a recertifying examination.

(8)

(9) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists and wholesalers of dangerous drugs or dangerous devices by the Pharmacy Board and generally makes a violation of its provisions a crime.

Existing law authorizes a prescriber to dispense a controlled substance to an emergency room patient, if certain requirements are met, including the hospital pharmacy reporting dispensing information to the Department of Justice, as specified, if the drug is a schedule II or schedule III controlled substance.

This bill would also require the hospital to report dispensing information for any schedule IV controlled substance.

Existing law requires a board inspector to affix a tag or other marking to an adulterated or counterfeit dangerous drug or device, as specified,

until such time as the drug or device is found not to be adulterated or counterfeit.

This bill would extend these provisions to dangerous drugs and devices that are misbranded, as defined.

Existing law prohibits a person from acting as a wholesaler or nonresident wholesaler of dangerous drugs or devices without a license, but exempts certain drug manufacturers that are otherwise licensed, as specified. Existing law authorizes the board to issue a temporary wholesaler license or temporary nonresident wholesaler license, as the board determines to be in the public interest, and requires that the fee for such a license be fixed by the board at an amount not to exceed the annual fee for renewal of a wholesaler license or nonresident wholesaler license, respectively. Existing law, until January 1, 2011, generally requires an applicant for issuance or renewal of a wholesaler or nonresident wholesaler license to submit a surety bond of \$100,000 or an equivalent means of security to secure payment of any administrative fines and costs imposed by the board.

This bill would instead apply the exemption from licensing to certain drug manufacturer premises that are otherwise licensed, as specified. The bill would authorize the board to set the license fee for a temporary wholesaler or temporary nonresident wholesaler license at either \$550 or an amount not to exceed the annual fee for renewal of a license to compound injectable sterile drug products. The bill would authorize such a temporary license to be issued for a period not to exceed 180 days, subject to terms and conditions the board deems necessary, when needed to protect public safety. The bill would provide for termination of a temporary license that was issued by mistake or where a permanent license has been denied, as specified. The bill would extend the provisions requiring an applicant for issuance or renewal of a wholesaler or a nonresident wholesaler license to submit a surety bond or equivalent means of security until January 1, 2015. Because the bill may increase the amount of fees deposited into the Pharmacy Board Contingent Fund, a continuously appropriated fund, the bill would make an appropriation.

Existing law requires the licensure of intern pharmacists, and sets forth specified requirements that an intern pharmacist must meet and conditions under which an intern pharmacist license may be issued.

This bill would allow a person who has not completed the experience requirements necessary to be eligible for the licensure examination to have his or her intern license extended for up to 2 years at the discretion of the board in certain circumstances.

Under existing law, the board is authorized to issue citations containing fines and orders of abatement for a violation of the Pharmacy Law or regulations adopted pursuant to that law, and the board's executive officer is authorized to issue a letter of admonishment for a violation of those provisions. Existing law authorizes a county to establish, by ordinance, a repository and distribution program for purposes of distributing surplus unused medications, as defined, to persons in need of financial assistance to ensure access to necessary pharmaceutical therapies, and authorizes a drug manufacturer or a licensed health facility, pharmacy wholesaler, or pharmacy to donate medications pursuant to the provisions.

This bill would allow a citation or letter of admonishment to be issued for a violation of the provisions related to the repository and distribution programs.

Because this bill would create new requirements under the Pharmacy Law, the violation of which would be a crime, it would impose a state-mandated local program.

The bill would make other technical and clarifying amendments to the Pharmacy Law.

(9)

(10) Existing law establishes the Board of Behavioral Sciences and provides for the licensure of marriage and family therapists and registration of marriage and family therapist interns and for the regulation of these licensees and registrants. Under existing law, a licensee is required to complete continuing education as a prerequisite for licensure renewal and may place his or her license on inactive status. Existing law allows a licensee to renew his or her expired license within 5 years of its expiration date. Existing law assesses specified fees for licensure and registration with the board that are deposited into the Behavioral Sciences Fund. Under existing law, an employee of a governmental entity, educational facility, or nonprofit charitable institution is exempt from the provisions otherwise pertaining to marriage and family therapists if his or her practice is performed under the employer's supervision.

This bill would additionally exempt from those provisions the work performed by a volunteer in those particular settings. The bill would revise the licensure requirements for an applicant possessing a license issued by another state in an equivalent field and would shorten the time within which an expired license may be renewed to 3 years after its expiration date. The bill would recast the provisions relating to

inactive licenses and would delete certain obsolete continuing education requirements. The bill would delete other obsolete provisions relating to intern registration and would recast the renewal requirements for an intern registration. The bill would designate additional acts as unprofessional conduct for disciplinary purposes by the board and would recast its fee provisions.

~~(10)~~

(11) Existing law, the Educational Psychologist Practice Act, provides for the licensure and regulation of educational psychologists by the Board of Behavioral Sciences. Under the act, a licensee is required to complete continuing education as a prerequisite for licensure renewal and may renew his or her license within 5 years of its expiration date.

This bill would shorten the time within which an expired license may be renewed to 3 years after its expiration date and would designate additional acts as unprofessional conduct for disciplinary proceedings by the board.

~~(11)~~

(12) Existing law, the Clinical Social Workers Practice Act, provides for the licensure and regulation of clinical social workers by the Board of Behavioral Sciences and makes a violation of the act's provisions a crime. The act requires a person to register with the board as an associate clinical social worker prior to obtaining experience for licensure and allows the extension of this registration after it has been renewed 5 times. Under the act, fees assessed for registration and licensure are deposited into the Behavioral Sciences Fund. The act requires its licensees to complete continuing education as a prerequisite for licensure renewal and allows a licensee to place his or her license on inactive status. Under the act, a licensee may renew his or her expired license within 5 years of its expiration date. The act exempts from its provisions the practice of an employee in specified settings and the use of hypnotic techniques in designated settings.

This bill would revise these provisions to describe the exempt practice settings as a governmental entity, a school, college, or university, and a nonprofit charitable institution and would additionally exempt from the act's provisions the work performed by a volunteer in those settings. The bill would delete the provisions allowing extension of the associate clinical worker registration and would shorten the time within which an expired license may be renewed to 3 years after its expiration date. The bill would recast the licensure fee provisions and those relating to inactive licenses. The bill would delete certain obsolete continuing

education requirements. The bill would designate additional acts as unprofessional conduct for disciplinary purposes by the board and would impose certain requirements on the use of a fictitious name by a licensee in his or her practice. Because the bill would specify additional requirements under the act, the violation of which would be a crime, it would impose a state-mandated local program.

~~(12)~~

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

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

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

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

- 1 SECTION 1. Section 337 of the Business and Professions Code
- 2 is amended to read:
- 3 337. (a) The department shall prepare and disseminate an
- 4 informational brochure for victims of psychotherapist-patient
- 5 sexual contact and advocates for those victims. This brochure shall
- 6 be developed by the department in consultation with members of
- 7 the Sexual Assault Program of the Office of Criminal Justice
- 8 Planning and the office of the Attorney General.
- 9 (b) The brochure shall include, but is not limited to, the
- 10 following:
  - 11 (1) A legal and an informal definition of psychotherapist-patient
  - 12 sexual contact.
  - 13 (2) A brief description of common personal reactions and
  - 14 histories of victims and victim’s families.
  - 15 (3) A patient’s bill of rights.
  - 16 (4) Options for reporting psychotherapist-patient sexual relations
  - 17 and instructions for each reporting option.
  - 18 (5) A full description of administrative, civil, and professional
  - 19 associations complaint procedures.
  - 20 (6) A description of services available for support of victims.
- 21 (c) The brochure shall be provided to each individual contacting
- 22 the Medical Board of California and affiliated health boards or the

1 Board of Behavioral Sciences regarding a complaint involving  
2 psychotherapist-patient sexual relations.

3 *SEC. 2. Section 1209 of the Business and Professions Code is*  
4 *amended to read:*

5 1209. (a) As used in this chapter, “laboratory director” means  
6 any person who is a duly licensed physician and surgeon, or is  
7 licensed to direct a clinical laboratory under this chapter and who  
8 substantially meets the laboratory director qualifications under  
9 CLIA for the type and complexity of tests being offered by the  
10 laboratory. The laboratory director, if qualified under CLIA, may  
11 perform the duties of the technical consultant, technical supervisor,  
12 clinical consultant, general supervisor, and testing personnel, or  
13 delegate these responsibilities to persons qualified under CLIA.  
14 If the laboratory director reapportions performance of those  
15 responsibilities or duties, he or she shall remain responsible for  
16 ensuring that all those duties and responsibilities are properly  
17 performed.

18 (b) (1) The laboratory director is responsible for the overall  
19 operation and administration of the clinical laboratory, including  
20 administering the technical and scientific operation of a clinical  
21 laboratory, the selection and supervision of procedures, the  
22 reporting of results, and active participation in its operations to  
23 the extent necessary to assure compliance with this act and CLIA.  
24 He or she shall be responsible for the proper performance of all  
25 laboratory work of all subordinates and shall employ a sufficient  
26 number of laboratory personnel with the appropriate education  
27 and either experience or training to provide appropriate  
28 consultation, properly supervise and accurately perform tests, and  
29 report test results in accordance with the personnel qualifications,  
30 duties, and responsibilities described in CLIA and this chapter.

31 (2) Where a point-of-care laboratory testing device is utilized  
32 and provides results for more than one analyte, the testing  
33 personnel may perform and report the results of all tests ordered  
34 for each analyte for which he or she has been found by the  
35 laboratory director to be competent to perform and report.

36 (c) As part of the overall operation and administration, the  
37 laboratory director of a registered laboratory shall document the  
38 adequacy of the qualifications (educational background, training,  
39 and experience) of the personnel directing and supervising the  
40 laboratory and performing the laboratory test procedures and

1 examinations. In determining the adequacy of qualifications, the  
2 laboratory director shall comply with any regulations adopted by  
3 the department that specify the minimum qualifications for  
4 personnel, in addition to any CLIA requirements relative to the  
5 education or training of personnel.

6 (d) As part of the overall operation and administration, the  
7 laboratory director of a licensed laboratory shall do all of the  
8 following:

9 (1) Ensure that all personnel, prior to testing biological  
10 specimens, have the appropriate education and experience, receive  
11 the appropriate training for the type and complexity of the services  
12 offered, and have demonstrated that they can perform all testing  
13 operations reliably to provide and report accurate results. In  
14 determining the adequacy of qualifications, the laboratory director  
15 shall comply with any regulations adopted by the department that  
16 specify the minimum qualifications for, and the type of procedures  
17 that may be performed by, personnel in addition to any CLIA  
18 requirements relative to the education or training of personnel.  
19 Any regulations adopted pursuant to this section that specify the  
20 type of procedure that may be performed by testing personnel shall  
21 be based on the skills, knowledge, and tasks required to perform  
22 the type of procedure in question.

23 (2) Ensure that policies and procedures are established for  
24 monitoring individuals who conduct preanalytical, analytical, and  
25 postanalytical phases of testing to assure that they are competent  
26 and maintain their competency to process biological specimens,  
27 perform test procedures, and report test results promptly and  
28 proficiently, and, whenever necessary, identify needs for remedial  
29 training or continuing education to improve skills.

30 (3) Specify in writing the responsibilities and duties of each  
31 individual engaged in the performance of the preanalytic, analytic,  
32 and postanalytic phases of clinical laboratory tests or examinations,  
33 including which clinical laboratory tests or examinations the  
34 individual is authorized to perform, whether supervision is required  
35 for the individual to perform specimen processing, test  
36 performance, or results reporting, and whether consultant,  
37 supervisor, or director review is required prior to the individual  
38 reporting patient test results.

39 (e) The competency and performance of staff of a licensed  
40 laboratory shall be evaluated and documented by the laboratory

1 director, or by a person who qualifies as a technical consultant or  
2 a technical supervisor under CLIA depending on the type and  
3 complexity of tests being offered by the laboratory.

4 (1) The procedures for evaluating the competency of the staff  
5 shall include, but are not limited to, all of the following:

6 (A) Direct observations of routine patient test performance,  
7 including patient preparation, if applicable, and specimen handling,  
8 processing, and testing.

9 (B) Monitoring the recording and reporting of test results.

10 (C) Review of intermediate test results or worksheets, quality  
11 control records, proficiency testing results, and preventive  
12 maintenance records.

13 (D) Direct observation of performance of instrument  
14 maintenance and function checks.

15 (E) Assessment of test performance through testing previously  
16 analyzed specimens, internal blind testing samples, or external  
17 proficiency testing samples.

18 (F) Assessment of problem solving skills.

19 (2) Evaluation and documentation of staff competency and  
20 performance shall occur at least semiannually during the first year  
21 an individual tests biological specimens. Thereafter, evaluations  
22 shall be performed at least annually unless test methodology or  
23 instrumentation changes, in which case, prior to reporting patient  
24 test results, the individual's performance shall be reevaluated to  
25 include the use of the new test methodology or instrumentation.

26 (f) The laboratory director of each clinical laboratory of an acute  
27 care hospital shall be a physician and surgeon who is a qualified  
28 pathologist, except as follows:

29 (1) If a qualified pathologist is not available, a physician and  
30 surgeon or a clinical laboratory bioanalyst qualified as a laboratory  
31 director under subdivision (a) may direct the laboratory. However,  
32 a qualified pathologist shall be available for consultation at suitable  
33 intervals to ensure high quality service.

34 (2) If there are two or more clinical laboratories of an acute care  
35 hospital, those additional clinical laboratories that are limited to  
36 the performance of blood gas analysis, blood electrolyte analysis,  
37 or both may be directed by a physician and surgeon qualified as a  
38 laboratory director under subdivision (a), irrespective of whether  
39 a pathologist is available.

1 As used in this subdivision, a qualified pathologist is a physician  
2 and surgeon certified or eligible for certification in clinical or  
3 anatomical pathology by the American Board of Pathology or the  
4 American Osteopathic Board of Pathology.

5 (g) Subdivision (f) does not apply to any director of a clinical  
6 laboratory of an acute care hospital acting in that capacity on or  
7 before January 1, 1988.

8 (h) *A laboratory director may serve as the director of up to five*  
9 *licensed clinical laboratories, as long as none of those laboratories*  
10 *provides gynecologic cytology services. A laboratory director that*  
11 *serves as a director of a licensed clinical laboratory providing*  
12 *gynecologic cytology services shall serve as a director of no more*  
13 *than two other licensed clinical laboratories.*

14 ~~SEC. 1.3.~~

15 *SEC. 3.* Section 1672 is added to the Business and Professions  
16 Code, to read:

17 1672. (a) When the board disciplines a licensee by placing  
18 him or her on probation, the board may, in addition to the terms  
19 and conditions described in Section 1671, require the licensee to  
20 pay the monetary costs associated with monitoring the licensee's  
21 probation.

22 (b) The board shall not renew the license of a licensee who fails  
23 to pay all of the costs he or she is ordered to pay pursuant to this  
24 section once the licensee has served his or her term of probation.

25 (c) The board shall not reinstate a license if the petitioner has  
26 failed to pay any costs he or she was ordered to pay pursuant to  
27 this section.

28 ~~SEC. 2.~~

29 *SEC. 4.* Section 1701.1 of the Business and Professions Code  
30 is amended to read:

31 1701.1. (a) Notwithstanding Sections 1700 and 1701, a person  
32 who willfully, under circumstances or conditions that cause or  
33 create risk of bodily harm, serious physical or mental illness, or  
34 death, practices or attempts to practice, or advertises or holds  
35 himself or herself out as practicing dentistry without having at the  
36 time of so doing a valid, unrevoked, and unsuspended certificate,  
37 license, registration, or permit as provided in this chapter, or  
38 without being authorized to perform that act pursuant to a  
39 certificate, license, registration, or permit obtained in accordance  
40 with some other provision of law, is guilty of a public offense,

1 punishable by a fine not exceeding ten thousand dollars (\$10,000),  
2 by imprisonment in the state prison, by imprisonment in a county  
3 jail not exceeding one year, or by both the fine and either  
4 imprisonment.

5 (b) A person who conspires with or aids and abets another to  
6 commit any act described in subdivision (a) is guilty of a public  
7 offense and subject to the punishment described in subdivision  
8 (a).

9 (c) The remedy provided in this section shall not preclude any  
10 other remedy provided by law.

11 ~~SEC. 3.~~

12 *SEC. 5.* Section 1725 of the Business and Professions Code is  
13 amended to read:

14 1725. The amount of the fees prescribed by this chapter that  
15 relate to the licensing of dental auxiliaries shall be established by  
16 board resolution and subject to the following limitations:

17 (a) The application fee for an original license shall not exceed  
18 twenty dollars (\$20). *On and after January 1, 2010, the application*  
19 *fee for an original license shall not exceed fifty dollars (\$50).*

20 (b) (1) The fee for examination for licensure as a registered  
21 dental assistant shall not exceed fifty dollars (\$50) for the written  
22 examination and shall not exceed sixty dollars (\$60) for the  
23 practical examination.

24 (2) On and after January 1, 2010, the following fees are  
25 established for registered orthodontic assistants, registered surgery  
26 assistants, registered restorative assistants, and registered dental  
27 assistants:

28 (A) The fee for application and for the issuance of a license  
29 shall not exceed fifty dollars (\$50).

30 (B) The fee for the practical examination shall not exceed the  
31 actual cost of the examination.

32 (C) The fee for a written examination shall not exceed the actual  
33 cost of the examination.

34 (c) The fee for examination for licensure as a registered dental  
35 assistant in extended functions or a registered restorative assistant  
36 in extended functions shall not exceed the actual cost of the  
37 examination.

38 (d) The fee for examination for licensure as a registered dental  
39 hygienist shall not exceed the actual cost of the examination.

1 (e) For third- and fourth-year dental students, the fee for  
2 examination for licensure as a registered dental hygienist shall not  
3 exceed the actual cost of the examination.

4 (f) The fee for examination for licensure as a registered dental  
5 hygienist in extended functions shall not exceed the actual cost of  
6 the examination.

7 (g) The board shall establish the fee at an amount not to exceed  
8 the actual cost for licensure as a registered dental hygienist in  
9 alternative practice.

10 (h) The biennial renewal fee for a dental auxiliary whose license  
11 expires on or after January 1, 1991, shall not exceed sixty dollars  
12 (\$60). On or after January 1, 1992, the board may set the renewal  
13 fee in an amount not to exceed eighty dollars (\$80).

14 (i) The delinquency fee shall not exceed twenty-five dollars  
15 (\$25) or one-half of the renewal fee, whichever is greater. Any  
16 delinquent license may be restored only upon payment of all fees,  
17 including the delinquency fee.

18 (j) The fee for issuance of a duplicate registration, license, or  
19 certificate to replace one that is lost or destroyed, or in the event  
20 of a name change, shall not exceed twenty-five dollars (\$25).

21 (k) The fee for each curriculum review and site evaluation for  
22 educational programs for registered dental assistants *that are not*  
23 *accredited by a board-approved agency, the Council for Private*  
24 *Postsecondary and Vocational Education, or the Chancellor's*  
25 *office of the California Community Colleges* shall not exceed one  
26 thousand four hundred dollars (\$1,400).

27 ~~(l) The fee for each review of radiation safety courses or~~  
28 ~~specialty registration courses review of each course approval~~  
29 ~~application~~ shall not exceed three hundred dollars (\$300).

30 (m) No fees or charges other than those listed in subdivisions  
31 (a) through (k) above shall be levied by the board in connection  
32 with the licensure of dental auxiliaries, registered dental assistants  
33 educational program site evaluations and radiation safety course  
34 evaluations pursuant to this chapter.

35 (n) Fees fixed by the board pursuant to this section shall not be  
36 subject to the approval of the Office of Administrative Law.

37 (o) Fees collected pursuant to this section shall be deposited in  
38 the State Dental Auxiliary Fund.

1 ~~SEC. 4.~~

2 *SEC. 6.* Section 1750 of the Business and Professions Code,  
3 as amended by Section 3 of Chapter 621 of the Statutes of 2005,  
4 is amended to read:

5 1750. (a) A dental assistant is a person who may perform basic  
6 supportive dental procedures as authorized by this article under  
7 the supervision of a licensed dentist and who may perform basic  
8 supportive procedures as authorized pursuant to subdivision (b)  
9 of Section 1751 under the supervision of a registered dental  
10 hygienist in alternative practice.

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

14 ~~SEC. 5.~~

15 *SEC. 7.* Section 1750 of the Business and Professions Code,  
16 as amended by Section 4 of Chapter 621 of the Statutes of 2005,  
17 is amended to read:

18 1750. (a) A dental assistant is an individual who, without a  
19 license, may perform basic supportive dental procedures, as  
20 authorized by this article and by regulations adopted by the board,  
21 under the supervision of a licensed dentist. “Basic supportive dental  
22 procedures” are those procedures that have technically elementary  
23 characteristics, are completely reversible, and are unlikely to  
24 precipitate potentially hazardous conditions for the patient being  
25 treated. These basic supportive dental procedures may be performed  
26 under general supervision. These basic supportive dental  
27 procedures do not include those procedures authorized in Section  
28 1750.3 or Section 1753.1, or by the board pursuant to Section 1751  
29 for registered assistants.

30 (b) The supervising licensed dentist shall be responsible for  
31 determining the competency of the dental assistant to perform the  
32 basic supportive dental procedures authorized pursuant to  
33 subdivision (a).

34 (c) The supervising licensed dentist shall be responsible for  
35 assuring that each dental assistant, registered orthodontic assistant,  
36 registered surgery assistant, registered restorative assistant,  
37 registered restorative assistant in extended functions, registered  
38 dental assistant, and registered dental assistant in extended  
39 functions, who is in his or her continuous employ for 120 days or

1 more, has completed both of the following within a year of the  
2 date of employment:

3 (1) Board-approved courses in infection control and California  
4 law.

5 (2) A course in basic life support offered by the American Red  
6 Cross, the American Heart Association, or any other course  
7 approved by the board as equivalent.

8 (d) Prior to operating radiographic equipment or applying for  
9 licensure as a registered dental assistant under Section 1752.5, an  
10 auxiliary described in subdivision (c) shall successfully complete  
11 a radiation safety course approved by the board.

12 (e) This section shall become operative on January 1, 2010.

13 ~~SEC. 6.~~

14 *SEC. 8.* Section 1750.1 of the Business and Professions Code  
15 is amended to read:

16 1750.1. (a) The practice of dental assisting does not include  
17 any of the following procedures:

18 (1) Diagnosis and comprehensive treatment planning.

19 (2) Placing, finishing, or removing permanent restorations,  
20 except as provided in Section 1753.1.

21 (3) Surgery or cutting on hard and soft tissue including, but not  
22 limited to, the removal of teeth and the cutting and suturing of soft  
23 tissue.

24 (4) Prescribing medication.

25 (5) Starting or adjusting local or general anesthesia or oral or  
26 parenteral conscious sedation, except for the administration of  
27 nitrous oxide and oxygen, whether administered alone or in  
28 combination with each other and except as otherwise provided in  
29 this article.

30 (b) This section shall become operative on January 1, 2010.

31 ~~SEC. 7.~~

32 *SEC. 9.* Section 1750.2 of the Business and Professions Code  
33 is amended to read:

34 1750.2. (a) On and after January 1, 2010, the board shall  
35 license as a “registered orthodontic assistant,” “registered surgery  
36 assistant,” or “registered restorative assistant” any person who  
37 does either of the following:

38 (1) Submits written evidence of satisfactory completion of a  
39 course or courses approved by the board pursuant to subdivision

1 (b) that qualifies him or her in one of these specialty areas of  
2 practice and obtains a passing score on both of the following:

3 (A) A written examination *approved by the board and*  
4 *administered by the Committee on Dental Auxiliaries (COMDA)*  
5 *or by an entity recommended by COMDA. COMDA may enter*  
6 *into a written agreement with a public or private organization for*  
7 *the administration of the examination. All aspects of the*  
8 *examination shall comply with Section 139.*

9 (B) A practical examination for the specialty category for which  
10 the person is seeking licensure that is approved by the board *and*  
11 *administered by the Committee on Dental Auxiliaries (COMDA)*  
12 *or by an entity recommended by COMDA. COMDA may enter into*  
13 *a written agreement with a public or private organization for the*  
14 *administration of the examination. All aspects of the examination*  
15 *shall comply with Section 139.*

16 (2) Completes a work experience pathway to licensure that  
17 meets the requirements set forth in Section 1750.4. This section  
18 permits the work experience pathway to licensure only for those  
19 assistants described in this subdivision and does not apply to  
20 dentists or dental hygienists.

21 (b) The board shall adopt regulations for the approval of  
22 specialty registration courses in the specialty areas specified in  
23 this section. The board shall also adopt regulations for the approval  
24 and recognition of required prerequisite courses and core courses  
25 that teach basic dental science, when these courses are taught at  
26 secondary institutions, regional occupational centers, or through  
27 regional occupational programs.

28 The regulations shall define the minimum education and training  
29 requirements necessary to achieve proficiency in the procedures  
30 authorized for each specialty registration, taking into account the  
31 combinations of classroom and practical instruction, clinical  
32 training, and supervised work experience that are most likely to  
33 provide the greatest number of opportunities for improving dental  
34 assisting skills efficiently.

35 (c) The board may approve specialty registration courses referred  
36 to in this section prior to January 1, 2010, and the board shall  
37 recognize the completion of these approved courses prior to January  
38 1, 2010, but no specialty registrations shall be issued prior to  
39 January 1, 2010.

1 (d) The board may approve a course for the specialty registration  
2 listed in subdivision (b) that does not include instruction in coronal  
3 polishing.

4 (e) The board may approve a course that only includes  
5 instruction in coronal polishing as specified in paragraph (8) of  
6 subdivision (b) of Section 1750.3.

7 (f) A person who holds a specialty registration pursuant to this  
8 section shall be subject to the continuing education requirements  
9 established by the board pursuant to Section 1645 and the renewal  
10 requirements of Article 6 (commencing with Section 1715).

11 ~~SEC. 8.~~

12 *SEC. 10.* Section 1750.3 of the Business and Professions Code  
13 is amended to read:

14 1750.3. (a) A registered orthodontic assistant may perform all  
15 of the following dental procedures, as well as those authorized by  
16 board regulations adopted pursuant to Section 1751:

17 (1) Any duties that a dental assistant may perform.

18 (2) Mouth-mirror inspections of the oral cavity, to include  
19 charting of obvious lesions, existing restorations, and missing  
20 teeth.

21 (3) Placing metal orthodontic separators.

22 (4) Placing ligatures and arch wires.

23 (5) Taking orthodontic impressions.

24 (6) Sizing, fitting, cementing, and removal of orthodontic bands.

25 (7) Selecting, repositioning, curing in a position approved by  
26 the supervising dentist, and removal of orthodontic brackets.

27 (8) Coronal polishing.

28 (9) Preparing teeth for bonding.

29 (10) Applying bleaching agents and activating bleaching agents  
30 with nonlaser, light-curing devices.

31 (11) Removal of excess cement from coronal surfaces of teeth  
32 under orthodontic treatment by means of a hand instrument or an  
33 ultrasonic scaler.

34 (12) Taking facebow transfers and bite registrations for  
35 diagnostic models for case study only.

36 (b) A registered surgery assistant may perform the following  
37 dental procedures, as well as those authorized by board regulations  
38 adopted pursuant to Section 1751:

39 (1) Any duties that a dental assistant may perform.

1 (2) Mouth-mirror inspections of the oral cavity, to include  
2 charting of obvious lesions, existing restorations, and missing  
3 teeth.

4 (3) Monitoring of patients during the preoperative,  
5 intraoperative, and postoperative phases.

6 (A) For purposes of this paragraph, patient monitoring includes  
7 the following:

8 (i) Selection and validation of monitoring sensors, selecting  
9 menus and default settings and analysis for electrocardiogram,  
10 pulse oximeter and capnograph, continuous blood pressure, pulse,  
11 and respiration rates.

12 (ii) Interpretation of data from noninvasive patient monitors  
13 including readings from continuous blood pressure and information  
14 from the monitor display for electrocardiogram waveform, carbon  
15 dioxide and end tidal carbon dioxide concentration, respiratory  
16 cycle data, continuous noninvasive blood pressure data, and pulse  
17 arterial oxygen saturation measurements, for the purpose of  
18 evaluating the condition of the patient during preoperative,  
19 intraoperative, and postoperative treatment.

20 (B) For purposes of this paragraph, patient monitoring does not  
21 include the following:

22 (i) Reading and transmitting information from the monitor  
23 display during the intraoperative phase of surgery for  
24 electrocardiogram waveform, carbon dioxide and end tidal carbon  
25 dioxide concentrations, respiratory cycle data, continuous  
26 noninvasive blood pressure data, or pulse arterial oxygen saturation  
27 measurements, for the purpose of interpretation and evaluation by  
28 a licensed dentist who shall be at chairside during this procedure.

29 (ii) Placing of sensors.

30 (4) Taking impressions for surgical splints and occlusal guards.

31 (5) Placement of surgical dressings.

32 (6) Adding drugs, medications, and fluids to intravenous lines  
33 using a syringe, provided that a licensed dentist is present at the  
34 patient's chairside.

35 (7) Removal of intravenous lines.

36 (8) Coronal polishing, provided that evidence of satisfactory  
37 completion of a board-approved course in this function has been  
38 submitted to the board prior to the performance thereof.

1 (c) A registered restorative assistant may perform all of the  
2 following dental procedures, as well as those authorized by board  
3 regulations adopted pursuant to Section 1751:

4 (1) Any duties that a dental assistant may perform.

5 (2) Mouth-mirror inspections of the oral cavity, to include  
6 charting of obvious lesions, existing restorations, and missing  
7 teeth.

8 (3) Sizing, fitting, adjusting, intraorally fabricating, temporarily  
9 cementing, and removing temporary crowns and other temporary  
10 restorations.

11 (4) Placing bases and liners on sound dentin.

12 (5) Removing excess cement from supragingival surfaces of  
13 teeth with a hand instrument or an ultrasonic scaler.

14 (6) Taking facebow transfers and bite registrations for diagnostic  
15 models for case study only.

16 (7) Taking impressions for space-maintaining appliances and  
17 occlusal guards.

18 (8) Coronal polishing.

19 (9) Applying pit and fissure sealants.

20 (10) Applying bleaching agents and activating bleaching agents  
21 with nonlaser, light-curing devices.

22 (11) Placement of surgical dressings.

23 (d) The supervising dentist shall be responsible for determining  
24 the level of supervision required for assistants registered pursuant  
25 to this section.

26 (e) This section shall become operative on January 1, 2010.

27 ~~SEC. 9.~~

28 *SEC. 11.* Section 1750.4 of the Business and Professions Code  
29 is amended to read:

30 1750.4. (a) A dentist who holds an active, current, and  
31 unrestricted license to practice dentistry under this chapter may  
32 train and educate his or her employees, or employees of the dental  
33 office, primary care clinic, or hospital where the dentist is  
34 practicing and directly supervises the employees, without charge  
35 or cost to the employees, in all of the allowable duties for the  
36 purpose of licensure in one of the specialty licensure categories  
37 set forth in Section 1750.2. A dentist may not begin the work  
38 experience training and education of an employee until his or her  
39 application for that particular employee is approved by the  
40 Committee on Dental Auxiliaries. For purposes of this subdivision,

1 an unrestricted license means a license that is not suspended, placed  
2 on probation, or restricted pursuant to subparagraph (B) or (C) of  
3 paragraph (3) of subdivision (a) of Section 1635.5.

4 (1) In order to train or educate pursuant to this subdivision, the  
5 dentist shall be subject to the following terms and conditions,  
6 which are applicable prior to commencing training for each  
7 employee:

8 (A) On a completed and signed application form approved by  
9 the committee, the dentist shall provide the specialty dental  
10 assistant category in which the dentist will be training the employee  
11 and the name of the employee. When the committee provides a  
12 requested application to an employer, the committee shall also  
13 provide a copy of the regulations governing the education and  
14 training of the specialty assistants or provide access to the  
15 regulations on the committee's Internet Web site.

16 (B) The education and training the dentist provides shall be in  
17 compliance with the regulations adopted by the board pursuant to  
18 subdivision (c) of Section 1750.2. Employees trained pursuant to  
19 this section shall be considered bona fide students, as described  
20 in Section 1626.5, as added by Section 6 of Chapter 655 of the  
21 Statutes of 1999. The dentist shall not allow the employee to begin  
22 the clinical training on patients until the employee has completed  
23 the didactic and preclinical training, that includes nonpatient  
24 training on typodonts and other laboratory models and as prescribed  
25 in regulations, and a minimum of 120 days as a dental assistant in  
26 California or another state, which may include graduation from a  
27 regional occupational center or regional occupation program  
28 pursuant to paragraph (1) of subdivision (b).

29 (C) The dentist shall pay a fee to the committee to cover  
30 administrative costs not to exceed two hundred fifty dollars (\$250)  
31 for each employee he or she is training and educating. If a dentist  
32 is training and educating an employee in more than one of the  
33 speciality licensure categories at the same time, the dentist shall  
34 pay the fee for each category in which the employee is being  
35 trained and educated.

36 (D) Prior to beginning employee training, the dentist shall  
37 complete a teaching methodology course approved by the board  
38 that is six hours in length and covers educational objectives,  
39 content, instructional methods, and evaluation procedures. The

1 dentist shall be exempt from this requirement if he or she holds  
2 any one of the following degrees, credentials, or positions:

- 3 (i) A postgraduate degree in education.
- 4 (ii) A Ryan Designated Subjects Vocational Education Teaching  
5 Credential.
- 6 (iii) A Standard Designated Subjects Teaching Credential.
- 7 (iv) A Community College Teaching Credential.
- 8 (v) Is a faculty member of a dental school approved by the  
9 Commission on Dental Accreditation.

10 The dentist shall provide to the board proof of one of these  
11 designations or shall submit a certificate of course completion in  
12 teaching methodology.

13 (2) All duties performed by an employee pursuant to this section  
14 shall be done in the dentist's presence. The dentist shall ensure  
15 that any patient treated by a bona fide student is verbally informed  
16 of the student's status.

17 (3) The work experience pathway for the employee shall not  
18 exceed a term of 18 months, starting on the date that the Committee  
19 on Dental Auxiliaries approves the application submitted by the  
20 dentist for that employee.

21 (4) Upon successful completion of the work experience pathway  
22 period, the dentist shall certify in writing that the employee has  
23 successfully completed the educational program covering all  
24 procedures authorized for the specialty category for which the  
25 employee is seeking licensure.

26 (5) With respect to this subdivision, the committee:

27 (A) Shall approve the application form described in  
28 subparagraph (A) of paragraph (1). The application form shall not  
29 be required to comply with the provisions of Chapter 3.5  
30 (commencing with Section 11340) of Part 1 of Division 3 of Title  
31 2 of the Government Code.

32 (B) Shall have a maximum of 60 days from the date a completed  
33 application is received in which to approve or deny an application  
34 under this subdivision. Nothing in this section shall prohibit a  
35 dentist from appealing the denial of an application to the executive  
36 officer of the committee.

37 (C) May inspect the dentist's facilities and practice at any time  
38 to ensure compliance with regulations adopted by the board  
39 pursuant to Section 1750.2.

1 (D) May revoke an approval for a dentist to provide training or  
2 education pursuant to this section if the dentist is disciplined by  
3 the board, fails to provide the training or education in accordance  
4 with the law and regulations governing the specialty licensure  
5 category, or fails to allow an inspection by the committee, or other  
6 good cause. A dentist whose approval is revoked may appeal the  
7 revocation to the committee's executive officer.

8 (E) May limit by regulations, approved by the board, the number  
9 of times a dentist may train or educate an individual employee in  
10 one or more of the specialty licensure categories.

11 (F) May limit by regulations, approved by the board, the number  
12 of employees a dentist may train during the same time period.

13 (G) May by regulations, approved by the board, require an  
14 applicant for licensure who has repeatedly failed to pass either the  
15 written or practical examination for the specialty licensure category  
16 to complete additional training and education before he or she is  
17 allowed to retake the examination.

18 (b) As a condition for licensure for specialty registration under  
19 Section 1750.2, an applicant who completes a work experience  
20 pathway pursuant to this section shall do the following:

21 (1) Certify to the board that he or she has a minimum of 1600  
22 hours of prior work experience as a dental assistant. The 1600  
23 hours of required work experience may be obtained by working  
24 for multiple employers, if the applicant provides written evidence  
25 of work experience from each dentist employer. The employee  
26 may begin the work experience pathway before he or she completes  
27 1600 hours of work experience, but may not apply for licensure  
28 until that work experience is completed. The board shall give credit  
29 toward the 1600 hours of work experience to persons who have  
30 graduated from a dental assisting program in a postsecondary  
31 institution, secondary institution, regional occupational center, or  
32 regional occupation program that is not approved by the board.  
33 The credit shall equal the hours spent in classroom training and  
34 internship on an hour-for-hour basis not to exceed 400 hours.

35 (2) Certify to the board that he or she has completed the  
36 educational program covering all procedures authorized for the  
37 specialty category for which the applicant is seeking licensure.

38 (3) Obtain a passing score on a written examination that is  
39 *approved by the board and* administered by the Committee on  
40 Dental Auxiliaries (COMDA) or by an entity that is recommended

1 by COMDA. COMDA may enter into a written agreement with a  
2 public or private organization for the administration of the  
3 examination. All aspects of the examination shall comply with  
4 Section 139.

5 (4) Obtain a passing score on the practical examination for the  
6 specialty category for which the employee is seeking licensure  
7 that is approved by the board *and administered by the Committee*  
8 *on Dental Auxiliaries (COMDA) or by an entity recommended by*  
9 *COMDA. COMDA may enter into a written agreement with a*  
10 *public or private organization for the administration of the*  
11 *examination. All aspects of the examination shall comply with*  
12 *Section 139.*

13 ~~SEC. 10.~~

14 *SEC. 12.* Section 1751 of the Business and Professions Code,  
15 as amended by Section 7.1 of Chapter 621 of the Statutes of 2005,  
16 is amended to read:

17 1751. (a) By September 15, 1993, the board, upon  
18 recommendation of the committee, consistent with this article,  
19 standards of good dental practice, and the health and welfare of  
20 patients, shall adopt regulations relating to the functions that may  
21 be performed by dental assistants under direct or general  
22 supervision, and the settings within which dental assistants may  
23 work. At least once every seven years thereafter, the board shall  
24 review the list of functions performable by dental assistants, the  
25 supervision level, and settings under which they may be performed,  
26 and shall update the regulations as needed to keep them current  
27 with the state of the practice.

28 (b) Under the supervision of a registered dental hygienist in  
29 alternative practice, a dental assistant may perform intraoral  
30 retraction and suctioning.

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

34 ~~SEC. 11.~~

35 *SEC. 13.* Section 1751 of the Business and Professions Code,  
36 as amended by Section 8 of Chapter 621 of the Statutes of 2005,  
37 is amended to read:

38 1751. (a) The board, upon recommendation of the committee,  
39 shall adopt regulations governing the procedures that dental  
40 assistants, registered orthodontic assistants, registered surgery

1 assistants, registered restorative assistants, registered dental  
 2 assistants, registered restorative assistants in extended functions,  
 3 and registered dental assistants in extended functions are authorized  
 4 to perform consistent with and necessary to implement the  
 5 provisions of this article, and the settings within which each may  
 6 practice.

7 (b) The board shall conduct an initial review of the procedures,  
 8 supervision level, settings under which they may be performed,  
 9 and utilization of extended functions dental auxiliaries by January  
 10 1, 2012. The board shall submit the results of its review to the Joint  
 11 Committee on Boards, Commissions, and Consumer Protection.  
 12 After the initial review, a review shall be conducted at least once  
 13 every five to seven years thereafter and the board shall update  
 14 regulations as necessary to keep them current with the state of  
 15 dental practice.

16 (c) This section shall become operative on January 1, 2010.

17 ~~SEC. 12.~~

18 *SEC. 14.* Section 1752 of the Business and Professions Code,  
 19 as amended by Section 10 of Chapter 621 of the Statutes of 2005,  
 20 is amended to read:

21 1752. (a) The supervising licensed dentist shall be responsible  
 22 for determining the competency of the dental assistant to perform  
 23 allowable functions.

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

27 ~~SEC. 13.~~

28 *SEC. 15.* Section 1752 of the Business and Professions Code,  
 29 as amended by Section 10.1 of Chapter 621 of the Statutes of 2005,  
 30 is amended to read:

31 1752. (a) A “registered dental assistant in extended functions”  
 32 is an individual licensed pursuant to this article who may perform  
 33 basic restorative services and direct patient care, as authorized by  
 34 Sections 1750, 1750.3, and 1753.1, and by the board regulations  
 35 adopted pursuant to Section 1751 under the supervision of a  
 36 licensed dentist.

37 (b) A “registered restorative assistant in extended functions” is  
 38 an individual licensed pursuant to this article who may perform  
 39 basic restorative services and direct patient care, as authorized by  
 40 Section 1750, subdivision (c) of Section 1750.3, and Section

1 1753.1, and by board regulations adopted pursuant to Section 1751  
2 under the supervision of a licensed dentist.

3 (c) This section shall become operative on January 1, 2010.

4 ~~SEC. 14.~~

5 *SEC. 16.* Section 1752.1 of the Business and Professions Code  
6 is amended to read:

7 1752.1. (a) The board shall license as a registered dental  
8 assistant a person who files an application prior to September 1,  
9 2009, and submits written evidence, satisfactory to the board, of  
10 either one of the following requirements:

11 (1) Graduation from an educational program in dental assisting  
12 approved by the board, and satisfactory performance on written  
13 and practical examinations required by the board.

14 (2) Satisfactory work experience of more than 12 months as a  
15 dental assistant in California or another state and satisfactory  
16 performance on a written and practical examination required by  
17 the board. The board shall give credit toward the 12 months work  
18 experience referred to in this subdivision to persons who have  
19 graduated from a dental assisting program in a postsecondary  
20 institution approved by the Department of Education or in a  
21 secondary institution, regional occupational center, or regional  
22 occupational program, that are not, however, approved by the  
23 board pursuant to subdivision (a). The credit shall equal the total  
24 weeks spent in classroom training and internship on a  
25 week-for-week basis not to exceed 16 weeks. The board, in  
26 cooperation with the Superintendent of Public Instruction, shall  
27 establish the minimum criteria for the curriculum of  
28 nonboard-approved programs. Additionally, the board shall notify  
29 those programs only if the program's curriculum does not meet  
30 established minimum criteria, as established for board-approved  
31 registered dental assistant programs, except any requirement that  
32 the program be given in a postsecondary institution. Graduates of  
33 programs not meeting established minimum criteria shall not  
34 qualify for satisfactory work experience as defined by this section.

35 (b) In addition to the requirements specified in subdivision (a),  
36 each applicant for registered dental assistant licensure on or after  
37 July 1, 2002, shall provide evidence of having successfully  
38 completed board-approved courses in radiation safety and coronal  
39 polishing as a condition of licensure. The length and content of  
40 the courses shall be governed by applicable board regulations.

1 (c) An applicant who fails to pass the written and practical  
2 examinations required by this section on or before June 30, 2010,  
3 shall not be eligible for further reexamination and must apply for  
4 and meet the requirements for registered dental assistant licensure  
5 specified in Section 1752.5. Between September 1, 2009, and June  
6 30, 2010, an applicant shall only be allowed to apply to take the  
7 written examination two times, and shall only be allowed to apply  
8 to take the practical examination two times.

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

12 ~~SEC. 15.~~

13 *SEC. 17.* Section 1752.2 of the Business and Professions Code  
14 is amended to read:

15 1752.2. (a) A board-approved educational program in  
16 registered dental assisting, as provided in subdivisions (a) and (b)  
17 of Section 1752.5, is a program that has met the requirements for  
18 approval pursuant to board regulations.

19 (b) An educational program in registered dental assisting that  
20 has been approved by the board prior to January 1, 2010, to teach  
21 the duties that a registered dental assistant was allowed to perform  
22 pursuant to board regulations prior to January 1, 2010, shall  
23 continue to be so approved on and after January 1, 2010, if it has  
24 certified no later than November 30, 2009, on a form specified by  
25 the board, that it shall provide instruction in all duties that  
26 registered dental assistants shall be allowed to perform on and  
27 after January 1, 2010, with the exception of adding drugs,  
28 medications, and fluids to intravenous lines using a syringe.

29 (c) The board may at any time conduct a thorough evaluation  
30 of an approved educational program's curriculum and facilities to  
31 determine whether the program meets the requirements for approval  
32 as specified in board regulations.

33 ~~SEC. 16.~~

34 *SEC. 18.* Section 1752.5 of the Business and Professions Code  
35 is amended to read:

36 1752.5. On and after September 1, 2009, a person may apply  
37 for and be issued a license as a registered dental assistant upon  
38 obtaining a passing score on a written and practical examination  
39 required by the board and providing evidence to the board of one  
40 of the following:

1 (a) Successful completion of an educational program in  
2 registered dental assisting approved by the board on or after  
3 January 1, 2008, to teach all of the functions specified in Section  
4 1750.3.

5 (b) Successful completion of:

6 (1) An educational program in registered dental assisting  
7 approved by the board to teach the duties that registered dental  
8 assistants were allowed to perform pursuant to board regulations  
9 prior to January 1, 2010.

10 (2) A board-approved course or courses in the following duties:

11 (A) Selecting, prepositioning, curing in a position approved by  
12 the supervising dentist, and removal of orthodontic brackets.

13 (B) Monitoring of patients during the preoperative,  
14 intraoperative, and postoperative phases.

15 (i) For purposes of this subparagraph, patient monitoring  
16 includes the following:

17 (I) Selection and validation of monitoring sensors, selecting  
18 menus and default settings and analysis for electrocardiogram,  
19 pulse oximeter and capnograph, continuous blood pressure, pulse,  
20 and respiration rates.

21 (II) Interpretation of data from noninvasive patient monitors  
22 including readings from continuous blood pressure and information  
23 from the monitor display for electrocardiogram waveform, carbon  
24 dioxide and end tidal carbon dioxide concentration, respiratory  
25 cycle data, continuous noninvasive blood pressure data, and pulse  
26 arterial oxygen saturation measurements, for the purpose of  
27 evaluating the condition of the patient during preoperative,  
28 intraoperative, and postoperative treatment.

29 (ii) For purposes of this subparagraph, patient monitoring does  
30 not include the following:

31 (I) Reading and transmitting information from the monitor  
32 display during the intraoperative phase of surgery for  
33 electrocardiogram waveform, carbon dioxide and end tidal carbon  
34 dioxide concentrations, respiratory cycle data, continuous  
35 noninvasive blood pressure data, or pulse arterial oxygen saturation  
36 measurements, for the purpose of interpretation and evaluation by  
37 a licensed dentist who shall be at chairside during this procedure.

38 (II) Placing of sensors.

39 (C) Adding drugs, medications, and fluids to intravenous lines  
40 using a syringe.

1 (D) Applying pit and fissure sealants.

2 (c) Successful completion of:

3 (1) Twelve months of satisfactory work experience as a dental  
4 assistant in California or another state. The board shall give credit  
5 toward the 12 months of work experience to persons who have  
6 graduated from a dental assisting program in a postsecondary  
7 institution, secondary institution, regional occupational center, or  
8 regional occupation program that are not approved by the board.  
9 The credit shall equal the total weeks spent in classroom training  
10 and internship on a week-for-week basis not to exceed 16 weeks.

11 (2) The three board-approved specialty registration courses, as  
12 defined in Section 1750.2, for registration as a registered  
13 orthodontic assistant, registered surgery assistant, and registered  
14 restorative assistant. Any specialty license issued pursuant to  
15 subparagraph (B) of paragraph (3) of subdivision (a) of Section  
16 1750.2 shall be deemed to have met the requirements of this  
17 subdivision for that specialty.

18 (3) A board-approved radiation safety program.

19 ~~SEC. 17.~~

20 *SEC. 19.* Section 1752.6 of the Business and Professions Code  
21 is amended to read:

22 1752.6. A registered dental assistant may perform all duties  
23 and procedures that a dental assistant, registered orthodontic  
24 assistant, registered surgery assistant, and a registered restorative  
25 assistant are allowed to perform, as well as those procedures  
26 authorized by regulations adopted pursuant to Section 1751, except  
27 for the following:

28 (a) A registered dental assistant who qualifies for licensure  
29 under subdivision (a) of Section 1752.5 may only perform the  
30 registered surgery assistant duty of adding drugs, medications, and  
31 fluids to intravenous lines after providing evidence of completion  
32 of a board-approved course in this duty.

33 (b) A registered dental assistant licensed on or before July 1,  
34 2010, who qualified for licensure prior to September 1, 2009, may  
35 only perform the following duties after the completion of a  
36 board-approved course or courses in the following duties:

37 (1) Selecting, prepositioning, curing in a position approved by  
38 the supervising dentist, and removal of orthodontic brackets.

39 (2) Monitoring of patients during the preoperative,  
40 intraoperative, and postoperative phases, using noninvasive

1 instrumentation such as pulse oximeters, electrocardiograms, and  
2 capnography.

3 (3) Adding drugs, medications, and fluids to intravenous lines.

4 (4) Applying pit and fissure sealants.

5 (c) The supervising dentist shall be responsible for determining  
6 the level of supervision required for authorized procedures  
7 performed by registered dental assistants.

8 (d) This section shall become operative on January 1, 2010.

9 ~~SEC. 18.~~

10 *SEC. 20.* Section 1753 of the Business and Professions Code  
11 is amended to read:

12 1753. (a) On and after January 1, 2010, the board shall license  
13 as a registered dental assistant in extended functions a person who  
14 submits written evidence, satisfactory to the board, of all of the  
15 following:

16 (1) Current licensure as a registered dental assistant, or  
17 completion of the requirements for licensure as a registered dental  
18 assistant, as provided in Section 1752.5.

19 (2) Successful completion of either of the following:

20 (A) An extended functions postsecondary program approved  
21 by the board in all of the procedures specified in Section 1753.1.

22 (B) An extended functions postsecondary program approved  
23 by the board on or before to teach the duties that registered dental  
24 assistants in extended functions were allowed to perform pursuant  
25 to board regulations prior to January 1, 2010, and a course  
26 approved by the board in the procedures specified in paragraphs  
27 (8) through (13) of subdivision (b) of Section 1753.1.

28 (3) Successful completion of board-approved courses in  
29 radiation safety and, within the last two years, courses in infection  
30 control, California dental law, and basic life support.

31 (4) Satisfactory performance on a written examination and a  
32 clinical or practical examination specified by the board. The board  
33 shall designate whether the written examination shall be  
34 administered by the committee or by the board-approved extended  
35 functions program.

36 (b) On and after January 1, 2010, the board shall license as a  
37 registered restorative assistant in extended functions a person who  
38 submits written evidence, satisfactory to the board, of all of the  
39 following:

1 (1) Completion of 12 months of satisfactory work experience  
2 as a dental assistant in California or another state. The board shall  
3 give credit toward the 12 months of work experience to persons  
4 who have graduated from a dental assisting program in a  
5 postsecondary institution, secondary institution, regional  
6 occupational center, or regional occupation program that are not  
7 approved by the board. The credit shall equal the total weeks spent  
8 in classroom training and internship on a week-for-week basis,  
9 not to exceed 16 weeks.

10 (2) Successful completion of a board-approved course in  
11 radiation safety, and, within the last two years, courses in infection  
12 control, California dental law, and basic life support.

13 (3) Successful completion of a postsecondary program approved  
14 by the board for restorative dental assisting specialty registration  
15 specified in subdivision (c) of Section 1750.3.

16 (4) Successful completion of an extended functions  
17 postsecondary program approved by the board in all of the  
18 procedures specified in Section 1753.1.

19 (5) Satisfactory performance on a written examination and a  
20 clinical or practical examination specified by the board. The board  
21 shall designate whether the written examination shall be  
22 administered by the committee or by the board-approved extended  
23 functions program.

24 (c) In approving extended functions postsecondary programs  
25 required to be completed for licensure pursuant to this section, the  
26 board shall require that the programs be taught by persons having  
27 prior experience teaching the applicable procedures specified in  
28 Section 1753.1, or procedures otherwise authorized by the board  
29 pursuant to Section 1751, in a dental school approved either by  
30 the Commission on Dental Accreditation or a comparable  
31 organization approved by the board. Approved programs shall  
32 include didactic, laboratory, and clinical modalities.

33 (d) The board may approve extended functions postsecondary  
34 programs referred to in this section prior to January 1, 2010, and  
35 the board shall recognize the completion of these approved  
36 programs prior to January 1, 2010.

37 ~~SEC. 19.~~

38 *SEC. 21.* Section 1753.1 of the Business and Professions Code  
39 is amended to read:

1 1753.1. (a) A registered dental assistant in extended functions  
2 licensed on or after January 1, 2010, is authorized to perform all  
3 duties and procedures that a registered dental assistant is authorized  
4 to perform, and those duties that the board may prescribe by  
5 regulation pursuant to Section 1751.

6 (b) A registered dental assistant in extended functions licensed  
7 on or after January 1, 2010, is authorized to perform the following  
8 additional procedures under direct supervision and pursuant to the  
9 order, control, and full professional responsibility of a licensed  
10 dentist:

- 11 (1) Cord retraction of gingivae for impression procedures.
- 12 (2) Taking impressions for cast restorations.
- 13 (3) Formulating indirect patterns for endodontic post and core  
14 castings.
- 15 (4) Fitting trial endodontic filling points.
- 16 (5) Drying canals previously opened by the supervising dentist,  
17 with absorbent points.
- 18 (6) Testing pulp vitality.
- 19 (7) Removing excess cement from subgingival tooth surfaces  
20 with a hand instrument.
- 21 (8) Fitting and cementing stainless steel crowns.
- 22 (9) Placing, condensing, and carving amalgam restorations.
- 23 (10) Placing class I, III, and V nonmetallic restorations.
- 24 (11) Taking facebow transfers and bite registrations for fixed  
25 prostheses.
- 26 (12) Taking final impressions for tooth-borne, removable  
27 prostheses.
- 28 (13) Placing and adjusting permanent crowns for cementation  
29 by the dentist.
- 30 (14) Applying etchants for bonding restorative materials.
- 31 (15) Other procedures authorized by regulations adopted by the  
32 board pursuant to Section 1751.

33 (c) A registered restorative assistant in extended functions  
34 licensed on or after January 1, 2010, is authorized to perform all  
35 duties and procedures that a registered restorative assistant is  
36 authorized to perform, those duties that the board may prescribe  
37 by regulation pursuant to Section 1751, and the duties specified  
38 in subdivision (b) of this section.

1 (d) All procedures required to be performed under direct  
2 supervision shall be checked and approved by the supervising  
3 dentist prior to the patient's dismissal from the office.

4 ~~SEC. 20.~~

5 *SEC. 22.* Section 1754 of the Business and Professions Code  
6 is amended to read:

7 1754. (a) By September 15, 1993, the board, upon  
8 recommendation of the committee and consistent with this article,  
9 standards of good dental practice, and the health and welfare of  
10 patients, shall adopt regulations relating to the functions that may  
11 be performed by registered dental assistants under direct or general  
12 supervision, and the settings within which registered dental  
13 assistants may work. At least once every seven years thereafter,  
14 the board shall review the list of functions performable by  
15 registered dental assistants, the supervision level, and settings  
16 under which they may be performed, and shall update the  
17 regulations as needed to keep them current with the state of the  
18 practice.

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

22 ~~SEC. 21.~~

23 *SEC. 23.* Section 1756 of the Business and Professions Code  
24 is amended to read:

25 1756. (a) The board shall license as a registered dental assistant  
26 in extended functions a person who satisfies all of the following  
27 requirements:

28 (1) Status as a registered dental assistant.

29 (2) Completion of clinical training approved by the board in a  
30 facility affiliated with a dental school under the direct supervision  
31 of the dental school faculty.

32 (3) Satisfactory performance on an examination required by the  
33 board.

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

37 ~~SEC. 22.~~

38 *SEC. 24.* Section 1757 of the Business and Professions Code  
39 is amended to read:

1 1757. (a) Each person who holds a license as a registered  
2 dental assistant in extended functions on the effective date of this  
3 section may only perform those procedures that a registered dental  
4 assistant is allowed to perform as specified in and limited by  
5 subdivision (b) of Section 1752.6, and the procedures listed in  
6 paragraphs (1), (2), (3), (4), (5), (6), (7), and (14) of subdivision  
7 (b) of Section 1753.1, until he or she provides evidence of having  
8 completed a board-approved course or courses in the additional  
9 procedures specified in paragraphs (8) to (13) of subdivision (b)  
10 of Section 1753.1, and an examination in those additional  
11 procedures as specified by the board.

12 (b) This section shall become operative on January 1, 2010.

13 ~~SEC. 23.~~

14 *SEC. 25.* Section 1770 of the Business and Professions Code,  
15 as amended by Section 22 of Chapter 621 of the Statutes of 2005,  
16 is amended to read:

17 1770. (a) A licensed dentist may simultaneously utilize in his  
18 or her practice no more than two dental auxiliaries in extended  
19 functions licensed pursuant to Sections 1756 and 1768.

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

23 ~~SEC. 24.~~

24 *SEC. 26.* Section 1770 of the Business and Professions Code,  
25 as amended by Section 23 of Chapter 621 of the Statutes of 2005,  
26 is amended to read:

27 1770. (a) A licensed dentist may simultaneously utilize in his  
28 or her practice no more than three dental auxiliaries in extended  
29 functions licensed pursuant to Sections 1753 and 1768.

30 (b) This section shall become operative on January 1, 2010.

31 ~~SEC. 25.~~

32 *SEC. 27.* Section 2177 of the Business and Professions Code  
33 is amended to read:

34 2177. (a) A passing score is required for an entire examination  
35 or for each part of an examination, as established by resolution of  
36 the Division of Licensing.

37 (b) Applicants may elect to take the written examinations  
38 conducted or accepted by the division in separate parts.

39 (c) (1) An applicant shall have obtained a passing score on Part  
40 III of the United States Medical Licensing Examination within not

1 more than four attempts in order to be eligible for a physician's  
2 and surgeon's certificate.

3 (2) Notwithstanding paragraph (1), an applicant who obtains  
4 a passing score on Part III of the United States Medical Licensing  
5 Examination in more than four attempts and who meets the  
6 requirements of Section 2135.5 shall be eligible to be considered  
7 for issuance of a physician's and surgeon's certificate.

8 ~~SEC. 26.~~

9 *SEC. 28.* Section 2225 of the Business and Professions Code  
10 is amended to read:

11 2225. (a) Notwithstanding Section 2263 and any other  
12 provision of law making a communication between a physician  
13 and surgeon or a doctor of podiatric medicine and his or her  
14 patients a privileged communication, those provisions shall not  
15 apply to investigations or proceedings conducted under this chapter.  
16 Members of the board, the Senior Assistant Attorney General of  
17 the Health Quality Enforcement Section, members of the California  
18 Board of Podiatric Medicine, and deputies, employees, agents, and  
19 representatives of the board or the California Board of Podiatric  
20 Medicine and the Senior Assistant Attorney General of the Health  
21 Quality Enforcement Section shall keep in confidence during the  
22 course of investigations, the names of any patients whose records  
23 are reviewed and may not disclose or reveal those names, except  
24 as is necessary during the course of an investigation, unless and  
25 until proceedings are instituted. The authority of the board or the  
26 California Board of Podiatric Medicine and the Health Quality  
27 Enforcement Section to examine records of patients in the office  
28 of a physician and surgeon or a doctor of podiatric medicine is  
29 limited to records of patients who have complained to the board  
30 or the California Board of Podiatric Medicine about that licensee.

31 (b) Notwithstanding any other provision of law, the Attorney  
32 General and his or her investigative agents, and investigators and  
33 representatives of the board or the California Board of Podiatric  
34 Medicine, may inquire into any alleged violation of the Medical  
35 Practice Act or any other federal or state law, regulation, or rule  
36 relevant to the practice of medicine or podiatric medicine,  
37 whichever is applicable, and may inspect documents relevant to  
38 those investigations in accordance with the following procedures:

39 (1) Any document relevant to an investigation may be inspected,  
40 and copies may be obtained, where patient consent is given.

1 (2) Any document relevant to the business operations of a  
2 licensee, and not involving medical records attributable to  
3 identifiable patients, may be inspected and copied where relevant  
4 to an investigation of a licensee.

5 (c) In all cases where documents are inspected or copies of those  
6 documents are received, their acquisition or review shall be  
7 arranged so as not to unnecessarily disrupt the medical and business  
8 operations of the licensee or of the facility where the records are  
9 kept or used.

10 (d) Where documents are lawfully requested from licensees in  
11 accordance with this section by the Attorney General or his or her  
12 agents or deputies, or investigators of the board or the California  
13 Board of Podiatric Medicine, they shall be provided within 15  
14 business days of receipt of the request, unless the licensee is unable  
15 to provide the documents within this time period for good cause,  
16 including, but not limited to, physical inability to access the records  
17 in the time allowed due to illness or travel. Failure to produce  
18 requested documents or copies thereof, after being informed of  
19 the required deadline, shall constitute unprofessional conduct. The  
20 board may use its authority to cite and fine a physician and surgeon  
21 for any violation of this section. This remedy is in addition to any  
22 other authority of the board to sanction a licensee for a delay in  
23 producing requested records.

24 (e) Searches conducted of the office or medical facility of any  
25 licensee shall not interfere with the recordkeeping format or  
26 preservation needs of any licensee necessary for the lawful care  
27 of patients.

28 ~~SEC. 27.~~

29 *SEC. 29.* Section 2313 of the Business and Professions Code  
30 is amended to read:

31 2313. The Division of Medical Quality shall report annually  
32 to the Legislature, no later than October 1 of each year, the  
33 following information:

34 (a) The total number of temporary restraining orders or interim  
35 suspension orders sought by the board or the division to enjoin  
36 licensees pursuant to Sections 125.7, 125.8 and 2311, the  
37 circumstances in each case that prompted the board or division to  
38 seek that injunctive relief, and whether a restraining order or  
39 interim suspension order was actually issued.

1 (b) The total number and types of actions for unprofessional  
2 conduct taken by the board or a division against licensees, the  
3 number and types of actions taken against licensees for  
4 unprofessional conduct related to prescribing drugs, narcotics, or  
5 other controlled substances, including those related to the  
6 undertreatment or undermedication of pain.

7 (c) Information relative to the performance of the division,  
8 including the following: number of consumer calls received;  
9 number of consumer calls or letters designated as discipline-related  
10 complaints; number of complaint forms received; number of  
11 Section 805 reports by type; number of Section 801.01 and Section  
12 803 reports; coroner reports received; number of convictions  
13 reported to the division; number of criminal filings reported to the  
14 division; number of complaints and referrals closed, referred out,  
15 or resolved without discipline, respectively, prior to accusation;  
16 number of accusations filed and final disposition of accusations  
17 through the division and court review, respectively; final physician  
18 discipline by category; number of citations issued with fines and  
19 without fines, and number of public reprimands issued; number  
20 of cases in process more than six months from receipt by the  
21 division of information concerning the relevant acts to the filing  
22 of an accusation; average and median time in processing complaints  
23 from original receipt of complaint by the division for all cases at  
24 each stage of discipline and court review, respectively; number of  
25 persons in diversion, and number successfully completing diversion  
26 programs and failing to do so, respectively; probation violation  
27 reports and probation revocation filings and dispositions; number  
28 of petitions for reinstatement and their dispositions; and caseloads  
29 of investigators for original cases and for probation cases,  
30 respectively.

31 “Action,” for purposes of this section, includes proceedings  
32 brought by, or on behalf of, the division against licensees for  
33 unprofessional conduct that have not been finally adjudicated, as  
34 well as disciplinary actions taken against licensees.

35 (d) The total number of reports received pursuant to Section  
36 805 by the type of peer review body reporting and, where  
37 applicable, the type of health care facility involved and the total  
38 number and type of administrative or disciplinary actions taken  
39 by the Medical Board of California with respect to the reports.

1 (e) The number of malpractice settlements in excess of thirty  
2 thousand dollars (\$30,000) reported pursuant to Section 801.01.  
3 This information shall be grouped by specialty practice and shall  
4 include the total number of physicians and surgeons practicing in  
5 each specialty. For the purpose of this subdivision, “specialty”  
6 includes all specialties and subspecialties considered in determining  
7 the risk categories described in Section 803.1.

8 ~~SEC. 28.~~

9 *SEC. 30.* Section 2335 of the Business and Professions Code  
10 is amended to read:

11 2335. (a) All proposed decisions and interim orders of the  
12 Medical Quality Hearing Panel designated in Section 11371 of the  
13 Government Code shall be transmitted to the executive director  
14 of the board, or the Executive Director of the California Board of  
15 Podiatric Medicine as to the licensees of that board, within 48  
16 hours of filing.

17 (b) All interim orders shall be final when filed.

18 (c) A proposed decision shall be acted upon by a panel of the  
19 Division of Medical Quality or the California Board of Podiatric  
20 Medicine, as the case may be, in accordance with Section 11517  
21 of the Government Code, except that all of the following shall  
22 apply to proceedings against licensees under this chapter:

23 (1) When considering a proposed decision, the division panel  
24 and the California Board of Podiatric Medicine shall give great  
25 weight to the findings of fact of the administrative law judge,  
26 except to the extent those findings of fact are controverted by new  
27 evidence.

28 (2) The Division of Medical Quality or the California Board of  
29 Podiatric Medicine shall poll the members of the division panel  
30 or California Board of Podiatric Medicine by written mail ballot  
31 concerning the proposed decision. The mail ballot shall be sent  
32 within 10 calendar days of receipt of the proposed decision, and  
33 shall poll each member on whether the member votes to approve  
34 the decision, to approve the decision with an altered penalty, to  
35 refer the case back to the administrative law judge for the taking  
36 of additional evidence, to defer final decision pending discussion  
37 of the case by the panel or board as a whole, or to nonadopt the  
38 decision. No party to the proceeding, including employees of the  
39 agency that filed the accusation, and no person who has a direct  
40 or indirect interest in the outcome of the proceeding or who

1 presided at a previous stage of the decision, may communicate  
2 directly or indirectly, upon the merits of a contested matter while  
3 the proceeding is pending, with any member of the panel or board,  
4 without notice and opportunity for all parties to participate in the  
5 communication. The votes of four members of a division panel,  
6 and a majority of the California Board of Podiatric Medicine, are  
7 required to approve the decision with an altered penalty, to refer  
8 the case back to the administrative law judge for the taking of  
9 further evidence, or to nonadopt the decision. The votes of two  
10 members of the panel or board are required to defer final decision  
11 pending discussion of the case by the panel or board as a whole.  
12 If there is a vote by the specified number to defer final decision  
13 pending discussion of the case by the panel or board as a whole,  
14 provision shall be made for that discussion before the 100-day  
15 period specified in paragraph (3) expires, but in no event shall that  
16 100-day period be extended.

17 (3) If four members of a division panel, or a majority of the  
18 California Board of Podiatric Medicine vote to do so, the panel of  
19 the division and the California Board of Podiatric Medicine shall  
20 issue an order of nonadoption of a proposed decision within 100  
21 calendar days of the date it is received by the board. If a panel of  
22 the division or the California Board of Podiatric Medicine does  
23 not refer the case back to the administrative law judge for the  
24 taking of additional evidence or issue an order of nonadoption  
25 within 100 days, the decision shall be final and subject to review  
26 under Section 2337. Members of a panel of the division or the  
27 California Board of Podiatric Medicine who review a proposed  
28 decision or other matter and vote by mail as provided in paragraph  
29 (2) shall return their votes by mail to the board within 30 days  
30 from receipt of the proposed decision or other matter.

31 (4) The division panel or California Board of Podiatric Medicine  
32 shall afford the parties the opportunity to present oral argument  
33 before deciding a case after nonadoption of the administrative law  
34 judge's decision.

35 (5) A vote of four members of a division panel, or a majority  
36 of the California Board of Podiatric Medicine, are required to  
37 increase the penalty from that contained in the proposed  
38 administrative law judge's decision. No member of the division  
39 panel or of the California Board of Podiatric Medicine may vote  
40 to increase the penalty except after reading the entire record and

1 personally hearing any additional oral argument and evidence  
2 presented to the panel or board.

3 ~~SEC. 29. Section 2397 of the Business and Professions Code~~  
4 ~~is amended to read:~~

5 ~~2397. (a) A licensee shall not be liable for civil damages for~~  
6 ~~injury or death caused in an emergency situation occurring in the~~  
7 ~~licensee's office or in a hospital on account of a failure to inform~~  
8 ~~a patient of the possible consequences of a medical procedure~~  
9 ~~where the failure to inform is caused by any of the following:~~

10 ~~(1) The patient was unconscious.~~

11 ~~(2) The medical procedure was undertaken without the consent~~  
12 ~~of the patient because the licensee reasonably believed that a~~  
13 ~~medical procedure should be undertaken immediately and that~~  
14 ~~there was insufficient time to fully inform the patient.~~

15 ~~(3) A medical procedure was performed on a person legally~~  
16 ~~incapable of giving consent, and the licensee reasonably believed~~  
17 ~~that a medical procedure should be undertaken immediately and~~  
18 ~~that there was insufficient time to obtain the informed consent of~~  
19 ~~a person authorized to give such consent for the patient.~~

20 ~~(b) This section is applicable only to actions for damages for~~  
21 ~~injuries or death arising because of a licensee's failure to inform,~~  
22 ~~and not to actions for damages arising because of a licensee's~~  
23 ~~negligence in rendering or failing to render treatment.~~

24 ~~(c) As used in this section:~~

25 ~~(1) "Hospital" means a licensed general acute care hospital as~~  
26 ~~defined in subdivision (a) of Section 1250 of the Health and Safety~~  
27 ~~Code.~~

28 ~~(2) "Emergency situation occurring in the licensee's office"~~  
29 ~~means a situation occurring in an office, other than a hospital, used~~  
30 ~~by a licensee for the examination or treatment of patients, requiring~~  
31 ~~immediate services for alleviation of severe pain, or immediate~~  
32 ~~diagnosis and treatment of unforeseeable medical conditions,~~  
33 ~~which, if not immediately diagnosed and treated, would lead to~~  
34 ~~serious disability or death.~~

35 ~~(3) "Emergency situation occurring in a hospital" means a~~  
36 ~~situation occurring in a hospital, whether or not it occurs in an~~  
37 ~~emergency room, requiring immediate services for alleviation of~~  
38 ~~severe pain, or immediate diagnosis and treatment of unforeseeable~~  
39 ~~medical conditions, which, if not immediately diagnosed and~~  
40 ~~treated, would lead to serious disability or death.~~

1     ~~SEC. 30.~~

2     *SEC. 31.* Section 2416 of the Business and Professions Code  
3 is amended to read:

4     2416. Physicians and surgeons and doctors of podiatric  
5 medicine may conduct their professional practices in a partnership  
6 or group of physician and surgeons or a partnership or group of  
7 doctors of podiatric medicine, respectively. Physician and surgeons  
8 and doctors of podiatric medicine may establish a professional  
9 partnership that includes both physician and surgeons and doctors  
10 of podiatric medicine, if both of the following conditions are  
11 satisfied:

12     (a) A majority of the partners and partnership interests in the  
13 professional partnership are physician and surgeons or osteopathic  
14 physician and surgeons.

15     (b) Notwithstanding Chapter 2 (commencing with Section  
16 15001) of Title 1 of the Corporations Code, a partner who is not  
17 a physician and surgeon shall not practice in the partnership or  
18 vote on partnership matters related to the practice of medicine that  
19 are outside his or her scope of practice. All partners may vote on  
20 general administrative, management, and business matters.

21     ~~SEC. 31.~~

22     *SEC. 32.* Section 2471 is added to the Business and Professions  
23 Code, to read:

24     2471. Except as provided by Section 159.5, the board may  
25 employ, within the limits of the funds received by the board, all  
26 personnel necessary to carry out this chapter.

27     ~~SEC. 32.~~

28     *SEC. 33.* Section 2497.5 of the Business and Professions Code  
29 is amended to read:

30     2497.5. (a) The board may request the administrative law  
31 judge, under his or her proposed decision in resolution of a  
32 disciplinary proceeding before the board, to direct any licensee  
33 found guilty of unprofessional conduct to pay to the board a sum  
34 not to exceed the actual and reasonable costs of the investigation  
35 and prosecution of the case.

36     (b) The costs to be assessed shall be fixed by the administrative  
37 law judge and shall not in any event be increased by the board.  
38 When the board does not adopt a proposed decision and remands  
39 the case to an administrative law judge, the administrative law

1 judge shall not increase the amount of any costs assessed in the  
2 proposed decision.

3 (c) When the payment directed in the board’s order for payment  
4 of costs is not made by the licensee, the board may enforce the  
5 order for payment by bringing an action in any appropriate court.  
6 This right of enforcement shall be in addition to any other rights  
7 the board may have as to any licensee directed to pay costs.

8 (d) In any judicial action for the recovery of costs, proof of the  
9 board’s decision shall be conclusive proof of the validity of the  
10 order of payment and the terms for payment.

11 (e) (1) Except as provided in paragraph (2), the board shall not  
12 renew or reinstate the license of any licensee who has failed to pay  
13 all of the costs ordered under this section.

14 (2) Notwithstanding paragraph (1), the board may, in its  
15 discretion, conditionally renew or reinstate for a maximum of one  
16 year the license of any licensee who demonstrates financial  
17 hardship and who enters into a formal agreement with the board  
18 to reimburse the board within that one year period for those unpaid  
19 costs.

20 (f) All costs recovered under this section shall be deposited in  
21 the Board of Podiatric Medicine Fund as a reimbursement in either  
22 the fiscal year in which the costs are actually recovered or the  
23 previous fiscal year, as the board may direct.

24 *SEC. 34. Section 2570.2 of the Business and Professions Code*  
25 *is amended to read:*

26 2570.2. As used in this chapter, unless the context requires  
27 otherwise:

28 (a) “Appropriate supervision of an aide” means that the  
29 responsible occupational therapist shall provide direct in-sight  
30 supervision when the aide is providing delegated client-related  
31 tasks and shall be readily available at all times to provide advice  
32 or instruction to the aide. The occupational therapist is responsible  
33 for documenting the client’s record concerning the delegated  
34 client-related tasks performed by the aide.

35 (b) “Aide” means an individual who provides supportive services  
36 to an occupational therapist and who is trained by an occupational  
37 therapist to perform, under appropriate supervision, delegated,  
38 selected client and nonclient-related tasks for which the aide has  
39 demonstrated competency. An occupational therapist licensed  
40 pursuant to this chapter may utilize the services of one aide

1 engaged in patient-related tasks to assist the occupational therapist  
2 in his or her practice of occupational therapy. An occupational  
3 therapy assistant shall not supervise an aide engaged in  
4 client-related tasks.

5 (c) “Association” means the Occupational Therapy Association  
6 of California or a similarly constituted organization representing  
7 occupational therapists in this state.

8 (d) “Board” means the California Board of Occupational  
9 Therapy.

10 (e) “Examination” means an entry level certification examination  
11 for occupational therapists and occupational therapy assistants  
12 administered by the National Board for Certification in  
13 Occupational Therapy or by another nationally recognized  
14 credentialing body.

15 (f) “Good standing” means that the person has a current, valid  
16 license to practice occupational therapy or assist in the practice of  
17 occupational therapy and has not been disciplined by the  
18 recognized professional certifying or standard-setting body within  
19 five years prior to application or renewal of the person’s license.

20 (g) “Occupational therapist” means an individual who meets  
21 the minimum education requirements specified in Section 2570.6  
22 and is licensed pursuant to the provisions of this chapter and whose  
23 license is in good standing as determined by the board to practice  
24 occupational therapy under this chapter. Only the occupational  
25 therapist is responsible for the occupational therapy assessment  
26 of a client, and the development of an occupational therapy plan  
27 of treatment.

28 (h) “Occupational therapy assistant” means an individual who  
29 is ~~certified~~ *approved* pursuant to the provisions of this chapter,  
30 who is in good standing as determined by the board, and based  
31 thereon, who is qualified to assist in the practice of occupational  
32 therapy under this chapter, and who works under the appropriate  
33 supervision of a licensed occupational therapist.

34 (i) “Occupational therapy services” means the services of an  
35 occupational therapist or the services of an occupational therapy  
36 assistant under the appropriate supervision of an occupational  
37 therapist.

38 (j) “Person” means an individual, partnership, unincorporated  
39 organization, or corporation.

1 (k) “Practice of occupational therapy” means the therapeutic  
2 use of purposeful and meaningful goal-directed activities  
3 (occupations) which engage the individual’s body and mind in  
4 meaningful, organized, and self-directed actions that maximize  
5 independence, prevent or minimize disability, and maintain health.  
6 Occupational therapy services encompass occupational therapy  
7 assessment, treatment, education of, and consultation with,  
8 individuals who have been referred for occupational therapy  
9 services subsequent to diagnosis of disease or disorder (or who  
10 are receiving occupational therapy services as part of an  
11 Individualized Education Plan (IEP) pursuant to the federal  
12 Individuals with Disabilities Education Act (IDEA)). Occupational  
13 therapy assessment identifies performance abilities and limitations  
14 that are necessary for self-maintenance, learning, work, and other  
15 similar meaningful activities. Occupational therapy treatment is  
16 focused on developing, improving, or restoring functional daily  
17 living skills, compensating for and preventing dysfunction, or  
18 minimizing disability. Occupational therapy techniques that are  
19 used for treatment involve teaching activities of daily living  
20 (excluding speech-language skills); designing or fabricating  
21 selective temporary orthotic devices, and applying or training in  
22 the use of assistive technology or orthotic and prosthetic devices  
23 (excluding gait training). Occupational therapy consultation  
24 provides expert advice to enhance function and quality of life.  
25 Consultation or treatment may involve modification of tasks or  
26 environments to allow an individual to achieve maximum  
27 independence. Services are provided individually, in groups, or  
28 through social groups.

29 (l) “Hand therapy” is the art and science of rehabilitation of the  
30 hand, wrist, and forearm requiring comprehensive knowledge of  
31 the upper extremity and specialized skills in assessment and  
32 treatment to prevent dysfunction, restore function, or reverse the  
33 advancement of pathology. This definition is not intended to  
34 prevent an occupational therapist practicing hand therapy from  
35 providing other occupational therapy services authorized under  
36 this act in conjunction with hand therapy.

37 (m) “Physical agent modalities” means techniques that produce  
38 a response in soft tissue through the use of light, water,  
39 temperature, sound, or electricity. These techniques are used as

1 adjunctive methods in conjunction with, or in immediate  
2 preparation for, occupational therapy services.

3 *SEC. 35. Section 2570.3 of the Business and Professions Code*  
4 *is amended to read:*

5 2570.3. (a) No person shall practice occupational therapy or  
6 hold himself or herself out as an occupational therapist or as being  
7 able to practice occupational therapy, or to render occupational  
8 therapy services in this state unless he or she is licensed as an  
9 occupational therapist under the provisions of this chapter. No  
10 person shall hold himself or herself out as an occupational therapy  
11 assistant or work as an occupational therapy assistant under the  
12 supervision of an occupational therapist unless he or she is ~~certified~~  
13 *approved* as an occupational therapy assistant under the provisions  
14 of this chapter.

15 (b) Only an individual may be licensed or ~~certified~~ *approved*  
16 under this chapter.

17 (c) Nothing in this chapter shall be construed as authorizing an  
18 occupational therapist to practice physical therapy, as defined in  
19 Section 2620; speech-language pathology or audiology, as defined  
20 in Section 2530.2; nursing, as defined Section 2725; psychology,  
21 as defined in Section 2903; or spinal manipulation or other forms  
22 of healing, except as authorized by this section.

23 (d) An occupational therapist may provide advanced practices  
24 if the therapist has the knowledge, skill, and ability to do so and  
25 has demonstrated to the satisfaction of the board that he or she has  
26 met educational training and competency requirements. These  
27 advanced practices include the following:

- 28 (1) Hand therapy.
- 29 (2) The use of physical agent modalities.
- 30 (3) Swallowing assessment, evaluation, or intervention.

31 (e) An occupational therapist providing hand therapy services  
32 shall demonstrate to the satisfaction of the board that he or she has  
33 completed post professional education and training in all of the  
34 following areas:

- 35 (1) Anatomy of the upper extremity and how it is altered by  
36 pathology.
- 37 (2) Histology as it relates to tissue healing and the effects of  
38 immobilization and mobilization on connective tissue.
- 39 (3) Muscle, sensory, vascular, and connective tissue physiology.

- 1 (4) Kinesiology of the upper extremity, such as biomechanical  
2 principles of pulleys, intrinsic and extrinsic muscle function,  
3 internal forces of muscles, and the effects of external forces.
- 4 (5) The effects of temperature and electrical currents on nerve  
5 and connective tissue.
- 6 (6) Surgical procedures of the upper extremity and their  
7 postoperative course.
- 8 (f) An occupational therapist using physical agent modalities  
9 shall demonstrate to the satisfaction of the board that he or she has  
10 completed post professional education and training in all of the  
11 following areas:
- 12 (1) Anatomy and physiology of muscle, sensory, vascular, and  
13 connective tissue in response to the application of physical agent  
14 modalities.
- 15 (2) Principles of chemistry and physics related to the selected  
16 modality.
- 17 (3) Physiological, neurophysiological, and electrophysiological  
18 changes that occur as a result of the application of a modality.
- 19 (4) Guidelines for the preparation of the patient, including  
20 education about the process and possible outcomes of treatment.
- 21 (5) Safety rules and precautions related to the selected modality.
- 22 (6) Methods for documenting immediate and long-term effects  
23 of treatment.
- 24 (7) Characteristics of the equipment, including safe operation,  
25 adjustment, indications of malfunction, and care.
- 26 (g) An occupational therapist in the process of achieving the  
27 education, training, and competency requirements established by  
28 the board for providing hand therapy or using physical agent  
29 modalities may practice these techniques under the supervision of  
30 an occupational therapist who has already met the requirements  
31 established by the board, a physical therapist, or a physician and  
32 surgeon.
- 33 (h) The board shall develop and adopt regulations regarding the  
34 educational training and competency requirements for advanced  
35 practices in collaboration with the Speech-Language Pathology  
36 and Audiology Board, the Board of Registered Nursing, and the  
37 Physical Therapy Board of California.
- 38 (i) Nothing in this chapter shall be construed as authorizing an  
39 occupational therapist to seek reimbursement for services other

1 than for the practice of occupational therapy as defined in this  
2 chapter.

3 (j) “Supervision of an occupational therapy assistant” means  
4 that the responsible occupational therapist shall at all times be  
5 responsible for all occupational therapy services provided to the  
6 client. The occupational therapist who is responsible for appropriate  
7 supervision shall formulate and document in each client’s record,  
8 with his or her signature, the goals and plan for that client, and  
9 shall make sure that the occupational therapy assistant assigned  
10 to that client functions under appropriate supervision. As part of  
11 the responsible occupational therapist’s appropriate supervision,  
12 he or she shall conduct at least weekly review and inspection of  
13 all aspects of occupational therapy services by the occupational  
14 therapy assistant.

15 (1) The supervising occupational therapist has the continuing  
16 responsibility to follow the progress of each patient, provide direct  
17 care to the patient, and to assure that the occupational therapy  
18 assistant does not function autonomously.

19 (2) An occupational therapist shall not supervise more  
20 occupational therapy assistants, at any one time, than can be  
21 appropriately supervised in the opinion of the board. Two  
22 occupational therapy assistants shall be the maximum number of  
23 occupational therapy assistants supervised by an occupational  
24 therapist at any one time, but the board may permit the supervision  
25 of a greater number by an occupational therapist if, in the opinion  
26 of the board, there would be adequate supervision and the public’s  
27 health and safety would be served. In no case shall the total number  
28 of occupational therapy assistants exceed twice the number of  
29 occupational therapists regularly employed by a facility at any one  
30 time.

31 (k) The amendments to subdivisions (d), (e), (f), and (g) relating  
32 to advanced practices, that are made by the act adding this  
33 subdivision, shall become operative no later than January 1, 2004,  
34 or on the date the board adopts regulations pursuant to subdivision  
35 (h) of that section, whichever first occurs.

36 *SEC. 36. Section 2570.4 of the Business and Professions Code*  
37 *is amended to read:*

38 2570.4. Nothing in this chapter shall be construed as preventing  
39 or restricting the practice, services, or activities of any of the  
40 following persons:

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

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

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

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

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

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

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

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

30 *SEC. 37. Section 2570.5 of the Business and Professions Code*  
31 *is amended to read:*

32 2570.5. (a) A limited permit may be granted to any person  
33 who has completed the education and experience requirements of  
34 this chapter.

35 (b) A person who meets the qualifications to be admitted to the  
36 examination for licensure or ~~certification approval~~ under this  
37 chapter and is waiting to take the first available examination or  
38 awaiting the announcement of the results of the examination,  
39 according to the application requirements for a limited permit,  
40 may practice as an occupational therapist or as an occupational

1 therapy assistant under the direction and appropriate supervision  
2 of an occupational therapist duly licensed under this chapter. If  
3 that person fails to qualify for or pass the first announced  
4 examination, all privileges under this section shall automatically  
5 cease upon due notice to the applicant of that failure and may not  
6 be renewed.

7 (c) A limited permit shall be subject to other requirements set  
8 forth in rules adopted by the board.

9 *SEC. 38. Section 2570.6 of the Business and Professions Code*  
10 *is amended to read:*

11 2570.6. An applicant applying for a license as an occupational  
12 therapist or ~~certification~~ *approval* as an occupational therapy  
13 assistant shall file with the board a written application provided  
14 by the board, showing to the satisfaction of the board that he or  
15 she meets all of the following requirements:

16 (a) That the applicant is in good standing and has not committed  
17 acts or crimes constituting grounds for denial of a license under  
18 Section 480.

19 (b) (1) That the applicant has successfully completed the  
20 academic requirements of an educational program for occupational  
21 therapists or occupational therapy assistants that is approved by  
22 the board and accredited by the American Occupational Therapy  
23 Association's Accreditation Council for Occupational Therapy  
24 Education (ACOTE).

25 (2) The curriculum of an education program for occupational  
26 therapists shall contain the content specifically required in the  
27 ACOTE accreditation standards, including all of the following  
28 subjects:

29 (A) Biological, behavioral, and health sciences.

30 (B) Structure and function of the human body, including  
31 anatomy, kinesiology, physiology, and the neurosciences.

32 (C) Human development throughout the life span.

33 (D) Human behavior in the context of sociocultural systems.

34 (E) Etiology, clinical course, management, and prognosis of  
35 disease processes and traumatic injuries, and the effects of those  
36 conditions on human functioning.

37 (F) Occupational therapy theory, practice, and process that shall  
38 include the following:

- 1 (i) Human performance, that shall include occupational  
2 performance throughout the life cycle, human interaction, roles,  
3 values, and the influences of the nonhuman environment.
- 4 (ii) Activity processes that shall include the following:
  - 5 (I) Theories underlying the use of purposeful activity and the  
6 meaning and dynamics of activity.
  - 7 (II) Performance of selected life tasks and activities.
  - 8 (III) Analysis, adaptation, and application of purposeful activity  
9 as therapeutic intervention.
  - 10 (IV) Use of self, dyadic, and group interaction.
- 11 (iii) Theoretical approaches, including those related to  
12 purposeful activity, human performance, and adaptation.
- 13 (iv) Application of occupational therapy theory to practice, that  
14 shall include the following:
  - 15 (I) Assessment and interpretation, observation, interviews,  
16 history, and standardized and nonstandardized tests.
  - 17 (II) Directing, planning, and implementation, that shall include:  
18 therapeutic intervention related to daily living skills and  
19 occupational components; therapeutic adaptation, including  
20 methods of accomplishing daily life tasks, environmental  
21 adjustments, orthotics, and assistive devices and equipment; health  
22 maintenance, including energy conservation, joint protection, body  
23 mechanics, and positioning; and prevention programs to foster  
24 age-appropriate recommendations to maximize treatment gains.
  - 25 (III) Program termination including reevaluation, determination  
26 of discharge, summary of occupational therapy outcome, and  
27 appropriate recommendations to maximize treatment gains.
  - 28 (IV) Documentation.
  - 29 (v) Development and implementation of quality assurance.
  - 30 (vi) Management of occupational therapy service, that shall  
31 include:
    - 32 (I) Planning services for client groups.
    - 33 (II) Personnel management, including occupational therapy  
34 assistants, aides, volunteers, and level I students.
    - 35 (III) Departmental operations, including budgeting, scheduling,  
36 recordkeeping, safety, and maintenance of supplies and equipment.
- 37 (3) The curriculum of an education program for occupational  
38 therapy assistants shall contain the content specifically required  
39 in the ACOTE accreditation standards, including all of the  
40 following subjects:

- 1 (A) Biological, behavioral, and health sciences.
- 2 (B) Structure and function of the normal human body.
- 3 (C) Human development.
- 4 (D) Conditions commonly referred to occupational therapists.
- 5 (E) Occupational therapy principles and skills, that shall include
- 6 the following:
  - 7 (i) Human performance, including life tasks and roles as related
  - 8 to the developmental process from birth to death.
  - 9 (ii) Activity processes and skills, that shall include the following:
    - 10 (I) Performance of selected life tasks and activities.
    - 11 (II) Analysis and adaptation of activities.
    - 12 (III) Instruction of individuals and groups in selected life tasks
    - 13 and activities.
    - 14 (iii) Concepts related to occupational therapy practice, that shall
    - 15 include the following:
      - 16 (I) The importance of human occupation as a health determinant.
      - 17 (II) The use of self, interpersonal, and communication skills.
      - 18 (iv) Use of occupational therapy concepts and skills, that shall
      - 19 include the following:
        - 20 (I) Data collection, that shall include structured observation and
        - 21 interviews, history, and structured tests.
        - 22 (II) Participation in planning and implementation, that shall
        - 23 include: therapeutic intervention related to daily living skills and
        - 24 occupational components; therapeutic adaptation, including
        - 25 methods of accomplishing daily life tasks, environmental
        - 26 adjustments, orthotics, and assistive devices and equipment; health
        - 27 maintenance, including mental health techniques, energy
        - 28 conservation, joint protection, body mechanics, and positioning;
        - 29 and prevention programs to foster age-appropriate balance of
        - 30 self-care and work.
        - 31 (III) Program termination, including assisting in reevaluation,
        - 32 summary of occupational therapy outcome, and appropriate
        - 33 recommendations to maximize treatment gains.
        - 34 (IV) Documentation.
      - 35 (c) That the applicant has successfully completed a period of
      - 36 supervised fieldwork experience approved by the board and
      - 37 arranged by a recognized educational institution where he or she
      - 38 met the academic requirements of subdivision (b) or arranged by
      - 39 a nationally recognized professional association. The fieldwork
      - 40 requirements shall be as follows:

1 (1) For an occupational therapist, a minimum of 960 hours of  
2 supervised fieldwork experience shall be completed within 24  
3 months of the completion of didactic coursework.

4 (2) For an occupational therapy assistant, a minimum of 640  
5 hours of supervised fieldwork experience shall be completed within  
6 20 months of the completion of didactic coursework.

7 (d) That the applicant has passed an examination as provided  
8 in Section 2570.7.

9 (e) That the applicant, at the time of application, is a person  
10 over 18 years of age, is not addicted to alcohol or any controlled  
11 substance, and has not committed acts or crimes constituting  
12 grounds for denial of licensure or ~~certification~~ *approval* under  
13 Section 480.

14 ~~SEC. 33.~~

15 *SEC. 39.* Section 2570.7 of the Business and Professions Code  
16 is amended to read:

17 2570.7. (a) An applicant who has satisfied the requirements  
18 of Section 2570.6 may apply for examination for licensure or  
19 ~~certification~~ *approval* in a manner prescribed by the board. Subject  
20 to the provisions of this chapter, an applicant who fails an  
21 examination may apply for reexamination.

22 (b) Each applicant for licensure or ~~certification~~ *approval* shall  
23 successfully complete the entry level certification examination for  
24 occupational therapists or occupational therapy assistants approved  
25 by the board, such as the examination administered by the National  
26 Board for Certification in Occupational Therapy or by another  
27 nationally recognized credentialing body. The examination shall  
28 be appropriately validated. Each applicant shall be examined by  
29 written examination to test his or her knowledge of the basic and  
30 clinical sciences relating to occupational therapy, occupational  
31 therapy techniques and methods, and any other subjects that the  
32 board may require to determine the applicant's fitness to practice  
33 under this chapter.

34 (c) Applicants for licensure or ~~certification~~ *approval* shall be  
35 examined at a time and place and under that supervision as the  
36 board may require.

37 ~~SEC. 34.~~

38 *SEC. 40.* Section 2570.8 is added to the Business and  
39 Professions Code, to read:

1 2570.8. For the purposes of verifying a license issued under  
2 this chapter, a person may rely on the licensure information posted  
3 on the board’s Internet Web site, which includes the issuance and  
4 expiration dates of a license issued by the board.

5 *SEC. 41. Section 2570.9 of the Business and Professions Code*  
6 *is amended to read:*

7 2570.9. The board shall issue a license or ~~certificate approval~~  
8 to any applicant who meets the requirements of this chapter,  
9 including the payment of the prescribed licensure, ~~certification~~  
10 *approval*, or renewal fee, and who meets any other requirement  
11 in accordance with applicable state law.

12 *SEC. 42. Section 2570.10 of the Business and Professions Code*  
13 *is amended to read:*

14 2570.10. (a) Any license or ~~certificate approval~~ issued under  
15 this chapter shall be subject to renewal as prescribed by the board  
16 and shall expire unless renewed in that manner. The board may  
17 provide for the late renewal of a license or ~~certificate approval~~ as  
18 provided for in Section 163.5.

19 (b) In addition to any other qualifications and requirements for  
20 licensure or ~~certification approval~~ renewal, the board may by rule  
21 establish and require the satisfactory completion of continuing  
22 competency requirements as a condition of renewal of a license  
23 or ~~certificate approval~~.

24 *SEC. 43. Section 2570.13 of the Business and Professions Code*  
25 *is amended to read:*

26 2570.13. (a) Consistent with this section, subdivisions (a), (b),  
27 and (c) of Section 2570.2, and accepted professional standards,  
28 the board shall adopt rules necessary to assure appropriate  
29 supervision of occupational therapy assistants and aides.

30 (b) ~~A certified~~ *An approved* occupational therapy assistant may  
31 practice only under the supervision of an occupational therapist  
32 who is authorized to practice occupational therapy in this state.

33 (c) An aide providing delegated, client-related supportive  
34 services shall require continuous and direct supervision by an  
35 occupational therapist.

36 *SEC. 44. Section 2570.16 of the Business and Professions Code*  
37 *is amended to read:*

38 2570.16. Initial license or ~~certification approval~~ and renewal  
39 fees shall be established by the board in an amount that does not

1 exceed a ceiling of one hundred fifty dollars (\$150) per year. The  
2 board shall establish the following additional fees:

- 3 (a) An application fee not to exceed fifty dollars (\$50).
- 4 (b) A late renewal fee as provided for in Section 2570.10.
- 5 (c) A limited permit fee.
- 6 (d) A fee to collect fingerprints for criminal history record  
7 checks.

8 *SEC. 45. Section 2570.18 of the Business and Professions Code*  
9 *is amended to read:*

10 2570.18. (a) On and after January 1, 2003, a person shall not  
11 represent to the public by title, by description of services, methods,  
12 or procedures, or otherwise, that the person is authorized to practice  
13 occupational therapy in this state, unless authorized to practice  
14 occupational therapy under this chapter.

15 (b) Unless licensed to practice as an occupational therapist under  
16 this chapter, a person may not use the professional abbreviations  
17 “O.T.,” “O.T.R.,” or “O.T.R./L.,” or “Occupational Therapist,” or  
18 “Occupational Therapist Registered,” or any other words, letters,  
19 or symbols with the intent to represent that the person practices or  
20 is authorized to practice occupational therapy.

21 (c) Unless ~~certified~~ *approved* to assist in the practice of  
22 occupational therapy as an occupational therapy assistant under  
23 this chapter, a person may not use the professional abbreviations  
24 “O.T.A.,” ~~“C.O.T.A.,” “C.O.T.A./C.”~~ “O.T.A./L.,” “C.O.T.A./L.,”  
25 or “Occupational Therapy Assistant,” or ~~“Certified~~ “*Licensed*  
26 Occupational Therapy Assistant,” or any other words, letters, or  
27 symbols, with the intent to represent that the person assists in, or  
28 is authorized to assist in, the practice of occupational therapy as  
29 an occupational therapy assistant.

30 (d) The unauthorized practice or representation as an  
31 occupational therapist or as an occupational therapy assistant  
32 constitutes an unfair business practice under Section 17200 and  
33 false and misleading advertising under Section 17500.

34 *SEC. 46. Section 2570.20 of the Business and Professions Code*  
35 *is amended to read:*

36 2570.20. (a) The board shall administer, coordinate, and  
37 enforce the provisions of this chapter, evaluate the qualifications,  
38 and approve the examinations for licensure under this chapter.

39 (b) The board shall adopt rules in accordance with the  
40 Administrative Procedure Act relating to professional conduct to

1 carry out the purpose of this chapter, including, but not limited to,  
2 rules relating to professional licensure or ~~certification~~ *approval*  
3 and to the establishment of ethical standards of practice for persons  
4 holding a license to practice occupational therapy and for persons  
5 ~~certified~~ *approved* to assist in the practice of occupational therapy  
6 in this state.

7 (c) Proceedings under this chapter shall be conducted in  
8 accordance with Chapter 3.5 (commencing with Section 11340)  
9 of Part 1 of Division 3 of Title 2 of the Government Code.

10 ~~SEC. 35.~~

11 *SEC. 47.* Section 2717 of the Business and Professions Code  
12 is amended to read:

13 2717. (a) The board shall collect and analyze workforce data  
14 from its licensees for future workforce planning. The board may  
15 collect the data at the time of license renewal or from a  
16 scientifically selected random sample of its licensees. The board  
17 shall produce reports on the workforce data it collects, at a  
18 minimum, on a biennial basis. The board shall maintain the  
19 confidentiality of the information it receives from licensees under  
20 this section and shall only release information in an aggregate form  
21 that cannot be used to identify an individual. The workforce data  
22 collected by the board shall include, at a minimum, employment  
23 information such as hours of work, number of positions held, time  
24 spent in direct patient care, clinical practice area, type of employer,  
25 and work location. The data shall also include future work  
26 intentions, reasons for leaving or reentering nursing, job satisfaction  
27 ratings, and demographic data.

28 (b) Aggregate information collected pursuant to this section  
29 shall be placed on the board's Internet Web site.

30 (c) The board is authorized to expend the sum of one hundred  
31 forty-five thousand dollars (\$145,000) from the Board of  
32 Registered Nursing Fund in the Professions and Vocations Fund  
33 for the purpose of implementing this section.

34 (d) This section shall be implemented by the board on or before  
35 July 1, 2003.

36 ~~SEC. 36.~~

37 *SEC. 48.* Section 2732.05 of the Business and Professions Code  
38 is amended to read:

39 2732.05. (a) Every employer of a registered nurse, every  
40 employer of a registered nurse required to hold any board-issued

1 certification, and every person acting as an agent for such a nurse  
2 in obtaining employment, shall ascertain that the nurse is currently  
3 authorized to practice as a registered nurse or as a registered nurse  
4 pursuant to a board-issued certification within the provisions of  
5 this chapter. As used in this section, “board-issued certification”  
6 includes, but is not limited to, certification as a nurse practitioner,  
7 nurse practitioner with a furnishing number, nurse anesthetist,  
8 nurse midwife, nurse midwife with a furnishing number, public  
9 health nurse, clinical nurse specialist, or board listed psychiatric  
10 mental health nurse.

11 (b) Every employer of a temporary licensee or interim permittee  
12 and every person acting as an agent for a temporary licensee or  
13 interim permittee in obtaining employment shall ascertain that the  
14 person is currently authorized to practice as a temporary licensee  
15 or interim permittee.

16 (c) As used in this section, the term “agent” includes, but is not  
17 limited to, a nurses registry and a traveling nurse agency.

18 Examination by an employer or agent of evidence satisfactory  
19 to the board showing the nurse’s, licensee’s, or permittee’s current  
20 authority to practice under this chapter, prior to employment, shall  
21 constitute a determination of authority to so practice.

22 Nothing in this section shall apply to a patient, or other person  
23 acting for a specific patient, who engages the services of a  
24 registered nurse or temporary licensee to provide nursing care to  
25 a single patient.

26 ~~SEC. 37:~~

27 *SEC. 49.* Section 3057 of the Business and Professions Code  
28 is amended to read:

29 3057. (a) The board may issue a license to practice optometry  
30 to a person who meets all of the following requirements:

31 (1) Has a degree as a doctor of optometry issued by an accredited  
32 school or college of optometry.

33 (2) Has successfully passed the licensing examination for an  
34 optometric license in another state.

35 (3) Submits proof that he or she is licensed in good standing as  
36 of the date of application in every state where he or she holds a  
37 license, including compliance with continuing education  
38 requirements.

39 (4) Submits proof that he or she has been in active practice in  
40 a state in which he or she is licensed for a total of at least 5,000

1 hours in five of the seven consecutive years immediately preceding  
2 the date of his or her application under this section.

3 (5) Is not subject to disciplinary action as set forth in subdivision  
4 (h) of Section 3110. If the person has been subject to disciplinary  
5 action, the board shall review that action to determine if it presents  
6 sufficient evidence of a violation of this chapter to warrant the  
7 submission of additional information from the person or the denial  
8 of the application for licensure.

9 (6) Has furnished a signed release allowing the disclosure of  
10 information from the Healthcare Integrity and Protection Data  
11 Bank and, if applicable, the verification of registration status with  
12 the federal Drug Enforcement Administration. The board shall  
13 review this information to determine if it presents sufficient  
14 evidence of a violation of this chapter to warrant the submission  
15 of additional information from the person or the denial of the  
16 application for licensure.

17 (7) Has never had his or her license to practice optometry  
18 revoked or suspended.

19 (8) Is not subject to denial of an application for licensure based  
20 on any of the grounds listed in Section 480.

21 (9) Has met the minimum continuing education requirements  
22 set forth in Section 3059 for the current and preceding year.

23 (10) Has met the certification requirements of Section 3041.3  
24 to use therapeutic pharmaceutical agents under subdivision (e) of  
25 Section 3041.

26 (11) Submits any other information as specified by the board  
27 to the extent it is required for licensure by examination under this  
28 chapter.

29 (12) Files an application on a form prescribed by the board,  
30 with an acknowledgment by the person executed under penalty of  
31 perjury and automatic forfeiture of license, of the following:

32 (A) That the information provided by the person to the board  
33 is true and correct, to the best of his or her knowledge and belief.

34 (B) That the person has not been convicted of an offense  
35 involving conduct that would violate Section 810.

36 (13) Pays an application fee in an amount equal to the  
37 application fee prescribed pursuant to subdivision (a) of Section  
38 3152.

39 (14) Has successfully passed the board's jurisprudence  
40 examination.

1 (b) If the board finds that the competency of a candidate for  
2 licensure pursuant to this section is in question, the board may  
3 require the passage of a written, practical, or clinical exam or  
4 completion of additional continuing education or coursework.

5 (c) In cases where the person establishes, to the board's  
6 satisfaction, that he or she has been displaced by a federally  
7 declared emergency and cannot relocate to his or her state of  
8 practice within a reasonable time without economic hardship, the  
9 board is authorized to do both of the following:

10 (1) Approve an application where the person's time in active  
11 practice is less than that specified in paragraph (4) of subdivision  
12 (a), if a sufficient period in active practice can be verified by the  
13 board and all other requirements of subdivision (a) are satisfied  
14 by the person.

15 (2) Reduce or waive the fees required by paragraph (13) of  
16 subdivision (a).

17 (d) Any license issued pursuant to this section shall expire as  
18 provided in Section 3146, and may be renewed as provided in this  
19 chapter, subject to the same conditions as other licenses issued  
20 under this chapter.

21 (e) The term "in good standing," as used in this section, means  
22 that a person under this section:

23 (1) Is not currently under investigation nor has been charged  
24 with an offense for any act substantially related to the practice of  
25 optometry by any public agency, nor entered into any consent  
26 agreement or subject to an administrative decision that contains  
27 conditions placed by an agency upon ~~an~~ a person's professional  
28 conduct or practice, including any voluntary surrender of license,  
29 nor been the subject of an adverse judgment resulting from the  
30 practice of optometry that the board determines constitutes  
31 evidence of a pattern of incompetence or negligence.

32 (2) Has no physical or mental impairment related to drugs or  
33 alcohol, and has not been found mentally incompetent by a  
34 physician so that the person is unable to undertake the practice of  
35 optometry in a manner consistent with the safety of a patient or  
36 the public.

37 ~~SEC. 37.3.~~

38 *SEC. 50.* Section 3527 of the Business and Professions Code  
39 is amended to read:

1 3527. (a) The committee may order the denial of an application  
2 for, or the issuance subject to terms and conditions of, or the  
3 suspension or revocation of, or the imposition of probationary  
4 conditions upon a physician assistant license after a hearing as  
5 required in Section 3528 for unprofessional conduct that includes,  
6 but is not limited to, a violation of this chapter, a violation of the  
7 Medical Practice Act, or a violation of the regulations adopted by  
8 the committee or the board.

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

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

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

33 (e) The committee may order the denial of an application for,  
34 or the suspension or revocation of, or the imposition of  
35 probationary conditions upon, a physician assistant license, after  
36 a hearing as required in Section 3528 for unprofessional conduct  
37 that includes, except for good cause, the knowing failure of a  
38 licensee to protect patients by failing to follow infection control  
39 guidelines of the committee, thereby risking transmission of  
40 blood-borne infectious diseases from licensee to patient, from

1 patient to patient, and from patient to licensee. In administering  
2 this subdivision, the committee shall consider referencing the  
3 standards, regulations, and guidelines of the State Department of  
4 Public Health developed pursuant to Section 1250.11 of the Health  
5 and Safety Code and the standards, regulations, and guidelines  
6 pursuant to the California Occupational Safety and Health Act of  
7 1973 (Part 1 (commencing with Section 6300) of Division 5 of  
8 the Labor Code) for preventing the transmission of HIV, hepatitis  
9 B, and other blood-borne pathogens in health care settings. As  
10 necessary, the committee shall consult with the California Medical  
11 Board, the Board of Podiatric Medicine, the Board of Dental  
12 Examiners, the Board of Registered Nursing, and the Board of  
13 Vocational Nursing and Psychiatric Technicians, to encourage  
14 appropriate consistency in the implementation of this subdivision.

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

20 (f) The committee may order the licensee to pay the costs of  
21 monitoring the probationary conditions imposed on the license.

22 ~~SEC. 38.~~

23 *SEC. 51.* Section 3530 of the Business and Professions Code  
24 is repealed.

25 ~~SEC. 39.~~

26 *SEC. 52.* Section 3530 is added to the Business and Professions  
27 Code, to read:

28 3530. (a) A person whose license or approval has been revoked  
29 or suspended, or who has been placed on probation, may petition  
30 the committee for reinstatement or modification of penalty,  
31 including modification or termination of probation, after a period  
32 of not less than the following minimum periods has elapsed from  
33 the effective date of the decision ordering that disciplinary action:

34 (1) At least three years for reinstatement of a license or approval  
35 revoked for unprofessional conduct, except that the committee  
36 may, for good cause shown, specify in a revocation order that a  
37 petition for reinstatement may be filed after two years.

38 (2) At least two years for early termination of probation of three  
39 years or more.

1 (3) At least one year for modification of a condition, or  
2 reinstatement of a license or approval revoked for mental or  
3 physical illness, or termination of probation of less than three years.

4 (b) The petition shall state any facts as may be required by the  
5 board. The petition shall be accompanied by at least two verified  
6 recommendations from physicians licensed either by the Medical  
7 Board of California or the Osteopathic Medical Board who have  
8 personal knowledge of the activities of the petitioner since the  
9 disciplinary penalty was imposed.

10 (c) The petition may be heard by the committee. The committee  
11 may assign the petition to an administrative law judge designated  
12 in Section 11371 of the Government Code. After a hearing on the  
13 petition, the administrative law judge shall provide a proposed  
14 decision to the committee that shall be acted upon in accordance  
15 with the Administrative Procedure Act.

16 (d) The committee or the administrative law judge hearing the  
17 petition, may consider all activities of the petitioner since the  
18 disciplinary action was taken, the offense for which the petitioner  
19 was disciplined, the petitioner's activities during the time the  
20 license was in good standing, and the petitioner's rehabilitative  
21 efforts, general reputation for truth, and professional ability. The  
22 hearing may be continued, as the committee or administrative law  
23 judge finds necessary.

24 (e) The committee or administrative law judge, when hearing  
25 a petition for reinstating a license or approval or modifying a  
26 penalty, may recommend the imposition of any terms and  
27 conditions deemed necessary.

28 (f) No petition shall be considered while the petitioner is under  
29 sentence for any criminal offense, including any period during  
30 which the petitioner is on court-imposed probation or parole. No  
31 petition shall be considered while there is an accusation or petition  
32 to revoke probation pending against the person. The committee  
33 may deny, without a hearing or argument, any petition filed  
34 pursuant to this section within a period of two years from the  
35 effective date of the prior decision following a hearing under this  
36 section.

37 (g) Nothing in this section shall be deemed to alter Sections 822  
38 and 823.

1 ~~SEC. 40.~~

2 *SEC. 53.* Section 3634 of the Business and Professions Code  
3 is amended to read:

4 3634. A license issued under this chapter shall be subject to  
5 renewal biennially as prescribed by the bureau and shall expire  
6 unless renewed in that manner. The bureau may provide by  
7 regulation for the late renewal of a license.

8 ~~SEC. 41.~~

9 *SEC. 54.* Section 4068 of the Business and Professions Code  
10 is amended to read:

11 4068. (a) Notwithstanding any provision of this chapter, a  
12 prescriber may dispense a dangerous drug, including a controlled  
13 substance, to an emergency room patient if all of the following  
14 apply:

15 (1) The hospital pharmacy is closed and there is no pharmacist  
16 available in the hospital.

17 (2) The dangerous drug is acquired by the hospital pharmacy.

18 (3) The dispensing information is recorded and provided to the  
19 pharmacy when the pharmacy reopens.

20 (4) The hospital pharmacy retains the dispensing information  
21 and, if the drug is a schedule II, schedule III, or schedule IV  
22 controlled substance, reports the dispensing information to the  
23 Department of Justice pursuant to Section 11165 of the Health and  
24 Safety Code.

25 (5) The prescriber determines that it is in the best interest of the  
26 patient that a particular drug regimen be immediately commenced  
27 or continued, and the prescriber reasonably believes that a  
28 pharmacy located outside the hospital is not available and  
29 accessible at the time of dispensing to the patient.

30 (6) The quantity of drugs dispensed to any patient pursuant to  
31 this section are limited to that amount necessary to maintain  
32 uninterrupted therapy during the period when pharmacy services  
33 outside the hospital are not readily available or accessible, but  
34 shall not exceed a 72-hour supply.

35 (7) The prescriber shall ensure that the label on the drug contains  
36 all the information required by Section 4076.

37 (b) The prescriber shall be responsible for any error or omission  
38 related to the drugs dispensed.

1     ~~SEC. 42.~~

2     *SEC. 55.* Section 4084 of the Business and Professions Code  
3 is amended to read:

4     4084. (a) When a board inspector finds, or has probable cause  
5 to believe, that any dangerous drug or dangerous device is  
6 adulterated, misbranded, or counterfeit, the board inspector shall  
7 affix a tag or other marking to that dangerous drug or dangerous  
8 device. The board inspector shall give notice to the person that the  
9 dangerous drug or dangerous device bearing the tag or marking  
10 has been embargoed.

11     (b) When a board inspector has found that an embargoed  
12 dangerous drug or dangerous device is not adulterated, misbranded,  
13 or counterfeit, a board inspector shall remove the tag or other  
14 marking.

15     (c) A board inspector may secure a sample or specimen of a  
16 dangerous drug or dangerous device. If the board inspector obtains  
17 a sample prior to leaving the premises, the board inspector shall  
18 leave a receipt describing the sample.

19     (d) For the purposes of this article, “counterfeit” shall have the  
20 meaning defined in Section 109905 of the Health and Safety Code.

21     (e) For the purposes of this article, “adulterated” shall have the  
22 meaning defined in Article 2 (commencing with Section 111250)  
23 of Chapter 6 of Part 5 of Division 104 of the Health and Safety  
24 Code.

25     (f) For the purposes of this article, “misbranded” shall have the  
26 meaning defined in Article 3 (commencing with Section 111330)  
27 of Chapter 6 of Part 5 of Division 104 of the Health and Safety  
28 Code.

29     ~~SEC. 43.~~

30     *SEC. 56.* Section 4101 of the Business and Professions Code  
31 is amended to read:

32     4101. (a) A pharmacist who takes charge of, or acts as  
33 pharmacist-in-charge of a pharmacy or other entity licensed by  
34 the board, who terminates his or her employment at the pharmacy  
35 or other entity, shall notify the board within 30 days of the  
36 termination of employment.

37     (b) A designated representative-in-charge of a wholesaler or  
38 veterinary food drug-animal retailer, who terminates his or her  
39 employment at that entity shall notify the board within 30 days of  
40 the termination of employment.

1     ~~SEC. 44.~~

2     *SEC. 57.* Section 4160 of the Business and Professions Code  
3 is amended to read:

4     4160. (a) A person may not act as a wholesaler of any  
5 dangerous drug or dangerous device unless he or she has obtained  
6 a license from the board.

7     (b) Upon approval by the board and the payment of the required  
8 fee, the board shall issue a license to the applicant.

9     (c) A separate license shall be required for each place of business  
10 owned or operated by a wholesaler. Each license shall be renewed  
11 annually and shall not be transferable.

12     (d) The board shall not issue or renew a wholesaler license until  
13 the wholesaler identifies a designated representative-in-charge and  
14 notifies the board in writing of the identity and license number of  
15 that designated representative. The designated  
16 representative-in-charge shall be responsible for the wholesaler's  
17 compliance with state and federal laws governing wholesalers. A  
18 wholesaler shall identify and notify the board of a new designated  
19 representative-in-charge within 30 days of the date that the prior  
20 designated representative-in-charge ceases to be the designated  
21 representative-in-charge. A pharmacist may be identified as the  
22 designated representative-in-charge.

23     (e) A drug manufacturer premises licensed by the Food and  
24 Drug Administration or licensed pursuant to Section 111615 of  
25 the Health and Safety Code that only distributes dangerous drugs  
26 and dangerous devices of its own manufacture is exempt from this  
27 section and Section 4161.

28     (f) The board may issue a temporary license, upon conditions  
29 and for periods of time as the board determines to be in the public  
30 interest. A temporary license fee shall be five hundred fifty dollars  
31 (\$550) or another amount established by the board not to exceed  
32 the annual fee for renewal of a license to compound injectable  
33 sterile drug products. When needed to protect public safety, a  
34 temporary license may be issued for a period not to exceed 180  
35 days, subject to terms and conditions that the board deems  
36 necessary. If the board determines that a temporary license was  
37 issued by mistake or denies the application for a permanent license,  
38 the temporary license shall terminate upon either personal service  
39 of the notice of termination upon the licenseholder or service by  
40 certified mail, return receipt requested, at the licenseholder's

1 address of record with the board, whichever occurs first. Neither  
2 for purposes of retaining a temporary license, nor for purposes of  
3 any disciplinary or license denial proceeding before the board,  
4 shall the temporary licenseholder be deemed to have a vested  
5 property right or interest in the license.

6 (g) This section shall become operative on January 1, 2006.

7 ~~SEC. 45.~~

8 *SEC. 58.* Section 4161 of the Business and Professions Code  
9 is amended to read:

10 4161. (a) A person located outside this state that ships, mails,  
11 or delivers dangerous drugs or dangerous devices into this state  
12 shall be considered a nonresident wholesaler.

13 (b) A nonresident wholesaler shall be licensed by the board  
14 prior to shipping, mailing, or delivering dangerous drugs or  
15 dangerous devices to a site located in this state.

16 (c) A separate license shall be required for each place of business  
17 owned or operated by a nonresident wholesaler from or through  
18 which dangerous drugs or dangerous devices are shipped, mailed,  
19 or delivered to a site located in this state. A license shall be  
20 renewed annually and shall not be transferable.

21 (d) The following information shall be reported, in writing, to  
22 the board at the time of initial application for licensure by a  
23 nonresident wholesaler, on renewal of a nonresident wholesaler  
24 license, or within 30 days of a change in that information:

25 (1) Its agent for service of process in this state.

26 (2) Its principal corporate officers, as specified by the board, if  
27 any.

28 (3) Its general partners, as specified by the board, if any.

29 (4) Its owners if the applicant is not a corporation or partnership.

30 (e) A report containing the information in subdivision (d) shall  
31 be made within 30 days of any change of ownership, office,  
32 corporate officer, or partner.

33 (f) A nonresident wholesaler shall comply with all directions  
34 and requests for information from the regulatory or licensing  
35 agency of the state in which it is licensed, as well as with all  
36 requests for information made by the board.

37 (g) A nonresident wholesaler shall maintain records of dangerous  
38 drugs and dangerous devices sold, traded, or transferred to persons  
39 in this state, so that the records are in a readily retrievable form.

1 (h) A nonresident wholesaler shall at all times maintain a valid,  
2 unexpired license, permit, or registration to conduct the business  
3 of the wholesaler in compliance with the laws of the state in which  
4 it is a resident. An application for a nonresident wholesaler license  
5 in this state shall include a license verification from the licensing  
6 authority in the applicant's state of residence.

7 (i) The board may not issue or renew a nonresident wholesaler  
8 license until the nonresident wholesaler identifies a designated  
9 representative-in-charge and notifies the board in writing of the  
10 identity and license number of the designated  
11 representative-in-charge.

12 (j) The designated representative-in-charge shall be responsible  
13 for the nonresident wholesaler's compliance with state and federal  
14 laws governing wholesalers. A nonresident wholesaler shall  
15 identify and notify the board of a new designated  
16 representative-in-charge within 30 days of the date that the prior  
17 designated representative-in-charge ceases to be the designated  
18 representative-in-charge.

19 (k) The board may issue a temporary license, upon conditions  
20 and for periods of time as the board determines to be in the public  
21 interest. A temporary license fee shall be five hundred fifty dollars  
22 (\$550) or another amount established by the board not to exceed  
23 the annual fee for renewal of a license to compound injectable  
24 sterile drug products. When needed to protect public safety, a  
25 temporary license may be issued for a period not to exceed 180  
26 days, subject to terms and conditions that the board deems  
27 necessary. If the board determines that a temporary license was  
28 issued by mistake or denies the application for a permanent license,  
29 the temporary license shall terminate upon either personal service  
30 of the notice of termination upon the licenseholder or service by  
31 certified mail, return receipt requested, at the licenseholder's  
32 address of record with the board, whichever occurs first. Neither  
33 for purposes of retaining a temporary license, nor for purposes of  
34 any disciplinary or license denial proceeding before the board,  
35 shall the temporary licenseholder be deemed to have a vested  
36 property right or interest in the license.

37 (l) The registration fee shall be the fee specified in subdivision  
38 (f) of Section 4400.

1     ~~SEC. 46.~~

2     *SEC. 59.* Section 4162 of the Business and Professions Code  
3 is amended to read:

4     4162. (a) (1) An applicant, that is not a government-owned  
5 and operated wholesaler, for the issuance or renewal of a  
6 wholesaler license shall submit a surety bond of one hundred  
7 thousand dollars (\$100,000) or other equivalent means of security  
8 acceptable to the board payable to the Pharmacy Board Contingent  
9 Fund. The purpose of the surety bond is to secure payment of any  
10 administrative fine imposed by the board and any cost recovery  
11 ordered pursuant to Section 125.3.

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

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

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

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

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

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

1 ~~SEC. 47.~~

2 *SEC. 60.* Section 4162.5 of the Business and Professions Code  
3 is amended to read:

4 4162.5. (a) (1) An applicant for the issuance or renewal of a  
5 nonresident wholesaler license shall submit a surety bond of one  
6 hundred thousand dollars (\$100,000), or other equivalent means  
7 of security acceptable to the board, such as an irrevocable letter  
8 of credit, or a deposit in a trust account or financial institution,  
9 payable to the Pharmacy Board Contingent Fund. The purpose of  
10 the surety bond is to secure payment of any administrative fine  
11 imposed by the board and any cost recovery ordered pursuant to  
12 Section 125.3.

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

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

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

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

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

37 (d) This section shall become operative on January 1, 2006, and  
38 shall become inoperative and is repealed on, January 1, 2015,  
39 unless a later enacted statute, that is enacted before January 1,  
40 2015, deletes or extends those dates.

1 ~~SEC. 48.~~

2 *SEC. 61.* Section 4200 of the Business and Professions Code  
3 is amended to read:

4 4200. (a) The board may license as a pharmacist an applicant  
5 who meets all the following requirements:

6 (1) Is at least 18 years of age.

7 (2) (A) Has graduated from a college of pharmacy or  
8 department of pharmacy of a university recognized by the board;  
9 or

10 (B) If the applicant graduated from a foreign pharmacy school,  
11 the foreign-educated applicant has been certified by the Foreign  
12 Pharmacy Graduate Examination Committee.

13 (3) Has completed at least 150 semester units of collegiate study  
14 in the United States, or the equivalent thereof in a foreign country.  
15 No less than 90 of those semester units shall have been completed  
16 while in resident attendance at a school or college of pharmacy.

17 (4) Has earned at least a baccalaureate degree in a course of  
18 study devoted to the practice of pharmacy.

19 (5) Has completed 1,500 hours of pharmacy practice experience  
20 or the equivalent in accordance with Section 4209.

21 (6) Has passed a written and practical examination given by the  
22 board prior to December 31, 2003, or has passed the North  
23 American Pharmacist Licensure Examination and the California  
24 Practice Standards and Jurisprudence Examination for Pharmacists  
25 on or after January 1, 2004.

26 (b) Proof of the qualifications of an applicant for licensure as a  
27 pharmacist, shall be made to the satisfaction of the board and shall  
28 be substantiated by affidavits or other evidence as may be required  
29 by the board.

30 (c) Each person, upon application for licensure as a pharmacist  
31 under this chapter, shall pay to the executive officer of the board,  
32 the fees provided by this chapter. The fees shall be compensation  
33 to the board for investigation or examination of the applicant.

34 ~~SEC. 49.~~

35 *SEC. 62.* Section 4200.1 of the Business and Professions Code  
36 is amended to read:

37 4200.1. (a) Notwithstanding Section 135, an applicant may  
38 take the North American Pharmacist Licensure Examination four  
39 times, and may take the California Practice Standards and  
40 Jurisprudence Examination for Pharmacists four times.

1 (b) Notwithstanding Section 135, an applicant may take the  
2 North American Pharmacist Licensure Examination and the  
3 California Practice Standards and Jurisprudence Examination for  
4 Pharmacists four additional times each if he or she successfully  
5 completes, at minimum, 16 additional semester units of education  
6 in pharmacy as approved by the board.

7 (c) The applicant shall comply with the requirements of Section  
8 4200 for each application for reexamination made pursuant to  
9 subdivision (b).

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

14 (e) For purposes of this section, the board shall treat each failing  
15 score on the pharmacist licensure examination administered by  
16 the board prior to January 1, 2004, as a failing score on both the  
17 North American Pharmacist Licensure Examination and the  
18 California Practice Standards and Jurisprudence Examination for  
19 Pharmacists.

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

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

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

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

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

1 ~~SEC. 50.~~

2 *SEC. 63.* Section 4200.2 of the Business and Professions Code  
3 is amended to read:

4 4200.2. When developing the ~~Multi-State Pharmacy~~ California  
5 Practice Standards and Jurisprudence Examination for Pharmacists,  
6 the board shall include all of the following:

7 (a) Examination items to demonstrate the candidate’s proficiency  
8 in patient communication skills.

9 (b) Aspects of contemporary standards of practice for  
10 pharmacists in California, including, but not limited to, the  
11 provision of pharmacist care and the application of clinical  
12 knowledge to typical pharmacy practice situations that are not  
13 evaluated by the North American Pharmacy Licensure  
14 Examination.

15 ~~SEC. 51.~~

16 *SEC. 64.* Section 4208 of the Business and Professions Code  
17 is amended to read:

18 4208. (a) At the discretion of the board, an intern pharmacist  
19 license may be issued for a period of:

20 (1) One to six years to a person who is currently enrolled in a  
21 school of pharmacy recognized by the board.

22 (2) Two years to a person who is a graduate of a school of  
23 pharmacy recognized by the board and who has applied to become  
24 licensed as a pharmacist in California.

25 (3) Two years to a foreign graduate who has met educational  
26 requirements described in paragraphs (1) and (2) of subdivision  
27 (a) of Section 4200.

28 (4) One year to a person who has failed the pharmacist licensure  
29 examination four times and has reenrolled in a school of pharmacy  
30 to satisfy the requirements of Section 4200.1.

31 (b) The board may issue an intern pharmacist license to an  
32 individual for the period of time specified in a decision of  
33 reinstatement adopted by the board.

34 (c) An intern pharmacist shall notify the board within 30 days  
35 of any change of address.

36 (d) An intern pharmacist whose license has been issued pursuant  
37 to paragraph (1) or (4) of subdivision (a) shall return his or her  
38 license, by registered mail, within 30 days of no longer being  
39 enrolled in a school of pharmacy. The intern pharmacist license  
40 shall be canceled by the board. Notwithstanding subdivision (c),

1 an intern pharmacist license may be reinstated if the student  
2 reenrolls in a school of pharmacy recognized by the board to fulfill  
3 the education requirements of paragraphs (1) to (4), inclusive, of  
4 subdivision (a) of Section 4200.

5 (e) A person who has not completed the experience requirements  
6 necessary to be eligible for the licensure examination may have  
7 his or her intern license extended for a period of up to two years  
8 at the discretion of the board if he or she is able to demonstrate  
9 his or her inability to exercise the privileges of the intern license  
10 during the initial license period.

11 ~~SEC. 52.~~

12 *SEC. 65.* Section 4314 of the Business and Professions Code  
13 is amended to read:

14 4314. (a) The board may issue citations containing fines and  
15 orders of abatement for any violation of Section 733, for any  
16 violation of this chapter or regulations adopted pursuant to this  
17 chapter, or for any violation of Division 116 (commencing with  
18 Section 150200) of the Health and Safety Code, in accordance  
19 with Sections 125.9, 148, and 4005 and the regulations adopted  
20 pursuant to those sections.

21 (b) Where appropriate, a citation issued by the board, as  
22 specified in this section, may subject the person or entity to whom  
23 the citation is issued to an administrative fine.

24 (c) Notwithstanding any other provision of law, where  
25 appropriate, a citation issued by the board may contain an order  
26 of abatement. The order of abatement shall fix a reasonable time  
27 for abatement of the violation. It may also require the person or  
28 entity to whom the citation is issued to demonstrate how future  
29 compliance with the Pharmacy Law, and the regulations adopted  
30 pursuant thereto, will be accomplished. A demonstration may  
31 include, but is not limited to, submission of a corrective action  
32 plan, and requiring completion of up to six hours of continuing  
33 education courses in the subject matter specified in the order of  
34 abatement. Any continuing education courses required by the order  
35 of abatement shall be in addition to those required for license  
36 renewal.

37 (d) Nothing in this section shall in any way limit the board from  
38 issuing a citation, fine, and order of abatement pursuant to Section  
39 4067 or Section 56.36 of the Civil Code, and the regulations  
40 adopted pursuant to those sections.

1     ~~SEC. 53.~~

2     *SEC. 66.* Section 4315 of the Business and Professions Code  
3 is amended to read:

4     4315. (a) The executive officer, or his or her designee, may  
5 issue a letter of admonishment to a licensee for failure to comply  
6 with Section 733, for failure to comply with this chapter or  
7 regulations adopted pursuant to this chapter, or for failure to  
8 comply with Division 116 (commencing with Section 150200) of  
9 the Health and Safety Code, directing the licensee to come into  
10 compliance.

11     (b) The letter of admonishment shall be in writing and shall  
12 describe in detail the nature and facts of the violation, including a  
13 reference to the statutes or regulations violated.

14     (c) The letter of admonishment shall inform the licensee that  
15 within 30 days of service of the order of admonishment the licensee  
16 may do either of the following:

17     (1) Submit a written request for an office conference to the  
18 executive officer of the board to contest the letter of admonishment.

19     (A) Upon a timely request, the executive officer, or his or her  
20 designee, shall hold an office conference with the licensee or the  
21 licensee's legal counsel or authorized representative. Unless so  
22 authorized by the executive officer, or his or her designee, no  
23 individual other than the legal counsel or authorized representative  
24 of the licensee may accompany the licensee to the office  
25 conference.

26     (B) Prior to or at the office conference, the licensee may submit  
27 to the executive officer declarations and documents pertinent to  
28 the subject matter of the letter of admonishment.

29     (C) The office conference is intended to be an informal  
30 proceeding and shall not be subject to the provisions of the  
31 Administrative Procedure Act (Chapter 3.5 (commencing with  
32 Section 11340), Chapter 4 (commencing with Section 11370),  
33 Chapter 4.5 (commencing with Section 11400), and Chapter 5  
34 (commencing with Section 11500) of Part 1 of Division 3 of Title  
35 2 of the Government Code).

36     (D) The executive officer, or his or her designee, may affirm,  
37 modify, or withdraw the letter of admonishment. Within 14  
38 calendar days from the date of the office conference, the executive  
39 officer, or his or her designee, shall personally serve or send by  
40 certified mail to the licensee's address of record with the board a

1 written decision. This decision shall be deemed the final  
2 administrative decision concerning the letter of admonishment.

3 (E) Judicial review of the decision may be had by filing a  
4 petition for a writ of mandate in accordance with the provisions  
5 of Section 1094.5 of the Code of Civil Procedure within 30 days  
6 of the date the decision was personally served or sent by certified  
7 mail. The judicial review shall extend to the question of whether  
8 or not there was a prejudicial abuse of discretion in the issuance  
9 of the letter of admonishment.

10 (2) Comply with the letter of admonishment and submit a written  
11 corrective action plan to the executive officer documenting  
12 compliance. If an office conference is not requested pursuant to  
13 this section, compliance with the letter of admonishment shall not  
14 constitute an admission of the violation noted in the letter of  
15 admonishment.

16 (d) The letter of admonishment shall be served upon the licensee  
17 personally or by certified mail at the licensee's address of record  
18 with the board. If the licensee is served by certified mail, service  
19 shall be effective upon deposit in the United States mail.

20 (e) The licensee shall maintain and have readily available a copy  
21 of the letter of admonishment and corrective action plan, if any,  
22 for at least three years from the date of issuance of the letter of  
23 admonishment.

24 (f) Nothing in this section shall in any way limit the board's  
25 authority or ability to do either of the following:

26 (1) Issue a citation pursuant to Section 125.9, 148, or 4067 or  
27 pursuant to Section 1775 of Title 16 of the California Code of  
28 Regulations.

29 (2) Institute disciplinary proceedings pursuant to Article 19  
30 (commencing with Section 4300).

31 ~~SEC. 54.~~

32 *SEC. 67.* Section 4980.01 of the Business and Professions Code  
33 is amended to read:

34 4980.01. (a) Nothing in this chapter shall be construed to  
35 constrict, limit, or withdraw the Medical Practice Act, the Social  
36 Work Licensing Law, the Nursing Practice Act, or the Psychology  
37 Licensing Act.

38 (b) This chapter shall not apply to any priest, rabbi, or minister  
39 of the gospel of any religious denomination when performing  
40 counseling services as part of his or her pastoral or professional

1 duties, or to any person who is admitted to practice law in the state,  
2 or who is licensed to practice medicine, when providing counseling  
3 services as part of his or her professional practice.

4 (c) (1) This chapter shall not apply to an employee working in  
5 any of the following settings if his or her work is performed solely  
6 under the supervision of the employer:

7 (A) A governmental entity.

8 (B) A school, college, or university.

9 (C) An institution that is both nonprofit and charitable.

10 (2) This chapter shall not apply to a volunteer working in any  
11 of the settings described in paragraph (1) if his or her work is  
12 performed solely under the supervision of the entity, school, or  
13 institution.

14 (d) A marriage and family therapist licensed under this chapter  
15 is a licentiate for purposes of paragraph (2) of subdivision (a) of  
16 Section 805, and thus is a health care practitioner subject to the  
17 provisions of Section 2290.5 pursuant to subdivision (b) of that  
18 section.

19 (e) Notwithstanding subdivisions (b) and (c), all persons  
20 registered as interns or licensed under this chapter shall not be  
21 exempt from this chapter or the jurisdiction of the board.

22 ~~SEC. 55.~~

23 *SEC. 68.* Section 4980.38 of the Business and Professions Code  
24 is amended to read:

25 4980.38. (a) Each educational institution preparing applicants  
26 to qualify for licensure shall notify each of its students by means  
27 of its public documents or otherwise in writing that its degree  
28 program is designed to meet the requirements of Sections 4980.37  
29 and 4980.40, and shall certify to the board that it has so notified  
30 its students.

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

37 ~~SEC. 56.~~

38 *SEC. 69.* Section 4980.40 of the Business and Professions Code  
39 is amended to read:

1 4980.40. To qualify for a license, an applicant shall have all  
2 the following qualifications:

3 (a) Applicants shall possess a doctor's or master's degree in  
4 marriage, family, and child counseling, marital and family therapy,  
5 psychology, clinical psychology, counseling psychology, or  
6 counseling with an emphasis in either marriage, family, and child  
7 counseling or marriage and family therapy, obtained from a school,  
8 college, or university accredited by the Western Association of  
9 Schools and Colleges, or approved by the Bureau for Private  
10 Postsecondary and Vocational Education. The board has the  
11 authority to make the final determination as to whether a degree  
12 meets all requirements, including, but not limited to, course  
13 requirements, regardless of accreditation or approval. In order to  
14 qualify for licensure pursuant to this subdivision, a doctor's or  
15 master's degree program shall be a single, integrated program  
16 primarily designed to train marriage and family therapists and shall  
17 contain no less than 48 semester or 72 quarter units of instruction.  
18 The instruction shall include no less than 12 semester units or 18  
19 quarter units of coursework in the areas of marriage, family, and  
20 child counseling, and marital and family systems approaches to  
21 treatment.

22 The coursework shall include all of the following areas:

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

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

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

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

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

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

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

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

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

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

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

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

27 (g) The applicant shall pass a board administered written or oral  
28 examination or both types of examinations, except that an applicant  
29 who passed a written examination and who has not taken and  
30 passed an oral examination shall instead be required to take and  
31 pass a clinical vignette written examination.

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

39 (i) An applicant for licensure trained in an educational institution  
40 outside the United States shall demonstrate to the satisfaction of

1 the board that he or she possesses a qualifying degree that is  
2 equivalent to a degree earned from a school, college, or university  
3 accredited by the Western Association of Schools and Colleges,  
4 or approved by the Bureau of Private Postsecondary and Vocational  
5 Education. These applicants shall provide the board with a  
6 comprehensive evaluation of the degree performed by a foreign  
7 credential evaluation service that is a member of the National  
8 Association of Credential Evaluation Services (NACES), and shall  
9 provide any other documentation the board deems necessary.

10 ~~SEC. 57.~~

11 *SEC. 70.* Section 4980.44 of the Business and Professions Code  
12 is amended to read:

13 4980.44. An unlicensed marriage and family therapist intern  
14 employed under this chapter shall comply with the following  
15 requirements:

16 (a) Possess, at a minimum, a master's degree as specified in  
17 Section 4980.40.

18 (b) Register with the board prior to performing any duties,  
19 except as otherwise provided in subdivision (e) of Section 4980.43.

20 (c) Inform each client or patient prior to performing any  
21 professional services that he or she is unlicensed and under the  
22 supervision of a licensed marriage and family therapist, licensed  
23 clinical social worker, licensed psychologist, or a licensed  
24 physician and surgeon certified in psychiatry by the American  
25 Board of Psychiatry and Neurology.

26 ~~SEC. 58.~~

27 *SEC. 71.* Section 4980.54 of the Business and Professions Code  
28 is amended to read:

29 4980.54. (a) The Legislature recognizes that the education and  
30 experience requirements in this chapter constitute only minimal  
31 requirements to assure that an applicant is prepared and qualified  
32 to take the licensure examinations as specified in subdivision (g)  
33 of Section 4980.40 and, if he or she passes those examinations, to  
34 begin practice.

35 (b) In order to continuously improve the competence of licensed  
36 marriage and family therapists and as a model for all  
37 psychotherapeutic professions, the Legislature encourages all  
38 licensees to regularly engage in continuing education related to  
39 the profession or scope of practice as defined in this chapter.

1 (c) Except as provided in subdivision (e), the board shall not  
2 renew any license pursuant to this chapter unless the applicant  
3 certifies to the board, on a form prescribed by the board, that he  
4 or she has completed not less than 36 hours of approved continuing  
5 education in or relevant to the field of marriage and family therapy  
6 in the preceding two years, as determined by the board.

7 (d) The board shall have the right to audit the records of any  
8 applicant to verify the completion of the continuing education  
9 requirement. Applicants shall maintain records of completion of  
10 required continuing education coursework for a minimum of two  
11 years and shall make these records available to the board for  
12 auditing purposes upon request.

13 (e) The board may establish exceptions from the continuing  
14 education requirements of this section for good cause, as defined  
15 by the board.

16 (f) The continuing education shall be obtained from one of the  
17 following sources:

18 (1) An accredited school or state-approved school that meets  
19 the requirements set forth in Section 4980.40. Nothing in this  
20 paragraph shall be construed as requiring coursework to be offered  
21 as part of a regular degree program.

22 (2) Other continuing education providers, including, but not  
23 limited to, a professional marriage and family therapist association,  
24 a licensed health facility, a governmental entity, a continuing  
25 education unit of an accredited four-year institution of higher  
26 learning, or a mental health professional association, approved by  
27 the board.

28 (g) The board shall establish, by regulation, a procedure for  
29 approving providers of continuing education courses, and all  
30 providers of continuing education, as described in paragraphs (1)  
31 and (2) of subdivision (f), shall adhere to procedures established  
32 by the board. The board may revoke or deny the right of a provider  
33 to offer continuing education coursework pursuant to this section  
34 for failure to comply with the requirements of this section or any  
35 regulation adopted pursuant to this section.

36 (h) Training, education, and coursework by approved providers  
37 shall incorporate one or more of the following:

38 (1) Aspects of the discipline that are fundamental to the  
39 understanding or the practice of marriage and family therapy.

1 (2) Aspects of the discipline of marriage and family therapy in  
2 which significant recent developments have occurred.

3 (3) Aspects of other disciplines that enhance the understanding  
4 or the practice of marriage and family therapy.

5 (i) A system of continuing education for licensed marriage and  
6 family therapists shall include courses directly related to the  
7 diagnosis, assessment, and treatment of the client population being  
8 served.

9 (j) The board shall, by regulation, fund the administration of  
10 this section through continuing education provider fees to be  
11 deposited in the Behavioral Sciences Fund. The fees related to the  
12 administration of this section shall be sufficient to meet, but shall  
13 not exceed, the costs of administering the corresponding provisions  
14 of this section. For purposes of this subdivision, a provider of  
15 continuing education as described in paragraph (1) of subdivision  
16 (f) shall be deemed to be an approved provider.

17 (k) The continuing education requirements of this section shall  
18 comply fully with the guidelines for mandatory continuing  
19 education established by the Department of Consumer Affairs  
20 pursuant to Section 166.

21 ~~SEC. 59.~~

22 *SEC. 72.* Section 4980.57 of the Business and Professions Code  
23 is amended to read:

24 4980.57. (a) The board shall require a licensee who began  
25 graduate study prior to January 1, 2004, to take a continuing  
26 education course during his or her first renewal period after the  
27 operative date of this section in spousal or partner abuse  
28 assessment, detection, and intervention strategies, including  
29 community resources, cultural factors, and same gender abuse  
30 dynamics. On and after January 1, 2005, the course shall consist  
31 of not less than seven hours of training. Equivalent courses in  
32 spousal or partner abuse assessment, detection, and intervention  
33 strategies taken prior to the operative date of this section or proof  
34 of equivalent teaching or practice experience may be submitted to  
35 the board and at its discretion, may be accepted in satisfaction of  
36 this requirement.

37 (b) Continuing education courses taken pursuant to this section  
38 shall be applied to the 36 hours of approved continuing education  
39 required under subdivision (c) of Section 4980.54.

1     ~~SEC. 60.~~

2     *SEC. 73.* Section 4980.80 of the Business and Professions Code  
3 is amended to read:

4     4980.80. The board may issue a license to a person who, at the  
5 time of application, has held for at least two years a valid license  
6 issued by a board of marriage counselor examiners, marriage  
7 therapist examiners, or corresponding authority of any state, if the  
8 education and supervised experience requirements are substantially  
9 the equivalent of this chapter and the person successfully completes  
10 the board administered licensing examinations as specified by  
11 subdivision (g) of Section 4980.40 and pays the fees specified.  
12 Issuance of the license is further conditioned upon the person's  
13 completion of the following coursework or training:

14     (a) (1) An applicant who completed a two semester or three  
15 quarter unit course in law and professional ethics for marriage,  
16 and family therapists that included areas of study as specified in  
17 Section 4980.41 as part of his or her qualifying degree shall  
18 complete an 18-hour course in California law and professional  
19 ethics that includes, but is not limited to, the following subjects:  
20 advertising, scope of practice, scope of competence, treatment of  
21 minors, confidentiality, dangerous patients, psychotherapist-patient  
22 privilege, recordkeeping, patient access to records, requirements  
23 of the Health Insurance Portability and Accountability Act of 1996,  
24 dual relationships, child abuse, elder and dependent adult abuse,  
25 online therapy, insurance reimbursement, civil liability, disciplinary  
26 actions and unprofessional conduct, ethics complaints and ethical  
27 standards, termination of therapy, standards of care, relevant family  
28 law, and therapist disclosures to patients.

29     (2) An applicant who has not completed a two semester or three  
30 quarter unit course in law and professional ethics for marriage and  
31 family therapists that included areas of study as specified in Section  
32 4980.41 as part of his or her qualifying degree, shall complete a  
33 two semester or three quarter unit course in California law and  
34 professional ethics that includes, at minimum, the areas of study  
35 specified in Section 4980.41.

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

1 (c) A minimum of 10 contact hours of training or coursework  
2 in human sexuality as specified in Section 25 and any regulations  
3 promulgated thereunder.

4 (d) A minimum of 15 contact hours of training or coursework  
5 in alcoholism and other chemical substance dependency as  
6 specified by regulation.

7 (e) (1) Instruction in spousal or partner abuse assessment,  
8 detection, and intervention. This instruction may be taken either  
9 in fulfillment of other requirements for licensure or in a separate  
10 course.

11 (2) On and after January 1, 2004, a minimum of 15 contact  
12 hours of coursework or training in spousal or partner abuse  
13 assessment, detection, and intervention strategies.

14 (f) On and after January 1, 2003, a minimum of a two semester  
15 or three quarter unit survey course in psychological testing. This  
16 course may be taken either in fulfillment of other requirements for  
17 licensure or in a separate course.

18 (g) On and after January 1, 2003, a minimum of a two semester  
19 or three quarter unit survey course in psychopharmacology. This  
20 course may be taken either in fulfillment of other requirements for  
21 licensure or in a separate course.

22 (h) With respect to human sexuality, alcoholism and other  
23 chemical substance dependency, spousal or partner abuse  
24 assessment, detection, and intervention, psychological testing, and  
25 psychopharmacology, the board may accept training or coursework  
26 acquired out of state.

27 ~~SEC. 61.~~

28 *SEC. 74.* Section 4980.90 of the Business and Professions Code  
29 is amended to read:

30 4980.90. (a) Experience gained outside of California shall be  
31 accepted toward the licensure requirements if it is substantially  
32 equivalent to that required by this chapter and if the applicant has  
33 gained a minimum of 250 hours of supervised experience in direct  
34 counseling within California while registered as an intern with the  
35 board. The board shall consider hours of experience obtained in  
36 another state during the six-year period immediately preceding the  
37 applicant's initial licensure by that state as a marriage and family  
38 therapist.

39 (b) Education gained while residing outside of California shall  
40 be accepted toward the licensure requirements if it is substantially

1 equivalent to the education requirements of this chapter, and if the  
2 applicant has completed all of the following:

3 (1) A two semester or three quarter unit course in California  
4 law and professional ethics for marriage, family, and child  
5 counselors that shall include areas of study as specified in Section  
6 4980.41.

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

10 (3) A minimum of 10 contact hours of training or coursework  
11 in sexuality as specified in Section 25 and any regulations  
12 promulgated thereunder.

13 (4) A minimum of 15 contact hours of training or coursework  
14 in alcoholism and other chemical substance dependency as  
15 specified by regulation.

16 (5) (A) Instruction in spousal or partner abuse assessment,  
17 detection, and intervention. This instruction may be taken either  
18 in fulfillment of other educational requirements for licensure or  
19 in a separate course.

20 (B) On and after January 1, 2004, a minimum of 15 contact  
21 hours of coursework or training in spousal or partner abuse  
22 assessment, detection, and intervention strategies.

23 (6) On and after January 1, 2003, a minimum of a two semester  
24 or three quarter unit survey course in psychological testing. This  
25 course may be taken either in fulfillment of other requirements for  
26 licensure or in a separate course.

27 (7) On and after January 1, 2003, a minimum of a two semester  
28 or three quarter unit survey course in psychopharmacology. This  
29 course may be taken either in fulfillment of other requirements for  
30 licensure or in a separate course.

31 (8) With respect to human sexuality, alcoholism and other  
32 chemical substance dependency, spousal or partner abuse  
33 assessment, detection, and intervention, psychological testing, and  
34 psychopharmacology, the board may accept training or coursework  
35 acquired out of state.

36 (c) For purposes of this section, the board may, in its discretion,  
37 accept education as substantially equivalent if the applicant meets  
38 both of the following requirements:

39 (1) The applicant has been granted a degree in a single integrated  
40 program primarily designed to train marriage and family therapists.

1 (2) The applicant's education meets the requirements of Sections  
2 4980.37 and 4980.40. The degree title need not be identical to  
3 those required by subdivision (a) of Section 4980.40. If the  
4 applicant's degree does not contain the content required by Section  
5 4980.37 or the overall number of units required by subdivision (a)  
6 of Section 4980.40, the board may, in its discretion, accept the  
7 applicant's education as substantially equivalent if the following  
8 criteria are satisfied:

9 (A) The applicant's degree contains the required number of  
10 practicum units and coursework required in the areas of marriage,  
11 family, and child counseling and marital and family systems  
12 approaches to treatment as specified in Section 4980.40.

13 (B) The applicant remediates his or her specific deficiency by  
14 completing the course content required by Section 4980.37 or the  
15 units required by subdivision (a) of Section 4980.40.

16 (C) The applicant's degree otherwise complies with this section.

17 ~~SEC. 62.~~

18 *SEC. 75.* Section 4982 of the Business and Professions Code  
19 is amended to read:

20 4982. The board may deny a license or registration or may  
21 suspend or revoke the license or registration of a licensee or  
22 registrant if he or she has been guilty of unprofessional conduct.  
23 Unprofessional conduct includes, but is not limited to, the  
24 following:

25 (a) The conviction of a crime substantially related to the  
26 qualifications, functions, or duties of a licensee or registrant under  
27 this chapter. The record of conviction shall be conclusive evidence  
28 only of the fact that the conviction occurred. The board may inquire  
29 into the circumstances surrounding the commission of the crime  
30 in order to fix the degree of discipline or to determine if the  
31 conviction is substantially related to the qualifications, functions,  
32 or duties of a licensee or registrant under this chapter. A plea or  
33 verdict of guilty or a conviction following a plea of nolo contendere  
34 made to a charge substantially related to the qualifications,  
35 functions, or duties of a licensee or registrant under this chapter  
36 shall be deemed to be a conviction within the meaning of this  
37 section. The board may order any license or registration suspended  
38 or revoked, or may decline to issue a license or registration when  
39 the time for appeal has elapsed, or the judgment of conviction has  
40 been affirmed on appeal, or, when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a  
2 subsequent order under Section 1203.4 of the Penal Code allowing  
3 the person to withdraw a plea of guilty and enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the  
5 accusation, information, or indictment.

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

11 (c) Administering to himself or herself any controlled substance  
12 or using of any of the dangerous drugs specified in Section 4022,  
13 or of any alcoholic beverage to the extent, or in a manner, as to be  
14 dangerous or injurious to the person applying for a registration or  
15 license or holding a registration or license under this chapter, or  
16 to any other person, or to the public, or, to the extent that the use  
17 impairs the ability of the person applying for or holding a  
18 registration or license to conduct with safety to the public the  
19 practice authorized by the registration or license, or the conviction  
20 of more than one misdemeanor or any felony involving the use,  
21 consumption, or self-administration of any of the substances  
22 referred to in this subdivision, or any combination thereof. The  
23 board shall deny an application for a registration or license or  
24 revoke the license or registration of any person, other than one  
25 who is licensed as a physician and surgeon, who uses or offers to  
26 use drugs in the course of performing marriage and family therapy  
27 services.

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

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

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

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

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

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

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

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

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

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

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

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

38 (p) Advertising in a manner that is false, misleading, or  
39 deceptive.

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

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

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

14 (t) Permitting a trainee or registered intern under one’s  
15 supervision or control to perform, or permitting the trainee or  
16 registered intern to hold himself or herself out as competent to  
17 perform, professional services beyond the trainee’s or registered  
18 intern’s level of education, training, or experience.

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

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

24 (w) Failure to comply with the child abuse reporting  
25 requirements of Section 11166 of the Penal Code.

26 (x) Failure to comply with the elder and dependent adult abuse  
27 reporting requirements of Section 15630 of the Welfare and  
28 Institutions Code.

29 (y) Willful violation of Chapter 1 (commencing with Section  
30 123100) of Part 1 of Division 106 of the Health and Safety Code.

31 (z) Failure to comply with Section 2290.5.

32 ~~SEC. 63.~~

33 *SEC. 76.* Section 4984.01 is added to the Business and  
34 Professions Code, to read:

35 4984.01. (a) The marriage and family therapist intern  
36 registration shall expire one year from the last day of the month  
37 in which it was issued.

38 (b) To renew the registration, the registrant shall, on or before  
39 the expiration date of the registration, complete all of the following  
40 actions:

- 1 (1) Apply for renewal on a form prescribed by the board.
- 2 (2) Pay a renewal fee prescribed by the board.
- 3 (3) Notify the board whether he or she has been convicted, as
- 4 defined in Section 490, of a misdemeanor or felony, and whether
- 5 any disciplinary action has been taken against him or her by a
- 6 regulatory or licensing board in this or any other state subsequent
- 7 to the last renewal of the registration.

8 (c) The registration may be renewed a maximum of five times.

9 No registration shall be renewed or reinstated beyond six years

10 from the last day of the month during which it was issued,

11 regardless of whether it has been revoked. When no further

12 renewals are possible, an applicant may apply for and obtain a new

13 intern registration if the applicant meets the educational

14 requirements for registration in effect at the time of the application

15 for a new intern registration. An applicant who is issued a

16 subsequent intern registration pursuant to this subdivision may be

17 employed or volunteer in any allowable work setting except private

18 practice.

19 ~~SEC. 64.~~

20 *SEC. 77.* Section 4984.1 of the Business and Professions Code

21 is amended to read:

22 4984.1. A licensee may renew a license at any time within

23 three years after its expiration by completing all of the actions

24 described in subdivision (b) of Section 4984 and paying any

25 delinquency fees.

26 ~~SEC. 65.~~

27 *SEC. 78.* Section 4984.4 of the Business and Professions Code

28 is amended to read:

29 4984.4. A license that is not renewed within three years after

30 its expiration may not be renewed, restored, reinstated, or reissued;

31 however, the licensee may apply for and obtain a new license if

32 the following criteria are satisfied:

33 (a) No fact, circumstance, or condition exists that, if the license

34 were issued, would constitute grounds for its revocation or

35 suspension.

36 (b) He or she submits an application for examination eligibility

37 and the fee for that application.

38 (c) He or she takes and passes the current licensing

39 examinations.

40 (d) He or she submits the fee for initial license issuance.

1     ~~SEC. 66.~~

2     *SEC. 79.* Section 4984.7 of the Business and Professions Code  
3 is repealed.

4     ~~SEC. 67.~~

5     *SEC. 80.* Section 4984.7 is added to the Business and  
6 Professions Code, to read:

7     4984.7. (a) The board shall assess the following fees relating  
8 to the licensure of marriage and family therapists:

9         (1) The application fee for an intern registration shall be  
10 seventy-five dollars (\$75).

11         (2) The renewal fee for an intern registration shall be  
12 seventy-five dollars (\$75).

13         (3) The fee for the application for examination eligibility shall  
14 be one hundred dollars (\$100).

15         (4) The fee for the standard written examination shall be one  
16 hundred dollars (\$100). The fee for the clinical vignette  
17 examination shall be one hundred dollars (\$100).

18         (A) An applicant who fails to appear for an examination, after  
19 having been scheduled to take the examination, shall forfeit the  
20 examination fee.

21         (B) The amount of the examination fees shall be based on the  
22 actual cost to the board of developing, purchasing, and grading  
23 each examination and the actual cost to the board of administering  
24 each examination. The examination fees shall be adjusted  
25 periodically by regulation to reflect the actual costs incurred by  
26 the board.

27         (5) The fee for rescoring an examination shall be twenty dollars  
28 (\$20).

29         (6) The fee for issuance of an initial license shall be a maximum  
30 of one hundred eighty dollars (\$180).

31         (7) The fee for license renewal shall be a maximum of one  
32 hundred eighty dollars (\$180).

33         (8) The fee for inactive license renewal shall be a maximum of  
34 ninety dollars (\$90).

35         (9) The renewal delinquency fee shall be a maximum of ninety  
36 dollars (\$90). A person who permits his or her license to expire is  
37 subject to the delinquency fee.

38         (10) The fee for issuance of a replacement registration, license,  
39 or certificate shall be twenty dollars (\$20).

1 (11) The fee for issuance of a certificate or letter of good  
2 standing shall be twenty-five dollars (\$25).

3 (b) With regard to license, examination, and other fees, the  
4 board shall establish fee amounts at or below the maximum  
5 amounts specified in this chapter.

6 ~~SEC. 68.~~

7 *SEC. 81.* Section 4984.72 is added to the Business and  
8 Professions Code, to read:

9 4984.72. An applicant who fails a standard or clinical vignette  
10 written examination may within one year from the notification  
11 date of that failure, retake the examination as regularly scheduled  
12 without further application upon payment of the fee for the  
13 examination. Thereafter, the applicant shall not be eligible for  
14 further examination until he or she files a new application, meets  
15 all requirements in effect on the date of application, and pays all  
16 required fees.

17 ~~SEC. 69.~~

18 *SEC. 82.* Section 4984.8 of the Business and Professions Code  
19 is repealed.

20 ~~SEC. 70.~~

21 *SEC. 83.* Section 4984.8 is added to the Business and  
22 Professions Code, to read:

23 4984.8. (a) A licensee may apply to the board to request that  
24 his or her license be placed on inactive status.

25 (b) A licensee on inactive status shall be subject to this chapter  
26 and shall not engage in the practice of marriage and family therapy  
27 in this state.

28 (c) A licensee who holds an inactive license shall pay a biennial  
29 fee in the amount of one-half of the standard renewal fee and shall  
30 be exempt from continuing education requirements.

31 (d) A licensee on inactive status who has not committed an act  
32 or crime constituting grounds for denial of licensure may, upon  
33 request, restore his or her license to practice marriage and family  
34 therapy to active status.

35 (1) A licensee requesting to restore his or her license to active  
36 status between renewal cycles shall pay the remaining one-half of  
37 his or her renewal fee.

38 (2) A licensee requesting to restore his or her license to active  
39 status, whose license will expire less than one year from the date

1 of the request, shall complete 18 hours of continuing education as  
2 specified in Section 4980.54.

3 (3) A licensee requesting to restore his or her license to active  
4 status, whose license will expire more than one year from the date  
5 of the request, shall complete 36 hours of continuing education as  
6 specified in Section 4980.54.

7 ~~SEC. 71.~~

8 *SEC. 84.* Section 4989.36 of the Business and Professions Code  
9 is amended to read:

10 4989.36. A licensee may renew a license that has expired at  
11 any time within three years after its expiration date by taking all  
12 of the actions described in Section 4989.32 and by paying all  
13 unpaid prior renewal fees and delinquency fees.

14 ~~SEC. 72.~~

15 *SEC. 85.* Section 4989.42 of the Business and Professions Code  
16 is amended to read:

17 4989.42. A license that is not renewed within three years after  
18 its expiration may not be renewed, restored, reinstated, or reissued  
19 thereafter. A licensee may apply for a new license if he or she  
20 satisfies all of the following requirements:

21 (a) No fact, circumstance, or condition exists that, if the license  
22 were issued, would constitute grounds for its revocation or  
23 suspension.

24 (b) Payment of the fees that would be required if he or she were  
25 applying for a license for the first time.

26 (c) Passage of the current licensure examination.

27 ~~SEC. 73.~~

28 *SEC. 86.* Section 4989.54 of the Business and Professions Code  
29 is amended to read:

30 4989.54. The board may deny a license or may suspend or  
31 revoke the license of a licensee if he or she has been guilty of  
32 unprofessional conduct. Unprofessional conduct includes, but is  
33 not limited to, the following:

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

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

38 (2) The board may inquire into the circumstances surrounding  
39 the commission of the crime in order to fix the degree of discipline

1 or to determine if the conviction is substantially related to the  
2 qualifications, functions, or duties of a licensee under this chapter.

3 (3) A plea or verdict of guilty or a conviction following a plea  
4 of nolo contendere made to a charge substantially related to the  
5 qualifications, functions, or duties of a licensee under this chapter  
6 shall be deemed to be a conviction within the meaning of this  
7 section.

8 (4) The board may order a license suspended or revoked, or  
9 may decline to issue a license when the time for appeal has elapsed,  
10 or the judgment of conviction has been affirmed on appeal, or  
11 when an order granting probation is made suspending the  
12 imposition of sentence, irrespective of a subsequent order under  
13 Section 1203.4 of the Penal Code allowing the person to withdraw  
14 a plea of guilty and enter a plea of not guilty or setting aside the  
15 verdict of guilty or dismissing the accusation, information, or  
16 indictment.

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

21 (c) Administering to himself or herself a controlled substance  
22 or using any of the dangerous drugs specified in Section 4022 or  
23 an alcoholic beverage to the extent, or in a manner, as to be  
24 dangerous or injurious to himself or herself or to any other person  
25 or to the public or to the extent that the use impairs his or her ability  
26 to safely perform the functions authorized by the license.

27 (d) Conviction of more than one misdemeanor or any felony  
28 involving the use, consumption, or self-administration of any of  
29 the substances referred to in subdivision (c) or any combination  
30 thereof.

31 (e) Advertising in a manner that is false, misleading, or  
32 deceptive.

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

36 (g) Commission of any dishonest, corrupt, or fraudulent act  
37 substantially related to the qualifications, functions, or duties of a  
38 licensee.

39 (h) Denial of licensure, revocation, suspension, restriction, or  
40 any other disciplinary action imposed by another state or territory

1 or possession of the United States or by any other governmental  
2 agency, on a license, certificate, or registration to practice  
3 educational psychology or any other healing art. A certified copy  
4 of the disciplinary action, decision, or judgment shall be conclusive  
5 evidence of that action.

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

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

12 (k) Gross negligence or incompetence in the practice of  
13 educational psychology.

14 (l) Misrepresentation as to the type or status of a license held  
15 by the licensee or otherwise misrepresenting or permitting  
16 misrepresentation of his or her education, professional  
17 qualifications, or professional affiliations to any person or entity.

18 (m) Intentionally or recklessly causing physical or emotional  
19 harm to any client.

20 (n) Engaging in sexual relations with a client or a former client  
21 within two years following termination of professional services,  
22 soliciting sexual relations with a client, or committing an act of  
23 sexual abuse or sexual misconduct with a client or committing an  
24 act punishable as a sexually related crime, if that act or solicitation  
25 is substantially related to the qualifications, functions, or duties of  
26 a licensed educational psychologist.

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

31 (p) Paying, accepting, or soliciting any consideration,  
32 compensation, or remuneration, whether monetary or otherwise,  
33 for the referral of professional clients.

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

39 (r) Performing, holding himself or herself out as being able to  
40 perform, or offering to perform any professional services beyond

1 the scope of the license authorized by this chapter or beyond his  
2 or her field or fields of competence as established by his or her  
3 education, training, or experience.

4 (s) Reproducing or describing in public, or in any publication  
5 subject to general public distribution, any psychological test or  
6 other assessment device the value of which depends in whole or  
7 in part on the naivete of the subject in ways that might invalidate  
8 the test or device. An educational psychologist shall limit access  
9 to the test or device to persons with professional interests who can  
10 be expected to safeguard its use.

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

13 (u) When employed by another person or agency, encouraging,  
14 either orally or in writing, the employer's or agency's clientele to  
15 utilize his or her private practice for further counseling without  
16 the approval of the employing agency or administration.

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

19 (w) Failing to comply with the elder and adult dependent abuse  
20 reporting requirements of Section 15630 of the Welfare and  
21 Institutions Code.

22 (x) Willful violation of Chapter 1 (commencing with Section  
23 123100) of Part 1 of Division 106 of the Health and Safety Code.

24 ~~SEC. 74.~~

25 *SEC. 87.* Section 4992.3 of the Business and Professions Code  
26 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (t) Failure to comply with the child abuse reporting requirements  
24 of Section 11166 of the Penal Code.

25 (u) Failure to comply with the elder and dependent adult abuse  
26 reporting requirements of Section 15630 of the Welfare and  
27 Institutions Code.

28 (v) Willful violation of Chapter 1 (commencing with Section  
29 123100) of Part 1 of Division 106 of the Health and Safety Code.

30 (w) Failure to comply with Section 2290.5.

31 ~~SEC. 75.~~

32 *SEC. 88.* Section 4992.10 is added to the Business and  
33 Professions Code, to read:

34 4992.10. A licensed clinical social worker who conducts a  
35 private practice under a fictitious business name shall not use a  
36 name that is false, misleading, or deceptive, and shall inform the  
37 patient, prior to the commencement of treatment, of the name and  
38 license designation of the owner or owners of the practice.

1 ~~SEC. 76.~~

2 *SEC. 89.* Section 4996.3 of the Business and Professions Code  
3 is repealed.

4 ~~SEC. 77.~~

5 *SEC. 90.* Section 4996.3 is added to the Business and  
6 Professions Code, to read:

7 4996.3. (a) The board shall assess the following fees relating  
8 to the licensure of clinical social workers:

9 (1) The application fee for registration as an associate clinical  
10 social worker shall be seventy-five dollars (\$75).

11 (2) The fee for renewal of an associate clinical social worker  
12 registration shall be seventy-five dollars (\$75).

13 (3) The fee for application for examination eligibility shall be  
14 one hundred dollars (\$100).

15 (4) The fee for the standard written examination shall be a  
16 maximum of one hundred fifty dollars (\$150). The fee for the  
17 clinical vignette examination shall be one hundred dollars (\$100).

18 (A) An applicant who fails to appear for an examination, after  
19 having been scheduled to take the examination, shall forfeit the  
20 examination fees.

21 (B) The amount of the examination fees shall be based on the  
22 actual cost to the board of developing, purchasing, and grading  
23 each examination and the actual cost to the board of administering  
24 each examination. The written examination fees shall be adjusted  
25 periodically by regulation to reflect the actual costs incurred by  
26 the board.

27 (5) The fee for rescoring an examination shall be twenty dollars  
28 (\$20).

29 (6) The fee for issuance of an initial license shall be a maximum  
30 of one hundred fifty-five dollars (\$155).

31 (7) The fee for license renewal shall be a maximum of one  
32 hundred fifty-five dollars (\$155).

33 (8) The fee for inactive license renewal shall be a maximum of  
34 seventy-seven dollars and fifty cents (\$77.50).

35 (9) The renewal delinquency fee shall be seventy-five dollars  
36 (\$75). A person who permits his or her license to expire is subject  
37 to the delinquency fee.

38 (10) The fee for issuance of a replacement registration, license,  
39 or certificate shall be twenty dollars (\$20).

1 (11) The fee for issuance of a certificate or letter of good  
2 standing shall be twenty-five dollars (\$25).

3 (b) With regard to license, examination, and other fees, the  
4 board shall establish fee amounts at or below the maximum  
5 amounts specified in this chapter.

6 ~~SEC. 78.~~

7 *SEC. 91.* Section 4996.4 of the Business and Professions Code  
8 is amended to read:

9 4996.4. An applicant who fails a standard or clinical vignette  
10 written examination may within one year from the notification  
11 date of failure, retake that examination as regularly scheduled,  
12 without further application, upon payment of the required  
13 examination fees. Thereafter, the applicant shall not be eligible  
14 for further examination until he or she files a new application,  
15 meets all current requirements, and pays all required fees.

16 ~~SEC. 79.~~

17 *SEC. 92.* Section 4996.6 of the Business and Professions Code  
18 is amended to read:

19 4996.6. (a) Licenses issued under this chapter shall expire no  
20 more than 24 months after the issue date. The expiration date of  
21 the original license shall be set by the board.

22 (b) To renew an unexpired license, the licensee shall, on or  
23 before the expiration date of the license, complete the following  
24 actions:

- 25 (1) Apply for a renewal on a form prescribed by the board.
- 26 (2) Pay a two-year renewal fee prescribed by the board.
- 27 (3) Certify compliance with the continuing education  
28 requirements set forth in Section 4996.22.
- 29 (4) Notify the board whether he or she has been convicted, as  
30 defined in Section 490, of a misdemeanor or felony, or whether  
31 any disciplinary action has been taken by any regulatory or  
32 licensing board in this or any other state, subsequent to the  
33 licensee's last renewal.

34 (c) To renew an expired license within three years of its  
35 expiration, the licensee shall, as a condition precedent to renewal,  
36 complete all of the actions described in subdivision (b) and pay a  
37 delinquency fee.

38 (d) A license that is not renewed within three years after its  
39 expiration may not be renewed, restored, reinstated, or reissued

1 thereafter; however, the licensee may apply for and obtain a new  
2 license if he or she satisfies all of the following requirements:

3 (1) No fact, circumstance, or condition exists that, if the license  
4 were issued, would justify its revocation or suspension.

5 (2) He or she submits an application for examination eligibility.

6 (3) He or she takes and passes the current licensing  
7 examinations.

8 (4) He or she submits the fees for examination eligibility and  
9 for initial license issuance.

10 ~~SEC. 80.~~

11 *SEC. 93.* Section 4996.14 of the Business and Professions Code  
12 is repealed.

13 ~~SEC. 81.~~

14 *SEC. 94.* Section 4996.14 is added to the Business and  
15 Professions Code, to read:

16 4996.14. (a) This chapter shall not apply to an employee who  
17 is working in any of the following settings if his or her work is  
18 performed solely under the supervision of the employer:

19 (1) A governmental entity.

20 (2) A school, college, or university.

21 (3) An institution that is both nonprofit and charitable.

22 (b) This chapter shall not apply to a volunteer who is working  
23 in any of the settings described in subdivision (a) if his or her work  
24 is performed solely under the supervision of the entity, school,  
25 college, university, or institution.

26 (c) This chapter shall not apply to a person using hypnotic  
27 techniques by referral from any of the following persons if his or  
28 her practice is performed solely under the supervision of the  
29 employer:

30 (1) A person licensed to practice medicine.

31 (2) A person licensed to practice dentistry.

32 (3) A person licensed to practice psychology.

33 (d) This chapter shall not apply to a person using hypnotic  
34 techniques that offer a vocational or vocational self-improvement,  
35 and the person is not performing therapy for emotional or mental  
36 disorders.

37 ~~SEC. 82.~~

38 *SEC. 95.* Section 4996.18 of the Business and Professions Code  
39 is amended to read:

1 4996.18. (a) A person who wishes to be credited with  
2 experience toward licensure requirements shall register with the  
3 board as an associate clinical social worker prior to obtaining that  
4 experience. The application shall be made on a form prescribed  
5 by the board.  
6 (b) An applicant for registration shall satisfy the following  
7 requirements:  
8 (1) Possess a master’s degree from an accredited school or  
9 department of social work.  
10 (2) Have committed no crimes or acts constituting grounds for  
11 denial of licensure under Section 480.  
12 (c) An applicant who possesses a master’s degree from a school  
13 or department of social work that is a candidate for accreditation  
14 by the Commission on Accreditation of the Council on Social  
15 Work Education shall be eligible, and shall be required, to register  
16 as an associate clinical social worker in order to gain experience  
17 toward licensure if the applicant has not committed any crimes or  
18 acts that constitute grounds for denial of licensure under Section  
19 480. That applicant shall not, however, be eligible for examination  
20 until the school or department of social work has received  
21 accreditation by the Commission on Accreditation of the Council  
22 on Social Work Education.  
23 (d) Any experience obtained under the supervision of a spouse  
24 or relative by blood or marriage shall not be credited toward the  
25 required hours of supervised experience. Any experience obtained  
26 under the supervision of a supervisor with whom the applicant has  
27 a personal relationship that undermines the authority or  
28 effectiveness of the supervision shall not be credited toward the  
29 required hours of supervised experience.  
30 (e) An applicant who possesses a master’s degree from an  
31 accredited school or department of social work shall be able to  
32 apply experience the applicant obtained during the time the  
33 accredited school or department was in candidacy status by the  
34 Commission on Accreditation of the Council on Social Work  
35 Education toward the licensure requirements, if the experience  
36 meets the requirements of Section 4996.20, 4996.21, or 4996.23.  
37 This subdivision shall apply retroactively to persons who possess  
38 a master’s degree from an accredited school or department of social  
39 work and who obtained experience during the time the accredited

1 school or department was in candidacy status by the Commission  
2 on Accreditation of the Council on Social Work Education.

3 (f) An applicant for registration or licensure trained in an  
4 educational institution outside the United States shall demonstrate  
5 to the satisfaction of the board that he or she possesses a master's  
6 of social work degree that is equivalent to a master's degree issued  
7 from a school or department of social work that is accredited by  
8 the Commission on Accreditation of the Council on Social Work  
9 Education. These applicants shall provide the board with a  
10 comprehensive evaluation of the degree and shall provide any  
11 other documentation the board deems necessary. The board has  
12 the authority to make the final determination as to whether a degree  
13 meets all requirements, including, but not limited to, course  
14 requirements regardless of evaluation or accreditation.

15 (g) A registrant shall not provide clinical social work services  
16 to the public for a fee, monetary or otherwise, except as an  
17 employee.

18 (h) A registrant shall inform each client or patient prior to  
19 performing any professional services that he or she is unlicensed  
20 and is under the supervision of a licensed professional.

21 ~~SEC. 83.~~

22 *SEC. 96.* Section 4996.22 of the Business and Professions Code  
23 is amended to read:

24 4996.22. (a) (1) Except as provided in subdivision (c), the  
25 board shall not renew any license pursuant to this chapter unless  
26 the applicant certifies to the board, on a form prescribed by the  
27 board, that he or she has completed not less than 36 hours of  
28 approved continuing education in or relevant to the field of social  
29 work in the preceding two years, as determined by the board.

30 (2) The board shall not renew any license of an applicant who  
31 began graduate study prior to January 1, 2004, pursuant to this  
32 chapter unless the applicant certifies to the board that during the  
33 applicant's first renewal period after the operative date of this  
34 section, he or she completed a continuing education course in  
35 spousal or partner abuse assessment, detection, and intervention  
36 strategies, including community resources, cultural factors, and  
37 same gender abuse dynamics. On and after January 1, 2005, the  
38 course shall consist of not less than seven hours of training.  
39 Equivalent courses in spousal or partner abuse assessment,  
40 detection, and intervention strategies taken prior to the operative

1 date of this section or proof of equivalent teaching or practice  
2 experience may be submitted to the board and at its discretion,  
3 may be accepted in satisfaction of this requirement. Continuing  
4 education courses taken pursuant to this paragraph shall be applied  
5 to the 36 hours of approved continuing education required under  
6 paragraph (1).

7 (b) The board shall have the right to audit the records of any  
8 applicant to verify the completion of the continuing education  
9 requirement. Applicants shall maintain records of completion of  
10 required continuing education coursework for a minimum of two  
11 years and shall make these records available to the board for  
12 auditing purposes upon request.

13 (c) The board may establish exceptions from the continuing  
14 education requirement of this section for good cause as defined  
15 by the board.

16 (d) The continuing education shall be obtained from one of the  
17 following sources:

18 (1) An accredited school of social work, as defined in Section  
19 4991.2, or a school or department of social work that is a candidate  
20 for accreditation by the Commission on Accreditation of the  
21 Council on Social Work Education. Nothing in this paragraph shall  
22 be construed as requiring coursework to be offered as part of a  
23 regular degree program.

24 (2) Other continuing education providers, including, but not  
25 limited to, a professional social work association, a licensed health  
26 facility, a governmental entity, a continuing education unit of an  
27 accredited four-year institution of higher learning, and a mental  
28 health professional association, approved by the board.

29 (e) The board shall establish, by regulation, a procedure for  
30 approving providers of continuing education courses, and all  
31 providers of continuing education, as described in paragraphs (1)  
32 and (2) of subdivision (d), shall adhere to the procedures  
33 established by the board. The board may revoke or deny the right  
34 of a provider to offer continuing education coursework pursuant  
35 to this section for failure to comply with the requirements of this  
36 section or any regulation adopted pursuant to this section.

37 (f) Training, education, and coursework by approved providers  
38 shall incorporate one or more of the following:

39 (1) Aspects of the discipline that are fundamental to the  
40 understanding, or the practice, of social work.

1 (2) Aspects of the social work discipline in which significant  
2 recent developments have occurred.

3 (3) Aspects of other related disciplines that enhance the  
4 understanding, or the practice, of social work.

5 (g) A system of continuing education for licensed clinical social  
6 workers shall include courses directly related to the diagnosis,  
7 assessment, and treatment of the client population being served.

8 (h) The continuing education requirements of this section shall  
9 comply fully with the guidelines for mandatory continuing  
10 education established by the Department of Consumer Affairs  
11 pursuant to Section 166.

12 (i) The board may adopt regulations as necessary to implement  
13 this section.

14 (j) The board shall, by regulation, fund the administration of  
15 this section through continuing education provider fees to be  
16 deposited in the Behavioral Science Examiners Fund. The fees  
17 related to the administration of this section shall be sufficient to  
18 meet but shall not exceed the costs of administering the  
19 corresponding provisions of this section. For purposes of this  
20 subdivision, a provider of continuing education as described in  
21 paragraph (1) of subdivision (d), shall be deemed to be an approved  
22 provider.

23 ~~SEC. 84.~~

24 *SEC. 97.* Section 4996.28 is added to the Business and  
25 Professions Code, to read:

26 4996.28. (a) Registration as an associate clinical social worker  
27 shall expire one year from the last day of the month during which  
28 it was issued. To renew a registration, the registrant shall, on or  
29 before the expiration date of the registration, complete all of the  
30 following actions:

31 (1) Apply for renewal on a form prescribed by the board.

32 (2) Pay a renewal fee prescribed by the board.

33 (3) Notify the board whether he or she has been convicted, as  
34 defined in Section 490, of a misdemeanor or felony, and whether  
35 any disciplinary action has been taken by a regulatory or licensing  
36 board in this or any other state, subsequent to the last renewal of  
37 the registration.

38 (b) A registration as an associate clinical social worker may be  
39 renewed a maximum of five times. When no further renewals are  
40 possible, an applicant may apply for and obtain a new associate

1 clinical social worker registration if the applicant meets all  
2 requirements for registration in effect at the time of his or her  
3 application for a new associate clinical social worker registration.

4 ~~SEC. 85.~~

5 *SEC. 98.* Section 4997 of the Business and Professions Code  
6 is repealed.

7 ~~SEC. 86.~~

8 *SEC. 99.* Section 4997 is added to the Business and Professions  
9 Code, to read:

10 4997. (a) A licensee may apply to the board to request that his  
11 or her license be placed on inactive status.

12 (b) A licensee on inactive status shall be subject to this chapter  
13 and shall not engage in the practice of clinical social work in this  
14 state.

15 (c) A licensee who holds an inactive license shall pay a biennial  
16 fee in the amount of one-half of the standard renewal fee and shall  
17 be exempt from continuing education requirements.

18 (d) A licensee on inactive status who has not committed an act  
19 or crime constituting grounds for denial of licensure may, upon  
20 request, restore his or her license to practice clinical social work  
21 to active status.

22 (1) A licensee requesting his or her license be restored to active  
23 status between renewal cycles shall pay the remaining one-half of  
24 his or her renewal fee.

25 (2) A licensee requesting to restore his or her license to active  
26 status whose license will expire less than one year from the date  
27 of the request shall complete 18 hours of continuing education as  
28 specified in Section 4996.22.

29 (3) A licensee requesting to restore his or her license to active  
30 status whose license will expire more than one year from the date  
31 of the request shall complete 36 hours of continuing education as  
32 specified in Section 4996.22.

33 ~~SEC. 87.~~

34 *SEC. 100.* Section 11372 of the Government Code is amended  
35 to read:

36 11372. (a) Except as provided in subdivision (b), all  
37 adjudicative hearings and proceedings relating to the discipline or  
38 reinstatement of licensees of the Medical Board of California,  
39 including licensees of affiliated health agencies within the  
40 jurisdiction of the Medical Board of California, that are heard

1 pursuant to the Administrative Procedure Act, shall be conducted  
2 by an administrative law judge as designated in Section 11371,  
3 sitting alone if the case is so assigned by the agency filing the  
4 charging pleading.

5 (b) Proceedings relating to interim orders shall be heard in  
6 accordance with Section 11529.

7 ~~SEC. 88.~~

8 *SEC. 101.* Section 12529 of the Government Code, as amended  
9 by Section 24 of Chapter 674 of the Statutes of 2005, is amended  
10 to read:

11 12529. (a) There is in the Department of Justice the Health  
12 Quality Enforcement Section. The primary responsibility of the  
13 section is to investigate and prosecute proceedings against licensees  
14 and applicants within the jurisdiction of the Medical Board of  
15 California, the California Board of Podiatric Medicine, the Board  
16 of Psychology, or any committee under the jurisdiction of the  
17 Medical Board of California or a division of the board.

18 (b) The Attorney General shall appoint a Senior Assistant  
19 Attorney General of the Health Quality Enforcement Section. The  
20 Senior Assistant Attorney General of the Health Quality  
21 Enforcement Section shall be an attorney in good standing licensed  
22 to practice in the State of California, experienced in prosecutorial  
23 or administrative disciplinary proceedings and competent in the  
24 management and supervision of attorneys performing those  
25 functions.

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

31 (d) Funding for the Health Quality Enforcement Section shall  
32 be budgeted in consultation with the Attorney General from the  
33 special funds financing the operations of the Medical Board of  
34 California, the California Board of Podiatric Medicine, the Board  
35 of Psychology, and the committees under the jurisdiction of the  
36 Medical Board of California or a division of the board, with the  
37 intent that the expenses be proportionally shared as to services  
38 rendered.

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

1 that becomes operative on or before January 1, 2009, deletes or  
2 extends the dates on which it becomes inoperative and is repealed.

3 ~~SEC. 89.~~

4 *SEC. 102.* Section 12529 of the Government Code, as added  
5 by Section 25 of Chapter 674 of the Statutes of 2005, is amended  
6 to read:

7 12529. (a) There is in the Department of Justice the Health  
8 Quality Enforcement Section. The primary responsibility of the  
9 section is to prosecute proceedings against licensees and applicants  
10 within the jurisdiction of the Medical Board of California, the  
11 California Board of Podiatric Medicine, the Board of Psychology,  
12 or any committee under the jurisdiction of the Medical Board of  
13 California or a division of the board, and to provide ongoing review  
14 of the investigative activities conducted in support of those  
15 prosecutions, as provided in subdivision (b) of Section 12529.5.

16 (b) The Attorney General shall appoint a Senior Assistant  
17 Attorney General of the Health Quality Enforcement Section. The  
18 Senior Assistant Attorney General of the Health Quality  
19 Enforcement Section shall be an attorney in good standing licensed  
20 to practice in the State of California, experienced in prosecutorial  
21 or administrative disciplinary proceedings and competent in the  
22 management and supervision of attorneys performing those  
23 functions.

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

29 (d) Funding for the Health Quality Enforcement Section shall  
30 be budgeted in consultation with the Attorney General from the  
31 special funds financing the operations of the Medical Board of  
32 California, the California Board of Podiatric Medicine, the Board  
33 of Psychology, and the committees under the jurisdiction of the  
34 Medical Board of California or a division of the board, with the  
35 intent that the expenses be proportionally shared as to services  
36 rendered.

37 (e) This section shall become operative July 1, 2008.

1 ~~SEC. 90.~~

2 *SEC. 103.* Section 12529.5 of the Government Code, as  
3 amended by Section 26 of Chapter 674 of the Statutes of 2005, is  
4 amended to read:

5 12529.5. (a) All complaints or relevant information concerning  
6 licensees that are within the jurisdiction of the Medical Board of  
7 California, the California Board of Podiatric Medicine, or the  
8 Board of Psychology shall be made available to the Health Quality  
9 Enforcement Section.

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

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

21 (d) The determination to bring a disciplinary proceeding against  
22 a licensee of the division or the boards shall be made by the  
23 executive officer of the division, boards, or committees as  
24 appropriate in consultation with the senior assistant.

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

29 ~~SEC. 91.~~

30 *SEC. 104.* Section 12529.5 of the Government Code, as added  
31 by Section 27 of Chapter 674 of the Statutes of 2005, is amended  
32 to read:

33 12529.5. (a) All complaints or relevant information concerning  
34 licensees that are within the jurisdiction of the Medical Board of  
35 California, the California Board of Podiatric Medicine, or the  
36 Board of Psychology shall be made available to the Health Quality  
37 Enforcement Section.

38 (b) The Senior Assistant Attorney General of the Health Quality  
39 Enforcement Section shall assign attorneys to assist the division  
40 and the boards in intake and investigations and to direct

1 discipline-related prosecutions. Attorneys shall be assigned to  
2 work closely with each major intake and investigatory unit of the  
3 boards, to assist in the evaluation and screening of complaints from  
4 receipt through disposition and to assist in developing uniform  
5 standards and procedures for the handling of complaints and  
6 investigations.

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

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

22 (d) The determination to bring a disciplinary proceeding against  
23 a licensee of the division or the boards shall be made by the  
24 executive officer of the division, boards, or committees as  
25 appropriate in consultation with the senior assistant.

26 (e) This section shall become operative July 1, 2008.

27 ~~SEC. 92.~~

28 *SEC. 105.* No reimbursement is required by this act pursuant  
29 to Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.