

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

March 13, 2008

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An act to amend Sections 683, 733, 800, 2089.5, 2096, 2102, 2107, 2175, 2307, 2335, 2486, 2488, 2570.5, 2760.1, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4174, 4231, 4301, 4305, 4329, and 4330 of, to amend and renumber Section 2570.185 of, to add Sections 2570.35, 2570.36, 4036.5, and 4990.09 to, and to repeal Sections 2172, 2173, and 2174 of, the Business and Professions Code, to amend Section 8659 of the Government Code, and to amend Sections 11150 and 11165 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1779, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the

names of its licensees and to prescribe and promulgate written complaint forms, as specified.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, in the Department of Consumer Affairs. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met.

This bill would specify that certain training required for a physician and surgeon's license must be approved by, or in programs approved by, the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2069. The bill would revise the requirements for a petition for reinstatement or modification, as specified.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The

bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(3) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists by the California Board of Occupational Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in a patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice.

This bill would require an occupational therapy assistant to document in a patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign a patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. The bill would require an employer of an occupational therapy practitioner to report to the board the suspension or termination for cause of any practitioner in its employ, or be subject to a specified administrative fine, and would require a licensee to report to the board violations of the Occupational Therapy Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(4) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(5) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine in the Department of Consumer Affairs. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the

application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(6) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.

This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee uses any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize the board to direct a practitioner or applicant who is found to have

violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(7) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy in the Department of Consumer Affairs.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

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

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(8) Existing law provides for the licensure and regulation of psychologists, social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

(9) 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: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 683 of the Business and Professions Code  
2 is amended to read:

1 683. (a) A board shall report, within 10 working days, to the  
2 State Department of Health *Care Services* the name and license  
3 number of a person whose license has been revoked, suspended,  
4 surrendered, made inactive by the licensee, or placed in another  
5 category that prohibits the licensee from practicing his or her  
6 profession. The purpose of the reporting requirement is to prevent  
7 reimbursement by the state for Medi-Cal and Denti-Cal services  
8 provided after the cancellation of a provider’s professional license.

9 (b) “Board,” as used in this section, means the Dental Board of  
10 California, the Medical Board of California, the Board of  
11 Psychology, the State Board of Optometry, the California State  
12 Board of Pharmacy, the Osteopathic Medical Board of California,  
13 ~~and~~ the State Board of Chiropractic Examiners, *and the California*  
14 *Board of Occupational Therapy.*

15 SEC. 2. Section 733 of the Business and Professions Code is  
16 amended to read:

17 733. (a) No licentiate shall obstruct a patient in obtaining a  
18 prescription drug or device that has been legally prescribed or  
19 ordered for that patient. A violation of this section constitutes  
20 unprofessional conduct by the licentiate and shall subject the  
21 licentiate to disciplinary or administrative action by his or her  
22 licensing agency.

23 (b) Notwithstanding any other provision of law, a licentiate  
24 shall dispense drugs and devices, as described in subdivision (a)  
25 of Section 4024, pursuant to a lawful order or prescription unless  
26 one of the following circumstances exists:

27 (1) Based solely on the licentiate’s professional training and  
28 judgment, dispensing pursuant to the order or the prescription is  
29 contrary to law, or the licentiate determines that the prescribed  
30 drug or device would cause a harmful drug interaction or would  
31 otherwise adversely affect the patient’s medical condition.

32 (2) The prescription drug or device is not in stock. If an order,  
33 other than an order described in Section 4019, or prescription  
34 cannot be dispensed because the drug or device is not in stock, the  
35 licentiate shall take one of the following actions:

36 (A) Immediately notify the patient and arrange for the drug or  
37 device to be delivered to the site or directly to the patient in a  
38 timely manner.

39 (B) Promptly transfer the prescription to another pharmacy  
40 known to stock the prescription drug or device that is near enough

1 to the site from which the prescription or order is transferred, to  
2 ensure the patient has timely access to the drug or device.

3 (C) Return the prescription to the patient and refer the patient.  
4 The licentiate shall make a reasonable effort to refer the patient to  
5 a pharmacy that stocks the prescription drug or device that is near  
6 enough to the referring site to ensure that the patient has timely  
7 access to the drug or device.

8 (3) The licentiate refuses on ethical, moral, or religious grounds  
9 to dispense a drug or device pursuant to an order or prescription.  
10 A licentiate may decline to dispense a prescription drug or device  
11 on this basis only if the licentiate has previously notified his or  
12 her employer, in writing, of the drug or class of drugs to which he  
13 or she objects, and the licentiate's employer can, without creating  
14 undue hardship, provide a reasonable accommodation of the  
15 licentiate's objection. The licentiate's employer shall establish  
16 protocols that ensure that the patient has timely access to the  
17 prescribed drug or device despite the licentiate's refusal to dispense  
18 the prescription or order. For purposes of this section, "reasonable  
19 accommodation" and "undue hardship" shall have the same  
20 meaning as applied to those terms pursuant to subdivision (l) of  
21 Section 12940 of the Government Code.

22 (c) For the purposes of this section, "prescription drug or device"  
23 has the same meaning as the definition in Section 4022.

24 (d) The provisions of this section shall apply to the drug therapy  
25 described in ~~paragraph (8) of subdivision (a) of Section 4052~~  
26 *Section 4052.3*.

27 (e) This section imposes no duty on a licentiate to dispense a  
28 drug or device pursuant to a prescription or order without payment  
29 for the drug or device, including payment directly by the patient  
30 or through a third-party payer accepted by the licentiate or payment  
31 of any required copayment by the patient.

32 (f) The notice to consumers required by Section 4122 shall  
33 include a statement that describes patients' rights relative to the  
34 requirements of this section.

35 SEC. 3. Section 800 of the Business and Professions Code is  
36 amended to read:

37 800. (a) The Medical Board of California, the Board of  
38 Psychology, the Dental Board of California, the Osteopathic  
39 Medical Board of California, the State Board of Chiropractic  
40 Examiners, the Board of Registered Nursing, the Board of

1 Vocational Nursing and Psychiatric Technicians, the State Board  
2 of Optometry, the Veterinary Medical Board, the Board of  
3 Behavioral Sciences, the Physical Therapy Board of California,  
4 the California State Board of Pharmacy, ~~and~~ the Speech-Language  
5 Pathology and Audiology Board, *the California Board of*  
6 *Occupational Therapy, and the Acupuncture Board* shall each  
7 separately create and maintain a central file of the names of all  
8 persons who hold a license, certificate, or similar authority from  
9 that board. Each central file shall be created and maintained to  
10 provide an individual historical record for each licensee with  
11 respect to the following information:

12 (1) Any conviction of a crime in this or any other state that  
13 constitutes unprofessional conduct pursuant to the reporting  
14 requirements of Section 803.

15 (2) Any judgment or settlement requiring the licensee or his or  
16 her insurer to pay any amount of damages in excess of three  
17 thousand dollars (\$3,000) for any claim that injury or death was  
18 proximately caused by the licensee's negligence, error or omission  
19 in practice, or by rendering unauthorized professional services,  
20 pursuant to the reporting requirements of Section 801 or 802.

21 (3) Any public complaints for which provision is made pursuant  
22 to subdivision (b).

23 (4) Disciplinary information reported pursuant to Section 805.

24 (b) Each board shall prescribe and promulgate forms on which  
25 members of the public and other licensees or certificate holders  
26 may file written complaints to the board alleging any act of  
27 misconduct in, or connected with, the performance of professional  
28 services by the licensee.

29 If a board, or division thereof, a committee, or a panel has failed  
30 to act upon a complaint or report within five years, or has found  
31 that the complaint or report is without merit, the central file shall  
32 be purged of information relating to the complaint or report.

33 Notwithstanding this subdivision, the Board of Psychology, the  
34 Board of Behavioral Sciences, and the Respiratory Care Board of  
35 California shall maintain complaints or reports as long as each  
36 board deems necessary.

37 (c) The contents of any central file that are not public records  
38 under any other provision of law shall be confidential except that  
39 the licensee involved, or his or her counsel or representative, shall  
40 have the right to inspect and have copies made of his or her

1 complete file except for the provision that may disclose the identity  
2 of an information source. For the purposes of this section, a board  
3 may protect an information source by providing a copy of the  
4 material with only those deletions necessary to protect the identity  
5 of the source or by providing a comprehensive summary of the  
6 substance of the material. Whichever method is used, the board  
7 shall ensure that full disclosure is made to the subject of any  
8 personal information that could reasonably in any way reflect or  
9 convey anything detrimental, disparaging, or threatening to a  
10 licensee's reputation, rights, benefits, privileges, or qualifications,  
11 or be used by a board to make a determination that would affect  
12 a licensee's rights, benefits, privileges, or qualifications. The  
13 information required to be disclosed pursuant to Section 803.1  
14 shall not be considered among the contents of a central file for the  
15 purposes of this subdivision.

16 The licensee may, but is not required to, submit any additional  
17 exculpatory or explanatory statement or other information that the  
18 board shall include in the central file.

19 Each board may permit any law enforcement or regulatory  
20 agency when required for an investigation of unlawful activity or  
21 for licensing, certification, or regulatory purposes to inspect and  
22 have copies made of that licensee's file, unless the disclosure is  
23 otherwise prohibited by law.

24 These disclosures shall effect no change in the confidential status  
25 of these records.

26 SEC. 4. Section 2089.5 of the Business and Professions Code  
27 is amended to read:

28 2089.5. (a) Clinical instruction in the subjects listed in  
29 subdivision (b) of Section 2089 shall meet the requirements of this  
30 section and shall be considered adequate if the requirements of  
31 subdivision (a) of Section 2089 and the requirements of this section  
32 are satisfied.

33 (b) Instruction in the clinical courses shall total a minimum of  
34 72 weeks in length.

35 (c) Instruction in the core clinical courses of surgery, medicine,  
36 family medicine, pediatrics, obstetrics and gynecology, and  
37 psychiatry shall total a minimum of 40 weeks in length with a  
38 minimum of eight weeks instruction in surgery, eight weeks in  
39 medicine, six weeks in pediatrics, six weeks in obstetrics and

1 gynecology, a minimum of four weeks in family medicine, and  
2 four weeks in psychiatry.

3 (d) Of the instruction required by subdivision (b), including all  
4 of the instruction required by subdivision (c), 54 weeks shall be  
5 performed in a hospital that sponsors the instruction and shall meet  
6 one of the following:

7 (1) Is a formal part of the medical school or school of  
8 osteopathic medicine.

9 (2) Has ~~an approved~~ a residency program, *approved by the*  
10 *Accreditation Council for Graduate Medical Education (ACGME)*  
11 *or the Royal College of Physicians and Surgeons of Canada*  
12 *(RCPSC)*, in family practice or in the clinical area of the instruction  
13 for which credit is being sought.

14 (3) Is formally affiliated with an approved medical school or  
15 school of osteopathic medicine located in the United States or  
16 Canada. If the affiliation is limited in nature, credit shall be given  
17 only in the subject areas covered by the affiliation agreement.

18 (4) Is formally affiliated with a medical school or a school of  
19 osteopathic medicine located outside the United States or Canada.

20 (e) If the institution, specified in subdivision (d), is formally  
21 affiliated with a medical school or a school of osteopathic medicine  
22 located outside the United States or Canada, it shall meet the  
23 following:

24 (1) The formal affiliation shall be documented by a written  
25 contract detailing the relationship between the medical school, or  
26 a school of osteopathic medicine, and hospital and the  
27 responsibilities of each.

28 (2) The school and hospital shall provide to the ~~division~~ *board*  
29 a description of the clinical program. The description shall be in  
30 sufficient detail to enable the ~~division~~ *board* to determine whether  
31 or not the program provides students an adequate medical  
32 education. The ~~division~~ *board* shall approve the program if it  
33 determines that the program provides an adequate medical  
34 education. If the ~~division~~ *board* does not approve the program, it  
35 shall provide its reasons for disapproval to the school and hospital  
36 in writing specifying its findings about each aspect of the program  
37 that it considers to be deficient and the changes required to obtain  
38 approval.

39 (3) The hospital, if located in the United States, shall be  
40 accredited by the Joint Commission on Accreditation of Hospitals,

1 and if located in another country, shall be accredited in accordance  
2 with the law of that country.

3 (4) The clinical instruction shall be supervised by a full-time  
4 director of medical education, and the head of the department for  
5 each core clinical course shall hold a full-time faculty appointment  
6 of the medical school or school of osteopathic medicine and shall  
7 be board certified or eligible, or have an equivalent credential in  
8 that specialty area appropriate to the country in which the hospital  
9 is located.

10 (5) The clinical instruction shall be conducted pursuant to a  
11 written program of instruction provided by the school.

12 (6) The school shall supervise the implementation of the  
13 program on a regular basis, documenting the level and extent of  
14 its supervision.

15 (7) The hospital-based faculty shall evaluate each student on a  
16 regular basis and shall document the completion of each aspect of  
17 the program for each student.

18 (8) The hospital shall ensure a minimum daily census adequate  
19 to meet the instructional needs of the number of students enrolled  
20 in each course area of clinical instruction, but not less than 15  
21 patients in each course area of clinical instruction.

22 (9) The ~~division~~ *board*, in reviewing the application of a foreign  
23 medical graduate, may require the applicant to submit a description  
24 of the clinical program, if the ~~division~~ *board* has not previously  
25 approved the program, and may require the applicant to submit  
26 documentation to demonstrate that the applicant's clinical training  
27 met the requirements of this subdivision.

28 (10) The medical school or school of osteopathic medicine shall  
29 bear the reasonable cost of any site inspection by the ~~division~~ *board*  
30 or its agents necessary to determine whether the clinical program  
31 offered is in compliance with this subdivision.

32 SEC. 5. Section 2096 of the Business and Professions Code is  
33 amended to read:

34 2096. In addition to other requirements of this chapter, before  
35 a ~~physician's~~ *physician* and surgeon's license may be issued, each  
36 applicant, including an applicant applying pursuant to Article 5  
37 (commencing with Section 2100), shall show by evidence  
38 satisfactory to the ~~Division of Licensing~~ *board* that he or she has  
39 satisfactorily completed at least one year of postgraduate training,  
40 which includes at least four months of general medicine, in ~~an~~

1 approved a postgraduate training program approved by the  
2 Accreditation Council for Graduate Medical Education (ACGME)  
3 or Royal College of Physicians and Surgeons of Canada (RCPSC).

4 The amendments made to this section at the 1987 portion of the  
5 1987–88 session of the Legislature shall not apply to applicants  
6 who completed their one year of postgraduate training on or before  
7 July 1, 1990.

8 SEC. 6. Section 2102 of the Business and Professions Code is  
9 amended to read:

10 2102. Any applicant whose professional instruction was  
11 acquired in a country other than the United States or Canada shall  
12 provide evidence satisfactory to the ~~division~~ board of compliance  
13 with the following requirements to be issued a ~~physician's~~  
14 *physician* and surgeon's certificate:

15 (a) Completion in a medical school or schools of a resident  
16 course of professional instruction equivalent to that required by  
17 Section 2089 and issuance to the applicant of a document  
18 acceptable to the ~~division~~ board that shows final and successful  
19 completion of the course. However, nothing in this section shall  
20 be construed to require the ~~division~~ board to evaluate for  
21 equivalency any coursework obtained at a medical school  
22 disapproved by the ~~division~~ board pursuant to this section.

23 (b) Certification by the Educational Commission for Foreign  
24 Medical Graduates, or its equivalent, as determined by the ~~division~~  
25 board. This subdivision shall apply to all applicants who are subject  
26 to this section and who have not taken and passed the written  
27 examination specified in subdivision (d) prior to June 1, 1986.

28 (c) Satisfactory completion of the postgraduate training required  
29 under Section 2096. An applicant shall be required to have  
30 substantially completed the professional instruction required in  
31 subdivision (a) and shall be required to make application to the  
32 ~~division~~ board and have passed steps 1 and 2 of the written  
33 examination relating to biomedical and clinical sciences prior to  
34 commencing any postgraduate training in this state. In its  
35 discretion, the ~~division~~ board may authorize an applicant who is  
36 deficient in any education or clinical instruction required by  
37 Sections 2089 and 2089.5 to make up any deficiencies as a part of  
38 his or her postgraduate training program, but that remedial training  
39 shall be in addition to the postgraduate training required for  
40 licensure.

1 (d) Pass the written examination as provided under Article 9  
2 (commencing with Section 2170). ~~If an applicant has not~~  
3 ~~satisfactorily completed at least two years of approved postgraduate~~  
4 ~~training, the applicant shall also pass the clinical competency~~  
5 ~~written examination.~~ An applicant shall be required to meet the  
6 requirements specified in subdivision (b) prior to being admitted  
7 to the written examination required by this subdivision.

8 Nothing in this section prohibits the ~~division~~ *board* from  
9 disapproving any foreign medical school or from denying an  
10 application if, in the opinion of the ~~division~~ *board*, the professional  
11 instruction provided by the medical school or the instruction  
12 received by the applicant is not equivalent to that required in  
13 Article 4 (commencing with Section 2080).

14 SEC. 7. Section 2107 of the Business and Professions Code is  
15 amended to read:

16 2107. (a) The Legislature intends that the ~~Division of Licensing~~  
17 *board* shall have the authority to substitute postgraduate education  
18 and training to remedy deficiencies in an applicant's medical school  
19 education and training. The Legislature further intends that  
20 applicants who substantially completed their clinical training shall  
21 be granted that substitute credit if their postgraduate education  
22 took place in an accredited program.

23 (b) To meet the requirements for licensure set forth in Sections  
24 2089 and 2089.5, the ~~Division of Licensing~~ *board* may require an  
25 applicant under this article to successfully complete additional  
26 education and training. In determining the content and duration of  
27 the required additional education and training, the ~~division~~ *board*  
28 shall consider the applicant's medical education and performance  
29 on standardized national examinations, and may substitute  
30 approved postgraduate training in lieu of specified undergraduate  
31 requirements. Postgraduate training substituted for undergraduate  
32 training shall be in addition to the ~~year of~~ postgraduate training  
33 required by Sections 2102 and 2103.

34 SEC. 8. Section 2172 of the Business and Professions Code is  
35 repealed.

36 ~~2172. The Division of Licensing may appoint qualified persons~~  
37 ~~to give the whole or any portion of any examination as provided~~  
38 ~~in this chapter, who shall be designated as examination~~  
39 ~~commissioners. The board may fix the compensation of such~~

1 persons subject to the provisions of applicable state laws and  
2 regulations:

3 SEC. 9. Section 2173 of the Business and Professions Code is  
4 repealed.

5 2173. ~~The examination shall be conducted in the English  
6 language. Upon the submission of satisfactory proof from the  
7 applicant that he or she is unable to meet the requirements of the  
8 examination in English, the Division of Licensing may allow the  
9 use of an interpreter, either to be present in the examination room  
10 or thereafter to interpret and transcribe the answers of the applicant.  
11 The division in its discretion may select an examinee's interpreter  
12 or approve the selection of an interpreter by the examinee. The  
13 expenses of the interpreter shall be paid by the examinee and shall  
14 be paid before the examination is administered.~~

15 SEC. 10. Section 2174 of the Business and Professions Code  
16 is repealed.

17 2174. ~~The examinations may be conducted in any part of the  
18 state or another state designated by the Division of Licensing. A  
19 notice of each examination administered by the division shall  
20 specify the time and place of the examination.~~

21 SEC. 11. Section 2175 of the Business and Professions Code  
22 is amended to read:

23 2175. ~~Examination~~ *State examination* records shall be kept on  
24 file by the Division of Licensing for a period of two years or more  
25 *board until June 1, 2069*. Examinees shall be known and designated  
26 by number only, and the name attached to the number shall be kept  
27 secret until the examinee is sent notification of the results of the  
28 examinations.

29 SEC. 12. Section 2307 of the Business and Professions Code  
30 is amended to read:

31 2307. (a) A person whose certificate has been surrendered  
32 while under investigation or while charges are pending or whose  
33 certificate has been revoked or suspended or placed on probation,  
34 may petition the ~~Division of Medical Quality board~~ for  
35 reinstatement or modification of penalty, including modification  
36 or termination of probation.

37 (b) The person may file the petition after a period of not less  
38 than the following minimum periods have elapsed from the  
39 effective date of the surrender of the certificate or the decision  
40 ordering that disciplinary action:

1 (1) At least three years for reinstatement of a license surrendered  
2 or revoked for unprofessional conduct, except that the ~~division~~  
3 *board* may, for good cause shown, specify in a revocation order  
4 that a petition for reinstatement may be filed after two years.

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

7 (3) At least one year for modification of a condition, or  
8 reinstatement of a license surrendered or revoked for mental or  
9 physical illness, or termination of probation of less than three years.

10 (c) The petition shall state any facts as may be required by the  
11 ~~division~~ *board*. The petition shall be accompanied by at least two  
12 verified recommendations from physicians and surgeons licensed  
13 ~~by the board in any state~~ who have personal knowledge of the  
14 activities of the petitioner since the disciplinary penalty was  
15 imposed.

16 (d) The petition may be heard by a panel of the ~~division~~ *board*.  
17 The ~~division~~ *board* may assign the petition to an administrative  
18 law judge designated in Section 11371 of the Government Code.  
19 After a hearing on the petition, the administrative law judge shall  
20 provide a proposed decision to the ~~division~~ *board* or the California  
21 Board of Podiatric Medicine, as applicable, which shall be acted  
22 upon in accordance with Section 2335.

23 (e) The panel of the ~~division~~ *board* or the administrative law  
24 judge hearing the petition may consider all activities of the  
25 petitioner since the disciplinary action was taken, the offense for  
26 which the petitioner was disciplined, the petitioner's activities  
27 during the time the certificate was in good standing, and the  
28 petitioner's rehabilitative efforts, general reputation for truth, and  
29 professional ability. The hearing may be continued from time to  
30 time as the administrative law judge designated in Section 11371  
31 of the Government Code finds necessary.

32 (f) The administrative law judge designated in Section 11371  
33 of the Government Code reinstating a certificate or modifying a  
34 penalty may recommend the imposition of any terms and conditions  
35 deemed necessary.

36 (g) No petition shall be considered while the petitioner is under  
37 sentence for any criminal offense, including any period during  
38 which the petitioner is on court-imposed probation or parole. No  
39 petition shall be considered while there is an accusation or petition  
40 to revoke probation pending against the person. The ~~division~~ *board*

1 may deny without a hearing or argument any petition filed pursuant  
2 to this section within a period of two years from the effective date  
3 of the prior decision following a hearing under this section.

4 (h) This section is applicable to and may be carried out with  
5 regard to licensees of the California Board of Podiatric Medicine.  
6 In lieu of two verified recommendations from physicians and  
7 surgeons, the petition shall be accompanied by at least two verified  
8 recommendations from podiatrists licensed ~~by the board~~ *in any*  
9 *state* who have personal knowledge of the activities of the  
10 petitioner since the date the disciplinary penalty was imposed.

11 (i) Nothing in this section shall be deemed to alter Sections 822  
12 and 823 ~~of the Business and Professions Code~~.

13 SEC. 13. Section 2335 of the Business and Professions Code  
14 is amended to read:

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

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

22 (c) A proposed decision shall be acted upon by the board or by  
23 any panel appointed pursuant to Section 2008 or by the California  
24 Board of Podiatric Medicine, as the case may be, in accordance  
25 with Section 11517 of the Government Code, except that all of the  
26 following shall apply to proceedings against licensees under this  
27 chapter:

28 (1) When considering a proposed decision, the board or panel  
29 and the California Board of Podiatric Medicine shall give great  
30 weight to the findings of fact of the administrative law judge,  
31 except to the extent those findings of fact are controverted by new  
32 evidence.

33 (2) The board's staff or the staff of the California Board of  
34 Podiatric Medicine shall poll the members of the board or panel  
35 or of the California Board of Podiatric Medicine by written mail  
36 ballot concerning the proposed decision. The mail ballot shall be  
37 sent within 10 calendar days of receipt of the proposed decision,  
38 and shall poll each member on whether the member votes to  
39 approve the decision, to approve the decision with an altered  
40 penalty, to refer the case back to the administrative law judge for

1 the taking of additional evidence, to defer final decision pending  
2 discussion of the case by the panel or board as a whole, or to  
3 nonadopt the decision. No party to the proceeding, including  
4 employees of the agency that filed the accusation, and no person  
5 who has a direct or indirect interest in the outcome of the  
6 proceeding or who presided at a previous stage of the decision,  
7 may communicate directly or indirectly, upon the merits of a  
8 contested matter while the proceeding is pending, with any member  
9 of the panel or board, without notice and opportunity for all parties  
10 to participate in the communication. The votes of a majority of the  
11 board or of the panel, and a majority of the California Board of  
12 Podiatric Medicine, are required to approve the decision with an  
13 altered penalty, to refer the case back to the administrative law  
14 judge for the taking of further evidence, or to nonadopt the  
15 decision. The votes of two members of the panel or board are  
16 required to defer final decision pending discussion of the case by  
17 the panel or board as a whole. If there is a vote by the specified  
18 number to defer final decision pending discussion of the case by  
19 the panel or board as a whole, provision shall be made for that  
20 discussion before the ~~90-day~~ *100-day* period specified in paragraph  
21 (3) expires, but in no event shall that ~~90-day~~ *100-day* period be  
22 extended.

23 (3) If a majority of the board or of the panel, or a majority of  
24 the California Board of Podiatric Medicine vote to do so, the board  
25 or the panel or the California Board of Podiatric Medicine shall  
26 issue an order of nonadoption of a proposed decision within ~~90~~  
27 *100* calendar days of the date it is received by the board. If the  
28 board or the panel or the California Board of Podiatric Medicine  
29 does not refer the case back to the administrative law judge for the  
30 taking of additional evidence or issue an order of nonadoption  
31 within ~~90~~ *100* days, the decision shall be final and subject to review  
32 under Section 2337. Members of the board or of any panel or of  
33 the California Board of Podiatric Medicine who review a proposed  
34 decision or other matter and vote by mail as provided in paragraph  
35 (2) shall return their votes by mail to the board within 30 days  
36 from receipt of the proposed decision or other matter.

37 (4) The board or the panel or the California Board of Podiatric  
38 Medicine shall afford the parties the opportunity to present oral  
39 argument before deciding a case after nonadoption of the  
40 administrative law judge's decision.

1 (5) A vote of a majority of the board or of a panel, or a majority  
2 of the California Board of Podiatric Medicine, are required to  
3 increase the penalty from that contained in the proposed  
4 administrative law judge's decision. No member of the board or  
5 panel or of the California Board of Podiatric Medicine may vote  
6 to increase the penalty except after reading the entire record and  
7 personally hearing any additional oral argument and evidence  
8 presented to the panel or board.

9 SEC. 14. Section 2486 of the Business and Professions Code  
10 is amended to read:

11 2486. The ~~division~~ *Medical board of California* shall issue,  
12 upon the recommendation of the board, a certificate to practice  
13 podiatric medicine if the applicant *has submitted directly to the*  
14 *board from the credentialing organizations verification that he or*  
15 *she* meets all of the following requirements:

16 (a) The applicant has graduated from an approved school or  
17 college of podiatric medicine and meets the requirements of Section  
18 2483.

19 (b) The applicant, within the past 10 years, has passed parts I,  
20 II, and III of the examination administered by the National Board  
21 of Podiatric Medical Examiners of the United States or has passed  
22 a written examination that is recognized by the board to be the  
23 equivalent in content to the examination administered by the  
24 National Board of Podiatric Medical Examiners of the United  
25 States.

26 (c) The applicant has satisfactorily completed the postgraduate  
27 training required by Section 2484.

28 (d) The applicant has passed within the past 10 years any oral  
29 and practical examination that may be required of all applicants  
30 by the board to ascertain clinical competence.

31 (e) The applicant has committed no acts or crimes constituting  
32 grounds for denial of a certificate under Division 1.5 (commencing  
33 with Section 475).

34 (f) The board determines that no disciplinary action has been  
35 taken against the applicant by any podiatric licensing authority  
36 and that the applicant has not been the subject of adverse judgments  
37 or settlements resulting from the practice of podiatric medicine  
38 that the board determines constitutes evidence of a pattern of  
39 negligence or incompetence.

1 (g) A disciplinary databank report regarding the applicant ~~has~~  
2 ~~been directly presented to the board~~ *is received by the board* from  
3 the Federation of Podiatric Medical Boards.

4 SEC. 15. Section 2488 of the Business and Professions Code  
5 is amended to read:

6 2488. Notwithstanding any other provision of law, the ~~division~~  
7 *board* shall issue, upon the recommendation of the board, a  
8 certificate to practice podiatric medicine by credentialing if the  
9 applicant *has submitted directly to the board from the credentialing*  
10 *organizations verification that he or she* is licensed as a doctor of  
11 podiatric medicine in any other state and meets all of the following  
12 requirements:

13 (a) The applicant has graduated from an approved school or  
14 college of podiatric medicine.

15 (b) The applicant, within the past 10 years, has passed either  
16 part III of the examination administered by the National Board of  
17 Podiatric Medical Examiners of the United States or a written  
18 examination that is recognized by the board to be the equivalent  
19 in content to the examination administered by the National Board  
20 of Podiatric Medical Examiners of the United States.

21 (c) The applicant has satisfactorily completed a postgraduate  
22 training program approved by the Council on Podiatric Medical  
23 Education.

24 (d) The applicant, within the past 10 years, has passed any oral  
25 and practical examination that may be required of all applicants  
26 by the board to ascertain clinical competence.

27 (e) The applicant has committed no acts or crimes constituting  
28 grounds for denial of a certificate under Division 1.5 (commencing  
29 with Section 475).

30 (f) The board determines that no disciplinary action has been  
31 taken against the applicant by any podiatric licensing authority  
32 and that the applicant has not been the subject of adverse judgments  
33 or settlements resulting from the practice of podiatric medicine  
34 that the board determines constitutes evidence of a pattern of  
35 negligence or incompetence.

36 (g) A disciplinary data bank report regarding the applicant ~~has~~  
37 ~~been submitted to the board directly~~ from the Federation of  
38 Podiatric Medical Boards.

39 SEC. 16. Section 2570.5 of the Business and Professions Code  
40 is amended to read:

1 2570.5. (a) A limited permit may be granted to any person  
2 who has completed the education and experience requirements of  
3 this chapter.

4 (b) A person who meets the qualifications to be admitted to the  
5 examination for licensure or certification under this chapter and  
6 is waiting to take the ~~first available~~ examination or awaiting the  
7 announcement of the results of the examination, according to the  
8 application requirements for a limited permit, may practice as an  
9 occupational therapist or as an occupational therapy assistant under  
10 the direction and appropriate supervision of an occupational  
11 therapist duly licensed under this chapter. If that person fails to  
12 ~~qualify for or pass the first announced~~ examination *during the*  
13 *initial eligibility period*, all privileges under this section shall  
14 automatically cease upon due notice to the applicant of that failure  
15 and may not be renewed.

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

18 SEC. 17. Section 2570.185 of the Business and Professions  
19 Code is amended and renumbered to read:

20 ~~2570.185.~~

21 *2570.18.5.* An occupational therapist shall document his or her  
22 evaluation, goals, treatment plan, and summary of treatment in the  
23 patient record. Patient records shall be maintained for a period of  
24 no less than seven years following the discharge of the patient,  
25 except that the records of unemancipated minors shall be  
26 maintained at least one year after the minor has reached the age  
27 of 18 years, and not in any case less than seven years.

28 SEC. 18. Section 2570.35 is added to the Business and  
29 Professions Code, to read:

30 2570.35. (a) An employer of an occupational therapy  
31 practitioner shall report to the board the suspension or termination  
32 for cause of any practitioner in its employ. Reporting pursuant to  
33 this section shall not act as a waiver of confidentiality of medical  
34 records and the information reported or disclosed pursuant to this  
35 section shall be kept confidential, except as provided in subdivision  
36 (c) of Section 800, and shall not be subject to discovery in a civil  
37 case.

38 (b) For purposes of this section, “suspension or termination for  
39 cause” means suspension or termination from employment for any  
40 of the following reasons:

1 (1) Use of controlled substances or alcohol to such an extent  
2 that it impaired the ability of the employee to safely practice  
3 occupational therapy.

4 (2) Unlawful sale of controlled substances or other prescription  
5 items.

6 (3) Patient neglect, physical harm to a patient, or sexual contact  
7 with a patient.

8 (4) Falsification of medical records.

9 (5) Gross incompetence or negligence.

10 (6) Theft from patients, other employees, or the employer.

11 (c) Failure of an employer to make a report required by this  
12 section is punishable by an administrative fine not to exceed five  
13 thousand dollars (\$5,000) per violation.

14 SEC. 19. Section 2570.36 is added to the Business and  
15 Professions Code, to read:

16 2570.36. If a licensee has knowledge that an applicant or  
17 licensee may be in violation of, or has violated, any of the statutes  
18 or regulations administered by the board, the licensee shall report  
19 this information to the board in writing and shall cooperate with  
20 the board in providing information or assistance as may be  
21 required.

22 SEC. 20. Section 2760.1 of the Business and Professions Code  
23 is amended to read:

24 2760.1. (a) A registered nurse whose license has been revoked;  
25 or suspended or who has been placed on probation may petition  
26 the board for reinstatement or modification of penalty, including  
27 reduction or termination of probation, after a period not less than  
28 the following minimum periods has elapsed from the effective  
29 date of the decision ordering that disciplinary action, or if the order  
30 of the board or any portion of it is stayed by the board itself or by  
31 the superior court, from the date the disciplinary action is actually  
32 implemented in its entirety, *or for a registered nurse whose initial*  
33 *license application is subject to a disciplinary decision, from the*  
34 *date the initial license was issued:*

35 (1) Except as otherwise provided in this section, at least three  
36 years for reinstatement of a license that was revoked, except that  
37 the board may, in its sole discretion, specify in its order a lesser  
38 period of time provided that the period shall be not less than one  
39 year.

1 (2) At least two years for early termination of a probation period  
2 of three years or more.

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

6 (b) The board shall give notice to the Attorney General of the  
7 filing of the petition. The petitioner and the Attorney General shall  
8 be given timely notice by letter of the time and place of the hearing  
9 on the petition, and an opportunity to present both oral and  
10 documentary evidence and argument to the board. The petitioner  
11 shall at all times have the burden of proof to establish by clear and  
12 convincing evidence that he or she is entitled to the relief sought  
13 in the petition.

14 (c) The hearing may be continued from time to time as the board  
15 deems appropriate.

16 (d) The board itself shall hear the petition and the administrative  
17 law judge shall prepare a written decision setting forth the reasons  
18 supporting the decision.

19 (e) The board may grant or deny the petition, or may impose  
20 any terms and conditions that it reasonably deems appropriate as  
21 a condition of reinstatement or reduction of penalty.

22 (f) The petitioner shall provide a current set of fingerprints  
23 accompanied by the necessary fingerprinting fee.

24 (g) No petition shall be considered while the petitioner is under  
25 sentence for any criminal offense, including any period during  
26 which the petitioner is on court-imposed probation or parole, or  
27 subject to an order of registration pursuant to Section 290 of the  
28 Penal Code. No petition shall be considered while there is an  
29 accusation or petition to revoke probation pending against the  
30 petitioner.

31 (h) Except in those cases where the petitioner has been  
32 ~~disciplined for violation of~~ *pursuant to* Section 822, the board may  
33 in its discretion deny without hearing or argument any petition  
34 that is filed pursuant to this section within a period of two years  
35 from the effective date of a prior decision following a hearing  
36 under this section.

37 SEC. 21. Section 3625 of the Business and Professions Code  
38 is amended to read:

39 3625. (a) The Director of Consumer Affairs shall establish an  
40 advisory council consisting of nine members. Members of the

1 advisory council shall include three members who are California  
2 licensed naturopathic doctors, or have met the requirements for  
3 licensure pursuant to this chapter, three members who are  
4 California licensed physicians and surgeons, and three public  
5 members.

6 (b) A member of the advisory council shall be appointed for a  
7 four-year term. A person shall not serve as a member of the council  
8 for more than two consecutive terms. A member shall hold office  
9 until the appointment and qualification of his or her successor, or  
10 until one year from the expiration of the term for which the member  
11 was appointed, whichever first occurs. Vacancies shall be filled  
12 by appointment for unexpired terms. The first terms of the members  
13 first appointed shall be as follows:

14 (1) The Governor shall appoint one physician and surgeon  
15 member, one naturopathic doctor member, and one public member,  
16 with term expirations of June 1, 2006; one physician and surgeon  
17 member with a term expiration date of June 1, 2007; and one  
18 naturopathic doctor member with a term expiration date of June  
19 1, 2008.

20 (2) The Senate ~~Committee on Rules~~ Committee shall appoint  
21 one physician and surgeon member with a term expiration of June  
22 1, 2008, and one public member with a term expiration of June 1,  
23 2007.

24 (3) The Speaker of the Assembly shall appoint one naturopathic  
25 doctor member with a term expiration of June 1, 2007, and one  
26 public member with a term expiration of June 1, 2008.

27 (c) (1) A public member of the advisory council shall be a  
28 citizen of this state for at least five years preceding his or her  
29 appointment.

30 (2) A person shall not be appointed as a public member if the  
31 person or the person's immediate family in any manner owns an  
32 interest in a college, school, or institution engaged in naturopathic  
33 education, or the person or the person's immediate family has an  
34 economic interest in naturopathy or has any other conflict of  
35 interest. "Immediate family" means the public member's spouse,  
36 parents, children, or his or her children's spouses.

37 (d) In order to operate in as cost-effective a manner as possible,  
38 the advisory council and any advisory committee created pursuant  
39 to this chapter shall meet as few times as necessary to perform its

1 duties, and its members shall receive no compensation, travel  
2 allowances, or reimbursement for their expenses.

3 SEC. 22. Section 3633.1 of the Business and Professions Code  
4 is amended to read:

5 3633.1. The bureau may grant a license to an applicant who  
6 meets the requirements of Section 3630, but who graduated prior  
7 to 1986, pre-NPLEX, and passed a state or Canadian Province  
8 naturopathic licensing examination. Applications under this section  
9 shall be received no later than December 31, ~~2007~~ 2010.

10 SEC. 23. Section 3635 of the Business and Professions Code  
11 is amended to read:

12 3635. (a) In addition to any other qualifications and  
13 requirements for licensure renewal, the bureau shall require the  
14 satisfactory completion of 60 hours of approved continuing  
15 education biennially. This requirement is waived for the initial  
16 license renewal. The continuing education shall meet the following  
17 requirements:

18 (1) At least 20 hours shall be in pharmacotherapeutics.

19 (2) No more than 15 hours may be in naturopathic medical  
20 journals or osteopathic or allopathic medical journals, or audio or  
21 videotaped presentations, slides, programmed instruction, or  
22 computer-assisted instruction or preceptorships.

23 (3) No more than 20 hours may be in any single topic.

24 (4) No more than 15 hours of the continuing education  
25 requirements for the specialty certificate in naturopathic childbirth  
26 attendance shall apply to the 60 hours of continuing education  
27 requirement.

28 (b) The continuing education requirements of this section may  
29 be met through continuing education courses approved by *the*  
30 *bureau*, the California Naturopathic Doctors Association, the  
31 American Association of Naturopathic Physicians, ~~the Medical~~  
32 ~~Board of California~~, the California State Board of Pharmacy, the  
33 State Board of Chiropractic Examiners, or other courses ~~approved~~  
34 ~~by the bureau~~ *that meet the standards for continuing education*  
35 *for licensed physicians and surgeons in California.*

36 SEC. 24. Section 3636 of the Business and Professions Code  
37 is amended to read:

38 3636. (a) Upon a written request, the bureau may grant inactive  
39 status to a naturopathic doctor who is in good standing and who  
40 meets the requirements of Section 462.

1 (b) A person whose license is in inactive status may not engage  
2 in any activity for which a license is required under this chapter.

3 (c) A person whose license is in inactive status shall be exempt  
4 from continuing education requirements while his or her license  
5 is in that status.

6 (d) To restore a license to active status, a person whose license  
7 is in inactive status must fulfill continuing education requirements  
8 for the two-year period prior to reactivation, and ~~pay a reactivation~~  
9 ~~fee established~~ *be current with all licensing fees as determined by*  
10 the bureau.

11 SEC. 25. Section 3685 of the Business and Professions Code  
12 is amended to read:

13 ~~3685. (a) The provisions of Article 8 (commencing with~~  
14 ~~Section 3680) shall become operative on January 1, 2004, but the~~  
15 ~~remaining provisions of this chapter shall become operative on~~  
16 ~~July 1, 2004. It is the intent of the Legislature that the initial~~  
17 ~~implementation of this chapter be administered by fees collected~~  
18 ~~in advance from applicants. Therefore, the bureau shall have the~~  
19 ~~power and authority to establish fees and receive applications for~~  
20 ~~licensure or intents to file application statements on and after~~  
21 ~~January 1, 2004. The department shall certify that sufficient funds~~  
22 ~~are available prior to implementing this chapter. Funds from the~~  
23 ~~General Fund may not be used for the purpose of implementing~~  
24 ~~this chapter.~~

25 ~~(b)~~  
26 3685. (a) This chapter shall become inoperative on July 1,  
27 2010, and, as of January 1, 2011, is repealed, unless a later enacted  
28 statute that is enacted before January 1, 2011, deletes or extends  
29 the dates on which it becomes inoperative and is repealed. The  
30 repeal of this chapter renders the bureau subject to the review  
31 required by Division 1.2 (commencing with Section 473).

32 ~~(e)~~  
33 (b) The bureau shall prepare the report required by Section 473.2  
34 no later than September 1, 2008.

35 SEC. 26. Section 3750.5 of the Business and Professions Code  
36 is amended to read:

37 3750.5. In addition to any other grounds specified in this  
38 chapter, the board may deny, suspend, or revoke the license of any  
39 applicant or licenseholder who has done any of the following:

1 ~~(a) Obtained or possessed in violation of law, or except as~~  
2 ~~directed by a licensed physician and surgeon, dentist, or podiatrist~~  
3 ~~administered to himself or herself, or furnished or administered to~~  
4 ~~another, any controlled substances as defined in Division 10~~  
5 ~~(commencing with Section 11000) of the Health and Safety Code,~~  
6 ~~or any dangerous drug as defined in Article 2 (commencing with~~  
7 ~~Section 4015) of Chapter 9.~~

8 *(a) Obtained, possessed, used, or administered to himself or*  
9 *herself, in violation of law, or furnished or administered to another,*  
10 *any controlled substances, as defined in Division 10 (commencing*  
11 *with Section 11000) of the Health and Safety Code, or any*  
12 *dangerous drug, as defined in Article 2 (commencing with Section*  
13 *4015) of Chapter 9, except as directed by a licensed physician and*  
14 *surgeon, dentist, podiatrist, or other authorized health care*  
15 *provider.*

16 (b) Used any controlled substance as defined in Division 10  
17 (commencing with Section 11000) of the Health and Safety Code,  
18 ~~or~~ any dangerous drug as defined in Article 2 (commencing with  
19 Section 4015) of Chapter 9, *or any alcoholic beverage, to an extent*  
20 *or in a manner dangerous or injurious to himself or herself,*  
21 *another person, or the public, or to the extent that the use impaired*  
22 *his or her ability to conduct with safety to the public the practice*  
23 *authorized by his or her license.*

24 (c) Applied for employment or worked in any health care  
25 profession or environment while under the influence of alcohol.

26 (d) Been convicted of a criminal offense involving the  
27 consumption or self-administration of any of the substances  
28 described in ~~subdivisions (a) and (b)~~ *subdivision (a)*, or the  
29 possession of, or falsification of a record pertaining to, the  
30 substances described in subdivision (a), in which event the record  
31 of the conviction is conclusive evidence thereof.

32 (e) Been committed or confined by a court of competent  
33 jurisdiction for intemperate use of or addiction to the use of any  
34 of the substances described in subdivisions (a), (b), and (c), in  
35 which event the court order of commitment or confinement is  
36 prima facie evidence of that commitment or confinement.

37 (f) Falsified, or made grossly incorrect, grossly inconsistent, or  
38 unintelligible entries in any hospital, patient, or other record  
39 pertaining to the substances described in subdivision (a).

1 SEC. 27. Section 3753.5 of the Business and Professions Code  
2 is amended to read:

3 3753.5. (a) In any order issued in resolution of a disciplinary  
4 proceeding before the board, the board or the administrative law  
5 judge may direct any practitioner or applicant found to have  
6 committed a violation or violations of law, *or any term and*  
7 *condition of board probation*, to pay to the board a sum not to  
8 exceed the costs of the investigation and prosecution of the case.  
9 A certified copy of the actual costs, or a good faith estimate of  
10 costs where actual costs are not available, signed by the official  
11 custodian of the record or his or her designated representative shall  
12 be prima facie evidence of the actual costs of the investigation and  
13 prosecution of the case.

14 (b) The costs shall be assessed by the administrative law judge  
15 and shall not be increased by the board; however, the costs may  
16 be imposed or increased by the board if it does not adopt the  
17 proposed decision of the case.

18 Where an order for recovery of costs is made and timely payment  
19 is not made as directed in the board’s decision the board may  
20 enforce the order for repayment in any appropriate court. This  
21 right of enforcement shall be in addition to any other rights the  
22 board may have as to any practitioner directed to pay costs.

23 (c) In any action for recovery of costs, proof of the board’s  
24 decision shall be conclusive proof of the validity of the order of  
25 payment and the terms for payment.

26 (d) (1) The board shall not renew or reinstate the license of any  
27 licensee who has failed to pay all of the costs ordered under this  
28 section.

29 (2) Notwithstanding paragraph (1), the board may, in its  
30 discretion, conditionally renew, for a maximum of one year, the  
31 license of any licensee who demonstrates financial hardship,  
32 through documentation satisfactory to the board, and who enters  
33 into a formal agreement with the board to reimburse the board  
34 within that one-year period for those unpaid costs.

35 SEC. 28. Section 3773 of the Business and Professions Code  
36 is amended to read:

37 3773. (a) At the time of application for renewal of a respiratory  
38 care practitioner license, the licensee shall notify the board of all  
39 of the following:

40 (a)

1 (1) Whether he or she has been convicted of any crime  
2 subsequent to the licensee's previous renewal.

3 ~~(b)~~

4 (2) The name and address of the licensee's current employer or  
5 employers.

6 *(b) The licensee shall cooperate in providing additional*  
7 *information as requested by the board. If a licensee fails to provide*  
8 *the requested information within 30 days, the license shall become*  
9 *inactive until the information is received.*

10 SEC. 29. Section 4022.5 of the Business and Professions Code  
11 is amended to read:

12 4022.5. (a) "Designated representative" means an individual  
13 to whom a license has been granted pursuant to Section 4053. *A*  
14 *pharmacist fulfilling the duties of Section 4053 shall not be*  
15 *required to obtain a license as a designated representative.*

16 (b) "Designated representative-in-charge" means a designated  
17 representative or a pharmacist ~~who is proposed by a wholesaler~~  
18 ~~or veterinary food-animal drug retailer and approved by the board~~  
19 ~~as the supervisor or manager of a wholesaler responsible for~~  
20 ~~ensuring the wholesaler's or veterinary food-animal drug-retailer~~  
21 ~~retailer's compliance with all state and federal laws and~~  
22 ~~regulations pertaining to practice in the applicable license~~  
23 ~~category.~~

24 (c) This section shall become operative on January 1, 2006.

25 SEC. 30. Section 4027 of the Business and Professions Code  
26 is amended to read:

27 4027. (a) As used in this chapter, the terms "skilled nursing  
28 facility," "intermediate care facility," and other references to health  
29 facilities shall be construed with respect to the definitions contained  
30 in Article 1 (commencing with Section 1250) of Chapter 2 of  
31 Division 2 of the Health and Safety Code.

32 (b) As used in ~~paragraph (4) of subdivision (a) of Section 4052~~  
33 ~~Section 4052.1~~, "licensed health care facility" means a facility  
34 licensed pursuant to Article 1 (commencing with Section 1250)  
35 of Chapter 2 of Division 2 of the Health and Safety Code or a  
36 facility, as defined in Section 1250 of the Health and Safety Code,  
37 operated by a health care service plan licensed pursuant to Chapter  
38 2.2 (commencing with Section 1340) of Division 2 of the Health  
39 and Safety Code.

1 (c) As used in ~~paragraph (5) of subdivision (a) of Section 4052~~  
 2 *Section 4052.2*, “health care facility” means a facility, other than  
 3 a facility licensed under Division 2 (commencing with Section  
 4 1200) of the Health and Safety Code, that is owned or operated  
 5 by a health care service plan licensed pursuant to Chapter 2.2  
 6 (commencing with Section 1340) of the Health and Safety Code,  
 7 or by an organization under common ownership or control of the  
 8 health care service plan; “licensed home health agency” means a  
 9 private or public organization licensed by the State Department of  
 10 Health Services pursuant to Chapter 8 (commencing with Section  
 11 1725) of Division 2 of the Health and Safety Code, as further  
 12 defined in Section 1727 of the Health and Safety Code; and  
 13 “licensed clinic” means a clinic licensed pursuant to Article 1  
 14 (commencing with Section 1200) of Chapter 1 of Division 2 of  
 15 the Health and Safety Code.

16 (d) “Licensed health care facility” or “facility,” as used in  
 17 Section 4065, means a health facility licensed pursuant to Article  
 18 1 (commencing with Section 1250) of Chapter 2 of Division 2 of  
 19 the Health and Safety Code or a facility that is owned or operated  
 20 by a health care service plan licensed pursuant to Chapter 2.2  
 21 (commencing with Section 1340) of Division 2 of the Health and  
 22 Safety Code or by an organization under common ownership or  
 23 control with the health care service plan.

24 SEC. 31. Section 4036.5 is added to the Business and  
 25 Professions Code, to read:

26 4036.5. “Pharmacist-in-charge” means a pharmacist proposed  
 27 by a pharmacy and approved by the board as the supervisor or  
 28 manager responsible for ensuring the pharmacy’s compliance with  
 29 all state and federal laws and regulations pertaining to the practice  
 30 of pharmacy.

31 SEC. 32. Section 4040 of the Business and Professions Code  
 32 is amended to read:

33 4040. (a) “Prescription” means an oral, written, or electronic  
 34 transmission order that is both of the following:

35 (1) Given individually for the person or persons for whom  
 36 ordered that includes all of the following:

- 37 (A) The name or names and address of the patient or patients.
- 38 (B) The name and quantity of the drug or device prescribed and  
 39 the directions for use.
- 40 (C) The date of issue.

1 (D) Either rubber stamped, typed, or printed by hand or typeset,  
2 the name, address, and telephone number of the prescriber, his or  
3 her license classification, and his or her federal registry number,  
4 if a controlled substance is prescribed.

5 (E) A legible, clear notice of the condition for which the drug  
6 is being prescribed, if requested by the patient or patients.

7 (F) If in writing, signed by the prescriber issuing the order, or  
8 the certified nurse-midwife, nurse practitioner, physician assistant,  
9 or naturopathic doctor who issues a drug order pursuant to Section  
10 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist  
11 who issues a drug order pursuant to either ~~subparagraph (D) of~~  
12 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~  
13 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2.*

14 (2) Issued by a physician, dentist, optometrist, podiatrist,  
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7 or,  
16 if a drug order is issued pursuant to Section 2746.51, 2836.1,  
17 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner,  
18 physician assistant, or naturopathic doctor licensed in this state,  
19 or pursuant to either ~~subparagraph (D) of paragraph (4) of, or~~  
20 ~~clause (iv) of subparagraph (A) of paragraph (5) of, subdivision~~  
21 ~~(a) of Section 4052~~ *Section 4052.1 or 4052.2* by a pharmacist  
22 licensed in this state.

23 (b) Notwithstanding subdivision (a), a written order of the  
24 prescriber for a dangerous drug, except for any Schedule II  
25 controlled substance, that contains at least the name and signature  
26 of the prescriber, the name and address of the patient in a manner  
27 consistent with ~~paragraph (3) (2) of subdivision (b) (a) of Section~~  
28 ~~11164 of the Health and Safety Code, the name and quantity of~~  
29 ~~the drug prescribed, directions for use, and the date of issue may~~  
30 ~~be treated as a prescription by the dispensing pharmacist as long~~  
31 ~~as any additional information required by subdivision (a) is readily~~  
32 ~~retrievable in the pharmacy. In the event of a conflict between this~~  
33 ~~subdivision and Section 11164 of the Health and Safety Code,~~  
34 ~~Section 11164 of the Health and Safety Code shall prevail.~~

35 (c) “Electronic transmission prescription” includes both image  
36 and data prescriptions. “Electronic image transmission  
37 prescription” means any prescription order for which a facsimile  
38 of the order is received by a pharmacy from a licensed prescriber.  
39 “Electronic data transmission prescription” means any prescription  
40 order, other than an electronic image transmission prescription,

1 that is electronically transmitted from a licensed prescriber to a  
2 pharmacy.

3 (d) The use of commonly used abbreviations shall not invalidate  
4 an otherwise valid prescription.

5 (e) Nothing in the amendments made to this section (formerly  
6 Section 4036) at the 1969 Regular Session of the Legislature shall  
7 be construed as expanding or limiting the right that a chiropractor,  
8 while acting within the scope of his or her license, may have to  
9 prescribe a device.

10 SEC. 33. Section 4051 of the Business and Professions Code  
11 is amended to read:

12 4051. (a) Except as otherwise provided in this chapter, it is  
13 unlawful for any person to manufacture, compound, furnish, sell,  
14 or dispense any dangerous drug or dangerous device, or to dispense  
15 or compound any prescription pursuant to Section 4040 of a  
16 prescriber unless he or she is a pharmacist under this chapter.

17 (b) Notwithstanding any other law, a pharmacist may authorize  
18 the initiation of a prescription, pursuant to Section ~~4052~~ 4052.1,  
19 4052.2, or 4052.3, and otherwise provide clinical advice or  
20 information or patient consultation if all of the following conditions  
21 are met:

22 (1) The clinical advice or information or patient consultation is  
23 provided to a health care professional or to a patient.

24 (2) The pharmacist has access to prescription, patient profile,  
25 or other relevant medical information for purposes of patient and  
26 clinical consultation and advice.

27 (3) Access to the information described in paragraph (2) is  
28 secure from unauthorized access and use.

29 SEC. 34. Section 4059.5 of the Business and Professions Code  
30 is amended to read:

31 4059.5. (a) Except as otherwise provided in this chapter,  
32 dangerous drugs or dangerous devices may only be ordered by an  
33 entity licensed by the board and shall be delivered to the licensed  
34 premises and signed for and received by a pharmacist. Where a  
35 licensee is permitted to operate through a designated representative,  
36 the designated representative ~~may~~ shall sign for and receive the  
37 delivery.

38 (b) A dangerous drug or dangerous device transferred, sold, or  
39 delivered to a person within this state shall be transferred, sold, or

1 delivered only to an entity licensed by the board, to a manufacturer,  
2 or to an ultimate user or the ultimate user's agent.

3 (c) Notwithstanding subdivisions (a) and (b), deliveries to a  
4 hospital pharmacy may be made to a central receiving location  
5 within the hospital. However, the dangerous drugs or dangerous  
6 devices shall be delivered to the licensed pharmacy premises within  
7 one working day following receipt by the hospital, and the  
8 pharmacist on duty at that time shall immediately inventory the  
9 dangerous drugs or dangerous devices.

10 (d) Notwithstanding any other provision of law, a dangerous  
11 drug or dangerous device may be ordered by and provided to a  
12 manufacturer, physician, dentist, podiatrist, optometrist,  
13 veterinarian, naturopathic doctor pursuant to Section 3640.7, or  
14 laboratory, or a physical therapist acting within the scope of his  
15 or her license. A person or entity receiving delivery of a dangerous  
16 drug or dangerous device, or a duly authorized representative of  
17 the person or entity, shall sign for the receipt of the dangerous drug  
18 or dangerous device.

19 (e) A dangerous drug or dangerous device shall not be  
20 transferred, sold, or delivered to a person outside this state, whether  
21 foreign or domestic, unless the transferor, seller, or deliverer does  
22 so in compliance with the laws of this state and of the United States  
23 and of the state or country to which the dangerous drugs or  
24 dangerous devices are to be transferred, sold, or delivered.  
25 Compliance with the laws of this state and the United States and  
26 of the state or country to which the dangerous drugs or dangerous  
27 devices are to be delivered shall include, but not be limited to,  
28 determining that the recipient of the dangerous drugs or dangerous  
29 devices is authorized by law to receive the dangerous drugs or  
30 dangerous devices.

31 (f) Notwithstanding subdivision (a), a pharmacy may take  
32 delivery of dangerous drugs and dangerous devices when the  
33 pharmacy is closed and no pharmacist is on duty if all of the  
34 following requirements are met:

35 (1) The drugs are placed in a secure storage facility in the same  
36 building as the pharmacy.

37 (2) Only the pharmacist-in-charge or a pharmacist designated  
38 by the pharmacist-in-charge has access to the secure storage facility  
39 after dangerous drugs or dangerous devices have been delivered.

1 (3) The secure storage facility has a means of indicating whether  
2 it has been entered after dangerous drugs or dangerous devices  
3 have been delivered.

4 (4) The pharmacy maintains written policies and procedures for  
5 the delivery of dangerous drugs and dangerous devices to a secure  
6 storage facility.

7 (5) The agent delivering dangerous drugs and dangerous devices  
8 pursuant to this subdivision leaves documents indicating the name  
9 and amount of each dangerous drug or dangerous device delivered  
10 in the secure storage facility.

11 The pharmacy shall be responsible for the dangerous drugs and  
12 dangerous devices delivered to the secure storage facility. The  
13 pharmacy shall also be responsible for obtaining and maintaining  
14 records relating to the delivery of dangerous drugs and dangerous  
15 devices to a secure storage facility.

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

17 SEC. 35. Section 4060 of the Business and Professions Code  
18 is amended to read:

19 4060. No person shall possess any controlled substance, except  
20 that furnished to a person upon the prescription of a physician,  
21 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
22 pursuant to Section 3640.7, or furnished pursuant to a drug order  
23 issued by a certified nurse-midwife pursuant to Section 2746.51,  
24 a nurse practitioner pursuant to Section 2836.1, a physician  
25 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant  
26 to Section 3640.5, or a pharmacist pursuant to either ~~subparagraph~~  
27 ~~(D) of paragraph (4) of, or clause (iv) of subparagraph (A) of~~  
28 ~~paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1*  
29 *or 4052.2*. This section shall not apply to the possession of any  
30 controlled substance by a manufacturer, wholesaler, pharmacy,  
31 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
32 naturopathic doctor, certified nurse-midwife, nurse practitioner,  
33 or physician assistant, when in stock in containers correctly labeled  
34 with the name and address of the supplier or producer.

35 Nothing in this section authorizes a certified nurse-midwife, a  
36 nurse practitioner, a physician assistant, or a naturopathic doctor,  
37 to order his or her own stock of dangerous drugs and devices.

38 SEC. 36. Section 4062 of the Business and Professions Code  
39 is amended to read:

1 4062. (a) Notwithstanding Section 4059 or any other provision  
2 of law, a pharmacist may, in good faith, furnish a dangerous drug  
3 or dangerous device in reasonable quantities without a prescription  
4 during a federal, state, or local emergency, to further the health  
5 and safety of the public. A record containing the date, name, and  
6 address of the person to whom the drug or device is furnished, and  
7 the name, strength, and quantity of the drug or device furnished  
8 shall be maintained. The pharmacist shall communicate this  
9 information to the patient’s attending physician as soon as possible.  
10 Notwithstanding Section 4060 or any other provision of law, a  
11 person may possess a dangerous drug or dangerous device  
12 furnished without prescription pursuant to this section.

13 (b) During a declared federal, state, or local emergency, the  
14 board may waive application of any provisions of this chapter or  
15 the regulations adopted pursuant to it if, in the board’s opinion,  
16 the waiver will aid in the protection of public health or the  
17 provision of patient care.

18 (c) *During a declared federal, state, or local emergency, the*  
19 *board shall allow for the employment of a mobile pharmacy in*  
20 *impacted areas in order to ensure the continuity of patient care,*  
21 *if all of the following conditions are met:*

22 (1) *The mobile pharmacy shares common ownership with at*  
23 *least one currently licensed pharmacy in good standing.*

24 (2) *The mobile pharmacy retains records of dispensing, as*  
25 *required by subdivision (a).*

26 (3) *A licensed pharmacist is on the premises and the mobile*  
27 *pharmacy is under the control and management of a pharmacist*  
28 *while the drugs are being dispensed.*

29 (4) *Reasonable security measures are taken to safeguard the*  
30 *drug supply maintained in the mobile pharmacy.*

31 (5) *The mobile pharmacy is located within the declared*  
32 *emergency area or affected areas.*

33 (6) *The mobile pharmacy ceases the provision of services within*  
34 *48 hours following the termination of the declared emergency.*

35 SEC. 37. Section 4076 of the Business and Professions Code  
36 is amended to read:

37 4076. (a) A pharmacist shall not dispense any prescription  
38 except in a container that meets the requirements of state and  
39 federal law and is correctly labeled with all of the following:

- 1 (1) Except where the prescriber or the certified nurse-midwife
- 2 who functions pursuant to a standardized procedure or protocol
- 3 described in Section 2746.51, the nurse practitioner who functions
- 4 pursuant to a standardized procedure described in Section 2836.1,
- 5 or protocol, the physician assistant who functions pursuant to
- 6 Section 3502.1, the naturopathic doctor who functions pursuant
- 7 to a standardized procedure or protocol described in Section
- 8 3640.5, or the pharmacist who functions pursuant to a policy,
- 9 procedure, or protocol pursuant to either ~~subparagraph (D) of~~
- 10 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~
- 11 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*
- 12 orders otherwise, either the manufacturer’s trade name of the drug
- 13 or the generic name and the name of the manufacturer. Commonly
- 14 used abbreviations may be used. Preparations containing two or
- 15 more active ingredients may be identified by the manufacturer’s
- 16 trade name or the commonly used name or the principal active
- 17 ingredients.
- 18 (2) The directions for the use of the drug.
- 19 (3) The name of the patient or patients.
- 20 (4) The name of the prescriber or, if applicable, the name of the
- 21 certified nurse-midwife who functions pursuant to a standardized
- 22 procedure or protocol described in Section 2746.51, the nurse
- 23 practitioner who functions pursuant to a standardized procedure
- 24 described in Section 2836.1, or protocol, the physician assistant
- 25 who functions pursuant to Section 3502.1, the naturopathic doctor
- 26 who functions pursuant to a standardized procedure or protocol
- 27 described in Section 3640.5, or the pharmacist who functions
- 28 pursuant to a policy, procedure, or protocol pursuant to either
- 29 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~
- 30 ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~
- 31 ~~4052~~ *Section 4052.1 or 4052.2*.
- 32 (5) The date of issue.
- 33 (6) The name and address of the pharmacy, and prescription
- 34 number or other means of identifying the prescription.
- 35 (7) The strength of the drug or drugs dispensed.
- 36 (8) The quantity of the drug or drugs dispensed.
- 37 (9) The expiration date of the effectiveness of the drug
- 38 dispensed.

1 (10) The condition for which the drug was prescribed if  
2 requested by the patient and the condition is indicated on the  
3 prescription.

4 (11) (A) Commencing January 1, 2006, the physical description  
5 of the dispensed medication, including its color, shape, and any  
6 identification code that appears on the tablets or capsules, except  
7 as follows:

8 (i) Prescriptions dispensed by a veterinarian.

9 (ii) An exemption from the requirements of this paragraph shall  
10 be granted to a new drug for the first 120 days that the drug is on  
11 the market and for the 90 days during which the national reference  
12 file has no description on file.

13 (iii) Dispensed medications for which no physical description  
14 exists in any commercially available database.

15 (B) This paragraph applies to outpatient pharmacies only.

16 (C) The information required by this paragraph may be printed  
17 on an auxiliary label that is affixed to the prescription container.

18 (D) This paragraph shall not become operative if the board,  
19 prior to January 1, 2006, adopts regulations that mandate the same  
20 labeling requirements set forth in this paragraph.

21 (b) If a pharmacist dispenses a prescribed drug by means of a  
22 unit dose medication system, as defined by administrative  
23 regulation, for a patient in a skilled nursing, intermediate care, or  
24 other health care facility, the requirements of this section will be  
25 satisfied if the unit dose medication system contains the  
26 aforementioned information or the information is otherwise readily  
27 available at the time of drug administration.

28 (c) If a pharmacist dispenses a dangerous drug or device in a  
29 facility licensed pursuant to Section 1250 of the Health and Safety  
30 Code, it is not necessary to include on individual unit dose  
31 containers for a specific patient, the name of the certified  
32 nurse-midwife who functions pursuant to a standardized procedure  
33 or protocol described in Section 2746.51, the nurse practitioner  
34 who functions pursuant to a standardized procedure described in  
35 Section 2836.1, or protocol, the physician assistant who functions  
36 pursuant to Section 3502.1, the naturopathic doctor who functions  
37 pursuant to a standardized procedure or protocol described in  
38 Section 3640.5, or the pharmacist who functions pursuant to a  
39 policy, procedure, or protocol pursuant to either ~~subparagraph (D)~~

1 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph  
2 (5) of, subdivision (a) of Section 4052 *Section 4052.1 or 4052.2.*

3 (d) If a pharmacist dispenses a prescription drug for use in a  
4 facility licensed pursuant to Section 1250 of the Health and Safety  
5 Code, it is not necessary to include the information required in  
6 paragraph (11) of subdivision (a) when the prescription drug is  
7 administered to a patient by a person licensed under the Medical  
8 Practice Act (Chapter 5 (commencing with Section 2000)), the  
9 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),  
10 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing  
11 with Section 2840)), who is acting within his or her scope of  
12 practice.

13 SEC. 38. Section 4081 of the Business and Professions Code  
14 is amended to read:

15 4081. (a) All records of manufacture and of sale, acquisition,  
16 or disposition of dangerous drugs or dangerous devices shall be  
17 at all times during business hours open to inspection by authorized  
18 officers of the law, and shall be preserved for at least three years  
19 from the date of making. A current inventory shall be kept by every  
20 manufacturer, wholesaler, pharmacy, veterinary food-animal drug  
21 retailer, physician, dentist, podiatrist, veterinarian, laboratory,  
22 clinic, hospital, institution, or establishment holding a currently  
23 valid and unrevoked certificate, license, permit, registration, or  
24 exemption under Division 2 (commencing with Section 1200) of  
25 the Health and Safety Code or under Part 4 (commencing with  
26 Section 16000) of Division 9 of the Welfare and Institutions Code  
27 who maintains a stock of dangerous drugs or dangerous devices.

28 (b) The owner, officer, and partner of a pharmacy, wholesaler,  
29 or veterinary food-animal drug retailer shall be jointly responsible,  
30 with the pharmacist-in-charge or *designated*  
31 representative-in-charge, for maintaining the records and inventory  
32 described in this section.

33 (c) The pharmacist-in-charge or *designated*  
34 representative-in-charge shall not be criminally responsible for  
35 acts of the owner, officer, partner, or employee that violate this  
36 section and of which the pharmacist-in-charge or *designated*  
37 representative-in-charge had no knowledge, or in which he or she  
38 did not knowingly participate.

39 (d) This section shall become operative on January 1, 2006.

1 SEC. 39. Section 4110 of the Business and Professions Code  
2 is amended to read:

3 4110. (a) No person shall conduct a pharmacy in the State of  
4 California unless he or she has obtained a license from the board.  
5 A license shall be required for each pharmacy owned or operated  
6 by a specific person. A separate license shall be required for each  
7 of the premises of any person operating a pharmacy in more than  
8 one location. The license shall be renewed annually. The board  
9 may, by regulation, determine the circumstances under which a  
10 license may be transferred.

11 (b) The board may, at its discretion, issue a temporary permit,  
12 when the ownership of a pharmacy is transferred from one person  
13 to another, upon the conditions and for any periods of time as the  
14 board determines to be in the public interest. A temporary permit  
15 fee shall be established by the board at an amount not to exceed  
16 the annual fee for renewal of a permit to conduct a pharmacy.  
17 When needed to protect public safety, a temporary permit may be  
18 issued for a period not to exceed 180 days, and may be issued  
19 subject to terms and conditions the board deems necessary. If the  
20 board determines a temporary permit was issued by mistake or  
21 denies the application for a permanent license or registration, the  
22 temporary license or registration shall terminate upon either  
23 personal service of the notice of termination upon the permitholder  
24 or service by certified mail, return receipt requested, at the  
25 permitholder's address of record with the board, whichever comes  
26 first. Neither for purposes of retaining a temporary permit nor for  
27 purposes of any disciplinary or license denial proceeding before  
28 the board shall the temporary permitholder be deemed to have a  
29 vested property right or interest in the permit.

30 (c) *The board may allow the temporary use of a mobile*  
31 *pharmacy when a pharmacy is destroyed or damaged, the mobile*  
32 *pharmacy is necessary to protect the health and safety of the public,*  
33 *and the following conditions are met:*

34 (1) *The mobile pharmacy shall provide services only on or*  
35 *immediately contiguous to the site of the damaged or destroyed*  
36 *pharmacy.*

37 (2) *The mobile pharmacy is under the control and management*  
38 *of the pharmacist-in-charge of the pharmacy that was destroyed*  
39 *or damaged.*

1 (3) A licensed pharmacist is on the premises while drugs are  
2 being dispensed.

3 (4) Reasonable security measures are taken to safeguard the  
4 drug supply maintained in the mobile pharmacy.

5 (5) The pharmacy operating the mobile pharmacy provides the  
6 board with records of the destruction or damage of the pharmacy  
7 and an expected restoration date.

8 (6) Within three calendar days of restoration of the pharmacy  
9 services, the board is provided with notice of the restoration of  
10 the permanent pharmacy.

11 (7) The mobile pharmacy is not operated for more than 48 hours  
12 following the restoration of the permanent pharmacy.

13 SEC. 40. Section 4111 of the Business and Professions Code  
14 is amended to read:

15 4111. (a) Except as otherwise provided in subdivision (b), (d),  
16 or (e), the board shall not issue or renew a license to conduct a  
17 pharmacy to any of the following:

18 (1) A person or persons authorized to prescribe or write a  
19 prescription, as specified in Section 4040, in the State of California.

20 (2) A person or persons with whom a person or persons specified  
21 in paragraph (1) shares a community or other financial interest in  
22 the permit sought.

23 (3) Any corporation that is controlled by, or in which 10 percent  
24 or more of the stock is owned by a person or persons prohibited  
25 from pharmacy ownership by paragraph (1) or (2).

26 (b) Subdivision (a) shall not preclude the issuance of a permit  
27 for an inpatient hospital pharmacy to the owner of the hospital in  
28 which it is located.

29 (c) The board may require any information the board deems is  
30 reasonably necessary for the enforcement of this section.

31 (d) Subdivision (a) shall not preclude the issuance of a new or  
32 renewal license for a pharmacy to be owned or owned and operated  
33 by a person licensed on or before August 1, 1981, under the  
34 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2  
35 commencing with Section 1340) of Division 2 of the Health and  
36 Safety Code) and qualified on or before August 1, 1981, under  
37 subsection (d) of Section 1310 of Title XIII of the federal Public  
38 Health Service Act, as amended, whose ownership includes persons  
39 defined pursuant to paragraphs (1) and (2) of subdivision (a).

1 (e) Subdivision (a) shall not preclude the issuance of a new or  
2 renewal license for a pharmacy to be owned or owned and operated  
3 by a pharmacist authorized to issue a drug order pursuant to  
4 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~  
5 ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~  
6 ~~4052 Section 4052.1 or 4052.2.~~

7 SEC. 41. Section 4126.5 of the Business and Professions Code  
8 is amended to read:

9 4126.5. (a) A pharmacy may furnish dangerous drugs only to  
10 the following:

11 (1) A wholesaler owned or under common control by the  
12 wholesaler from whom the dangerous drug was acquired.

13 (2) The pharmaceutical manufacturer from whom the dangerous  
14 drug was acquired.

15 (3) A licensed wholesaler acting as a reverse distributor.

16 (4) Another pharmacy or wholesaler to alleviate a temporary  
17 shortage of a dangerous drug that could result in the denial of  
18 health care. A pharmacy furnishing dangerous drugs pursuant to  
19 this paragraph may only furnish a quantity sufficient to alleviate  
20 the temporary shortage.

21 (5) A patient or to another pharmacy pursuant to a prescription  
22 or as otherwise authorized by law.

23 (6) A health care provider that is not a pharmacy but that is  
24 authorized to purchase dangerous drugs.

25 (7) To another pharmacy under common control.

26 (b) Notwithstanding any other provision of law, a violation of  
27 ~~this section by either a pharmacy whose primary or sole business~~  
28 ~~is filling prescriptions for patients of long-term care facilities or a~~  
29 ~~person engaged in a prohibited transaction with a pharmacy whose~~  
30 ~~primary or sole business is filling prescriptions for patients of~~  
31 ~~long-term care facilities~~ may subject the *person or* persons who  
32 committed the violation to a fine not to exceed the amount specified  
33 in Section 125.9 for each occurrence pursuant to a citation issued  
34 by the board.

35 (c) Amounts due from any person under this section on or after  
36 January 1, 2005, shall be offset as provided under Section 12419.5  
37 of the Government Code. Amounts received by the board under  
38 this section shall be deposited into the Pharmacy Board Contingent  
39 Fund.

1 (d) For purposes of this section, “common control” means the  
2 power to direct or cause the direction of the management and  
3 policies of another person whether by ownership, by voting rights,  
4 by contract, or by other means.

5 ~~(e) For purposes of subdivision (b) of this section and~~  
6 ~~subdivision (s) of Section 4301, “long-term care facility” shall~~  
7 ~~have the same meaning given the term in Section 1418 of the~~  
8 ~~Health and Safety Code.~~

9 SEC. 42. Section 4174 of the Business and Professions Code  
10 is amended to read:

11 4174. Notwithstanding any other provision of law, a pharmacist  
12 may dispense drugs or devices upon the drug order of a nurse  
13 practitioner functioning pursuant to Section 2836.1 or a certified  
14 nurse-midwife functioning pursuant to Section 2746.51, a drug  
15 order of a physician assistant functioning pursuant to Section  
16 3502.1 or a naturopathic doctor functioning pursuant to Section  
17 3640.5, or the order of a pharmacist acting under Section ~~4052~~  
18 ~~4052.1, 4052.2, or 4052.3.~~

19 SEC. 43. Section 4231 of the Business and Professions Code  
20 is amended to read:

21 4231. (a) The board shall not renew a pharmacist license unless  
22 the applicant submits proof satisfactory to the board that he or she  
23 has successfully completed 30 hours of approved courses of  
24 continuing pharmacy education during the two years preceding  
25 the application for renewal.

26 (b) Notwithstanding subdivision (a), the board shall not require  
27 completion of continuing education for the first renewal of a  
28 pharmacist license.

29 (c) If an applicant for renewal of a pharmacist license submits  
30 the renewal application and payment of the renewal fee but does  
31 not submit proof satisfactory to the board that the licensee has  
32 completed 30 hours of continuing pharmacy education, the board  
33 shall not renew the license and shall issue the applicant an inactive  
34 pharmacist license. A licensee with an inactive pharmacist license  
35 issued pursuant to this section may obtain an active pharmacist  
36 license by paying the renewal fees due and submitting satisfactory  
37 proof to the board that the licensee has completed 30 hours of  
38 continuing pharmacy education.

39 (d) *If, as part of an investigation or audit conducted by the*  
40 *board, a pharmacist fails to provide documentation substantiating*

1 *the completion of continuing education as required in subdivision*  
2 *(a), the board shall cancel the active pharmacist license and issue*  
3 *an inactive pharmacist license in its place. A licensee with an*  
4 *inactive pharmacist license issued pursuant to this section may*  
5 *obtain an active pharmacist license by paying the renewal fees*  
6 *due and submitting satisfactory proof to the board that the licensee*  
7 *has completed 30 hours of continuing pharmacy education.*

8 SEC. 44. Section 4301 of the Business and Professions Code  
9 is amended to read:

10 4301. The board shall take action against any holder of a license  
11 who is guilty of unprofessional conduct or whose license has been  
12 procured by fraud or misrepresentation or issued by mistake.  
13 Unprofessional conduct shall include, but is not limited to, any of  
14 the following:

15 (a) Gross immorality.

16 (b) Incompetence.

17 (c) Gross negligence.

18 (d) The clearly excessive furnishing of controlled substances  
19 in violation of subdivision (a) of Section 11153 of the Health and  
20 Safety Code.

21 (e) The clearly excessive furnishing of controlled substances in  
22 violation of subdivision (a) of Section 11153.5 of the Health and  
23 Safety Code. Factors to be considered in determining whether the  
24 furnishing of controlled substances is clearly excessive shall  
25 include, but not be limited to, the amount of controlled substances  
26 furnished, the previous ordering pattern of the customer (including  
27 size and frequency of orders), the type and size of the customer,  
28 and where and to whom the customer distributes its product.

29 (f) The commission of any act involving moral turpitude,  
30 dishonesty, fraud, deceit, or corruption, whether the act is  
31 committed in the course of relations as a licensee or otherwise,  
32 and whether the act is a felony or misdemeanor or not.

33 (g) Knowingly making or signing any certificate or other  
34 document that falsely represents the existence or nonexistence of  
35 a state of facts.

36 (h) The administering to oneself, of any controlled substance,  
37 or the use of any dangerous drug or of alcoholic beverages to the  
38 extent or in a manner as to be dangerous or injurious to oneself,  
39 to a person holding a license under this chapter, or to any other  
40 person or to the public, or to the extent that the use impairs the

1 ability of the person to conduct with safety to the public the practice  
2 authorized by the license.

3 (i) Except as otherwise authorized by law, knowingly selling,  
4 furnishing, giving away, or administering, or offering to sell,  
5 furnish, give away, or administer, any controlled substance to an  
6 addict.

7 (j) The violation of any of the statutes of this state, of any other  
8 state, or of the United States regulating controlled substances and  
9 dangerous drugs.

10 (k) The conviction of more than one misdemeanor or any felony  
11 involving the use, consumption, or self-administration of any  
12 dangerous drug or alcoholic beverage, or any combination of those  
13 substances.

14 (l) The conviction of a crime substantially related to the  
15 qualifications, functions, and duties of a licensee under this chapter.  
16 The record of conviction of a violation of Chapter 13 (commencing  
17 with Section 801) of Title 21 of the United States Code regulating  
18 controlled substances or of a violation of the statutes of this state  
19 regulating controlled substances or dangerous drugs shall be  
20 conclusive evidence of unprofessional conduct. In all other cases,  
21 the record of conviction shall be conclusive evidence only of the  
22 fact that the conviction occurred. The board may inquire into the  
23 circumstances surrounding the commission of the crime, in order  
24 to fix the degree of discipline or, in the case of a conviction not  
25 involving controlled substances or dangerous drugs, to determine  
26 if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter.  
28 A plea or verdict of guilty or a conviction following a plea of nolo  
29 contendere is deemed to be a conviction within the meaning of  
30 this provision. The board may take action when the time for appeal  
31 has elapsed, or the judgment of conviction has been affirmed on  
32 appeal or when an order granting probation is made suspending  
33 the imposition of sentence, irrespective of a subsequent order under  
34 Section 1203.4 of the Penal Code allowing the person to withdraw  
35 his or her plea of guilty and to enter a plea of not guilty, or setting  
36 aside the verdict of guilty, or dismissing the accusation,  
37 information, or indictment.

38 (m) The cash compromise of a charge of violation of Chapter  
39 13 (commencing with Section 801) of Title 21 of the United States  
40 Code regulating controlled substances or of Chapter 7

1 (commencing with Section 14000) of Part 3 of Division 9 of the  
2 Welfare and Institutions Code relating to the Medi-Cal program.  
3 The record of the compromise is conclusive evidence of  
4 unprofessional conduct.

5 (n) The revocation, suspension, or other discipline by another  
6 state of a license to practice pharmacy, operate a pharmacy, or do  
7 any other act for which a license is required by this chapter.

8 (o) Violating or attempting to violate, directly or indirectly, or  
9 assisting in or abetting the violation of or conspiring to violate any  
10 provision or term of this chapter or of the applicable federal and  
11 state laws and regulations governing pharmacy, including  
12 regulations established by the board or by any other state or federal  
13 regulatory agency.

14 (p) Actions or conduct that would have warranted denial of a  
15 license.

16 (q) Engaging in any conduct that subverts or attempts to subvert  
17 an investigation of the board.

18 (r) The selling, trading, transferring, or furnishing of drugs  
19 obtained pursuant to Section 256b of Title 42 of the United States  
20 Code to any person a licensee knows or reasonably should have  
21 known, not to be a patient of a covered entity, as defined in  
22 paragraph (4) of subsection (a) of Section 256b of Title 42 of the  
23 United States Code.

24 (s) The clearly excessive furnishing of dangerous drugs by a  
25 wholesaler to a pharmacy that primarily or solely dispenses  
26 prescription drugs to patients of long-term care facilities. Factors  
27 to be considered in determining whether the furnishing of  
28 dangerous drugs is clearly excessive shall include, but not be  
29 limited to, the amount of dangerous drugs furnished to a pharmacy  
30 that primarily or solely dispenses prescription drugs to patients of  
31 long-term care facilities, the previous ordering pattern of the  
32 pharmacy, and the general patient population to whom the  
33 pharmacy distributes the dangerous drugs. That a wholesaler has  
34 established, and employs, a tracking system that complies with  
35 the requirements of subdivision (b) of Section 4164 shall be  
36 considered in determining whether there has been a violation of  
37 this subdivision. This provision shall not be interpreted to require  
38 a wholesaler to obtain personal medical information or be  
39 authorized to permit a wholesaler to have access to personal  
40 medical information except as otherwise authorized by Section 56

1 and following of the Civil Code. *For purposes of this section,*  
2 *“long-term care facility” shall have the same meaning given the*  
3 *term in Section 1418 of the Health and Safety Code.*

4 (t) This section shall become operative on January 1, 2006.

5 SEC. 45. Section 4305 of the Business and Professions Code  
6 is amended to read:

7 4305. (a) ~~Any person who has obtained a license to conduct~~  
8 ~~a pharmacy, shall notify the board within 30 days of the termination~~  
9 ~~of employment of any pharmacist who takes charge of, or acts as~~  
10 ~~manager of the pharmacy. Failure to notify the board within the~~  
11 ~~30-day period Failure by any pharmacist to notify the board in~~  
12 ~~writing that he or she has ceased to act as pharmacist-in-charge~~  
13 ~~of a pharmacy, or by any pharmacy to notify the board in writing~~  
14 ~~that a pharmacist-in-charge is no longer acting in that capacity,~~  
15 ~~within the 30-day period specified in Sections 4101 and 4113 shall~~  
16 ~~constitute grounds for disciplinary action.~~

17 (b) *Operation of a pharmacy for more than 30 days without*  
18 *supervision or management by a pharmacist-in-charge shall*  
19 *constitute grounds for disciplinary action.*

20 ~~(b)~~

21 (c) Any person who has obtained a license to conduct a  
22 pharmacy, who willfully fails to *timely* notify the board ~~of the~~  
23 ~~termination of employment of any pharmacist who takes charge~~  
24 ~~of, or acts as manager that the pharmacist-in-charge of the~~  
25 ~~pharmacy has ceased to act in that capacity, and who continues~~  
26 ~~to permit the compounding or dispensing of prescriptions, or the~~  
27 ~~furnishing of drugs or poisons, in his or her pharmacy, except by~~  
28 ~~a pharmacist subject to the supervision and management of a~~  
29 ~~responsible pharmacist-in-charge, shall be subject to summary~~  
30 ~~suspension or revocation of his or her license to conduct a~~  
31 ~~pharmacy.~~

32 ~~(e) Any pharmacist who takes charge of, or acts as manager of~~  
33 ~~a pharmacy, who terminates his or her employment at the~~  
34 ~~pharmacy, shall notify the board within 30 days of termination of~~  
35 ~~employment. Failure to notify the board within the 30-day period~~  
36 ~~shall constitute grounds for disciplinary action.~~

37 SEC. 46. Section 4329 of the Business and Professions Code  
38 is amended to read:

39 4329. Any nonpharmacist who takes charge of or acts as  
40 *supervisor, manager, or pharmacist-in-charge* of any pharmacy,

1 or who compounds or dispenses a prescription or furnishes  
2 dangerous drugs except as otherwise provided in this chapter, is  
3 guilty of a misdemeanor.

4 SEC. 47. Section 4330 of the Business and Professions Code  
5 is amended to read:

6 4330. (a) Any person who has obtained a license to conduct  
7 a pharmacy, who fails to place in charge of the pharmacy a  
8 pharmacist, or any person, who by himself or herself, or by any  
9 other person, permits the compounding or dispensing of  
10 prescriptions, or the furnishing of dangerous drugs, in his or her  
11 pharmacy, except by a pharmacist, or as otherwise provided in this  
12 chapter, is guilty of a misdemeanor.

13 (b) Any ~~nonpharmacist~~ *pharmacy* owner who commits any act  
14 that would subvert or tend to subvert the efforts of the  
15 pharmacist-in-charge to comply with the laws governing the  
16 operation of the pharmacy is guilty of a misdemeanor.

17 SEC. 48. Section 4990.09 is added to the Business and  
18 Professions Code, to read:

19 4990.09. The board shall not publish on the Internet the final  
20 determination of a citation and fine of one thousand five hundred  
21 dollars (\$1,500) or less issued against a licensee or registrant  
22 pursuant to Section 125.9 for a period of time in excess of five  
23 years from the date of issuance of the citation.

24 SEC. 49. Section 8659 of the Government Code is amended  
25 to read:

26 8659. Any physician or surgeon (whether licensed in this state  
27 or any other state), hospital, pharmacist, *respiratory care*  
28 *practitioner*, nurse, or dentist who renders services during any  
29 state of war emergency, a state of emergency, or a local emergency  
30 at the express or implied request of any responsible state or local  
31 official or agency shall have no liability for any injury sustained  
32 by any person by reason of ~~such~~ *those* services, regardless of how  
33 or under what circumstances or by what cause ~~such~~ *those* injuries  
34 are sustained; provided, however, that the immunity herein granted  
35 shall not apply in the event of a willful act or omission.

36 SEC. 50. Section 11150 of the Health and Safety Code is  
37 amended to read:

38 11150. No person other than a physician, dentist, podiatrist,  
39 or veterinarian, or naturopathic doctor acting pursuant to Section  
40 3640.7 of the Business and Professions Code, or pharmacist acting

1 within the scope of a project authorized under Article 1  
2 (commencing with Section 128125) of Chapter 3 of Part 3 of  
3 Division 107 or within the scope of ~~either subparagraph (D) of~~  
4 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~  
5 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*  
6 of the Business and Professions Code, a registered nurse acting  
7 within the scope of a project authorized under Article 1  
8 (commencing with Section 128125) of Chapter 3 of Part 3 of  
9 Division 107, a certified nurse-midwife acting within the scope of  
10 Section 2746.51 of the Business and Professions Code, a nurse  
11 practitioner acting within the scope of Section 2836.1 of the  
12 Business and Professions Code, a physician assistant acting within  
13 the scope of a project authorized under Article 1 (commencing  
14 with Section 128125) of Chapter 3 of Part 3 of Division 107 or  
15 Section 3502.1 of the Business and Professions Code, a  
16 naturopathic doctor acting within the scope of Section 3640.5 of  
17 the Business and Professions Code, or an optometrist acting within  
18 the scope of Section 3041 of the Business and Professions Code,  
19 or an out-of-state prescriber acting pursuant to Section 4005 of the  
20 Business and Professions Code shall write or issue a prescription.

21 SEC. 51. Section 11165 of the Health and Safety Code is  
22 amended to read:

23 11165. (a) To assist law enforcement and regulatory agencies  
24 in their efforts to control the diversion and resultant abuse of  
25 Schedule II, Schedule III, and Schedule IV controlled substances,  
26 and for statistical analysis, education, and research, the Department  
27 of Justice shall, contingent upon the availability of adequate funds  
28 from the Contingent Fund of the Medical Board of California, the  
29 Pharmacy Board Contingent Fund, the State Dentistry Fund, the  
30 Board of Registered Nursing Fund, and the Osteopathic Medical  
31 Board of California Contingent Fund, maintain the Controlled  
32 Substance Utilization Review and Evaluation System (CURES)  
33 for the electronic monitoring of the prescribing and dispensing of  
34 Schedule II, Schedule III, and Schedule IV controlled substances  
35 by all practitioners authorized to prescribe or dispense these  
36 controlled substances.

37 (b) The reporting of Schedule III and Schedule IV controlled  
38 substance prescriptions to CURES shall be contingent upon the  
39 availability of adequate funds from the Department of Justice. The  
40 Department of Justice may seek and use grant funds to pay the

1 costs incurred from the reporting of controlled substance  
2 prescriptions to CURES. Funds shall not be appropriated from the  
3 Contingent Fund of the Medical Board of California, the Pharmacy  
4 Board Contingent Fund, the State Dentistry Fund, the Board of  
5 Registered Nursing Fund, the Naturopathic Doctor’s Fund, or the  
6 Osteopathic Medical Board of California Contingent Fund to pay  
7 the costs of reporting Schedule III and Schedule IV controlled  
8 substance prescriptions to CURES.

9 (c) CURES shall operate under existing provisions of law to  
10 safeguard the privacy and confidentiality of patients. Data obtained  
11 from CURES shall only be provided to appropriate state, local,  
12 and federal persons or public agencies for disciplinary, civil, or  
13 criminal purposes and to other agencies or entities, as determined  
14 by the Department of Justice, for the purpose of educating  
15 practitioners and others in lieu of disciplinary, civil, or criminal  
16 actions. Data may be provided to public or private entities, as  
17 approved by the Department of Justice, for educational, peer  
18 review, statistical, or research purposes, provided that patient  
19 information, including any information that may identify the  
20 patient, is not compromised. Further, data disclosed to any  
21 individual or agency as described in this subdivision shall not be  
22 disclosed, sold, or transferred to any third party.

23 (d) For each prescription for a Schedule II, Schedule III, or  
24 Schedule IV controlled substance, the dispensing pharmacy *or*  
25 *clinic* shall provide the following information to the Department  
26 of Justice on a weekly basis and in a format specified by the  
27 Department of Justice:

28 (1) Full name, address, and the telephone number of the ultimate  
29 user or research subject, or contact information as determined by  
30 the Secretary of the United States Department of Health and Human  
31 Services, and the gender, and date of birth of the ultimate user.

32 (2) The prescriber’s category of licensure and license number;  
33 federal controlled substance registration number; and the state  
34 medical license number of any prescriber using the federal  
35 controlled substance registration number of a government-exempt  
36 facility.

37 (3) Pharmacy prescription number, license number, and federal  
38 controlled substance registration number.

39 (4) NDC (National Drug Code) number of the controlled  
40 substance dispensed.

- 1 (5) Quantity of the controlled substance dispensed.
- 2 (6) ICD-9 (diagnosis code), if available.
- 3 (7) Number of refills ordered.
- 4 (8) Whether the drug was dispensed as a refill of a prescription
- 5 or as a first-time request.
- 6 (9) Date of origin of the prescription.
- 7 (10) Date of dispensing of the prescription.

8 (e) This section shall become operative on January 1, 2005.

9 SEC. 52. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.