

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 16, 2009

SENATE BILL

No. 821

Introduced by Committee on Business, Professions and Economic Development (Senators Negrete McLeod (Chair), Aanestad, Corbett, Correa, Florez, Oropeza, Romero, Walters, Wyland, and Yee)

March 10, 2009

An act to amend Sections 805, 2530.2, 2532.2, 2532.7, 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, 2570.7, 2570.9, 2570.10, 2570.13, 2570.16, 2570.18, 2570.20, 2570.26, 2570.28, 2571, 2872.2, 3357, 3362, 3366, 3456, 3740, 3750.5, 3773, 4101, 4112, 4113, 4160, 4196, 4510.1, 4933, 4980.45, 4980.48, 4982, 4982.2, 4989.22, 4989.54, 4992.1, 4992.3, 4996.23, 4996.28, 4996.5, and 4999.2 of, to add Sections 2532.25, 2570.17, 4013, 4146, 4989.49, 4992.2, and 4996.24 to, and to repeal Sections 821.5 and 821.6 of, the Business and Professions Code, to amend Section 123105 of the Health and Safety Code, and to amend Section 3 of Chapter 294 of the Statutes of 2004, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 821, as amended, Committee on Business, Professions and Economic Development. Healing arts: licensees.

(1) Existing law provides for the professional review of specified healing arts licentiates through a peer review process, and requires the peer review body to report to the relevant agency upon certain

circumstances, including circumstances related to an obsolete diversion program.

This bill would include within the definition of “licentiate” a holder of a special faculty permit to practice medicine within a medical school. The bill would also delete the peer review provisions related to the obsolete diversion program.

(2) Existing law provides for the licensure and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board. Existing law provides that an audiology aide is any person who meets the minimum requirements of the board and who works directly under the supervision of an audiologist.

This bill would prohibit an audiology aide from performing any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist, except if the board exempts certain functions performed by an industrial audiology aide and if the employer establishes a set of procedures or protocols.

Existing law requires an applicant for licensure as an audiologist to meet specified educational and curriculum standards, including possession of at least a master’s degree in audiology.

This bill would revise the educational and curriculum standards for licensure as an audiologist, as specified, and instead require possession of a doctorate in audiology. The bill would apply those requirements to applicants who graduate from an approved educational institution on or after January 1, 2008. The bill would make conforming changes to provisions related to the issuance of a required professional experience (RPE) temporary license, as specified.

(3) The Occupational Therapy Practice Act provides for the licensure and regulation of occupational therapists and occupational therapist assistants. Existing law prohibits an occupational therapy assistant from supervising an aide engaged in client-related tasks. Existing law also provides for minimizing the risk of transmission of blood-borne infectious diseases.

This bill would authorize occupational therapy assistants to supervise aides engaged in client-related tasks, and make conforming changes. The bill would delete obsolete certification terms and replace them with licensure references. The bill would provide for minimizing the risk of transmission of infectious diseases.

Under the Occupational Therapy Practice Act, occupational therapists and occupational therapy assistants are subject to licensure and regulation by the California Board of Occupational Therapy and

specified licensure fees, which are deposited into the Occupational Therapy Fund.

This bill would require the board to issue retired licenses to certain occupational therapists or occupational therapy assistants, as specified, subject to a \$25 fee.

Existing law regulates telephone medical advice services, and requires all staff who provide medical advice services to be appropriately licensed, certified, or registered professionals, as specified.

This bill would add occupational therapists to the enumerated professionals authorized to provide telephone medical advice.

Existing law imposes specified recordkeeping and disclosure requirements on health care providers, as defined.

This bill would impose those requirements on occupational therapists.

(4) Existing law provides for the licensure and regulation of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California. Existing law provides, upon application, for the issuance of an interim permit authorizing an applicant to practice vocational nursing or, in the case of a psychiatric technician, all skills in his or her basic course of study, pending the results of a licensing examination.

This bill would require the application for an interim permit to be submitted no later than 4 months after completion of a board-accredited program, and would limit the use of the permit to 9 months, as specified.

(5) Existing law provides for the licensure and regulation of hearing aid dispensers by the Hearing Aid Dispensers Bureau, and a person who violates that law is guilty of a misdemeanor. Existing law provides for the issuance of a temporary license to an applicant who has made application for licensure and who proves that he or she will be supervised and trained by a hearing aid dispenser, pending approval by the board. A temporary license is effective and valid for 6 months, and may be renewed twice for an additional period of 6 months.

This bill would allow for the issuance of a new temporary license if more than 3 years have lapsed from the expiration or cancellation date of a previous temporary license.

Existing law requires a person engaging in the practice of fitting or selling hearing aids to notify the bureau in writing of his or her business address or addresses or changes in that address or addresses. Existing law requires a licensee to keep and maintain his or her business records for a 7-year period.

This bill would require the written notification to be given to the bureau within a 30-day period. The bill would also require a licensee to allow his or her business records, as specified, to be inspected by the bureau upon reasonable notice. Because a violation of those provisions would be a crime, the bill would impose a state-mandated local program.

Existing law allows the bureau to impose upon licensees specified licensure fees and penalties, including a fee for a continuing education course transcript and for a license confirmation letter.

This bill would delete those transcript and letter fee provisions.

(6) The Respiratory Care Practice Act provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. The act authorizes the board to deny, suspend, or revoke the license of any applicant or licensee who has committed a specified violation, including obtaining or possessing in violation of law or, except as directed by a licensed physician and surgeon, dentist, or podiatrist, furnishing or administering to himself or herself or another a controlled substance, as defined.

This bill would clarify that the licensee is prohibited from obtaining, possessing, using, or administering to himself or herself in violation of law, or furnishing or administering to another, any controlled substance, as defined, except as directed by a licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider. The bill would also subject to disciplinary action a licensee who uses alcoholic beverages to an extent that is injurious to self or others or if it impairs his or her ability to conduct with safety the practice of respiratory care. For a violation thereof, the bill would specify that the board is authorized to place the license of an applicant or licensee on probation. The bill would also require a renewing applicant for licensure to provide additional information requested by the board and, if the applicant fails to provide that information within 30 days of the request, his or her license would be made inactive until the information is received.

(7) The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacy establishments by the California State Board of Pharmacy, and makes a knowing violation of the law a misdemeanor.

On and after July 1, 2010, this bill would require any facility licensed by the board to join the board's e-mail notification list and make specified e-mail address updates. The bill would also require nonresident pharmacies to obtain licensure from the board, and would make certain changes with regard to pharmacists-in-charge of a pharmacy, representatives-in-charge of the wholesale of any dangerous drug or

device, and representatives-in-charge of veterinary food-animal drug retailers, and respective notification requirements. The bill would also allow a pharmacy to accept the return of needles and syringes from the public if contained in a sharps container, as defined. Because a knowing violation of those provisions would be a crime, the bill would impose a state-mandated local program.

(8) Existing law provides for the licensure and regulation of acupuncturists by the Acupuncture Board. Existing law provides that 5 members of the board shall constitute a quorum.

This bill would provide that 4 members, including at least one acupuncturist, shall constitute a quorum.

(9) Existing law provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor.

This bill would delete references to the employment of unlicensed interns and instead refer to marriage and family therapy interns or associate clinical social workers, and would apply specified disciplinary and probationary provisions to registered marriage and family therapy interns and associate clinical social workers. The bill would require any person that advertises services performed by a trainee, as defined, to include the trainee's name and supervisor information. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would additionally modify the disciplinary provisions that apply to marriage and family therapists, as specified, and the licensure provisions that apply to an applicant pending investigation of a complaint.

(10) Existing law provides for the regulation of educational psychologists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor. Existing law sets forth certain prohibited acts that subject a licensee to disciplinary action.

This bill would add to those prohibited acts provisions related to drug use, telemedicine consent, subversion of an examination, and fraudulent advertising. The bill would define the term "advertising" for purposes of those provisions.

(11) Existing law provides for the regulation of clinical social workers by the Board of Behavioral Sciences. Existing law sets forth certain prohibited acts that subject a licensee to disciplinary action.

This bill would add to those prohibited acts provisions related to the subversion of an examination and advertising. The bill would define the term "advertising" for purposes of those provisions. The bill would

additionally modify the licensure provisions that apply to an applicant pending investigation of a complaint. The bill would modify provisions related to the supervision and employment of clinical social workers or associate clinical social workers.

(12) Existing law appropriates specified sums from the State Dental Auxiliary Fund to the Committee on Dental Auxiliaries for operating expenses necessary to manage the dental hygiene licensing examination. Existing law requires the Dental Hygiene Committee of California to administer the dental hygiene licensing examination. Existing law also provides that on and after July 1, 2009, specified moneys are to be transferred from the State Dental Auxiliary Fund to the State Dental Hygiene Fund for purposes of carrying out certain provisions of the Dental Practice Act, including the payment of any encumbrances, related to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

This bill would specify that the moneys for operating the dental hygiene licensing examination are to be transferred to the Dental Hygiene Committee of California from the State Dental Hygiene Fund.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 805 of the Business and Professions Code
- 2 is amended to read:
- 3 805. (a) As used in this section, the following terms have the
- 4 following definitions:
- 5 (1) "Peer review body" includes:
- 6 (A) A medical or professional staff of any health care facility
- 7 or clinic licensed under Division 2 (commencing with Section
- 8 1200) of the Health and Safety Code or of a facility certified to
- 9 participate in the federal Medicare Program as an ambulatory
- 10 surgical center.
- 11 (B) A health care service plan registered under Chapter 2.2
- 12 (commencing with Section 1340) of Division 2 of the Health and

1 Safety Code or a disability insurer that contracts with licentiates
2 to provide services at alternative rates of payment pursuant to
3 Section 10133 of the Insurance Code.

4 (C) Any medical, psychological, marriage and family therapy,
5 social work, dental, or podiatric professional society having as
6 members at least 25 percent of the eligible licentiates in the area
7 in which it functions (which must include at least one county),
8 which is not organized for profit and which has been determined
9 to be exempt from taxes pursuant to Section 23701 of the Revenue
10 and Taxation Code.

11 (D) A committee organized by any entity consisting of or
12 employing more than 25 licentiates of the same class that functions
13 for the purpose of reviewing the quality of professional care
14 provided by members or employees of that entity.

15 (2) "Licentiate" means a physician and surgeon, doctor of
16 podiatric medicine, clinical psychologist, marriage and family
17 therapist, clinical social worker, or dentist. "Licentiate" also
18 includes a person authorized to practice medicine pursuant to
19 Section 2113 or 2168.

20 (3) "Agency" means the relevant state licensing agency having
21 regulatory jurisdiction over the licentiates listed in paragraph (2).

22 (4) "Staff privileges" means any arrangement under which a
23 licentiate is allowed to practice in or provide care for patients in
24 a health facility. Those arrangements shall include, but are not
25 limited to, full staff privileges, active staff privileges, limited staff
26 privileges, auxiliary staff privileges, provisional staff privileges,
27 temporary staff privileges, courtesy staff privileges, locum tenens
28 arrangements, and contractual arrangements to provide professional
29 services, including, but not limited to, arrangements to provide
30 outpatient services.

31 (5) "Denial or termination of staff privileges, membership, or
32 employment" includes failure or refusal to renew a contract or to
33 renew, extend, or reestablish any staff privileges, if the action is
34 based on medical disciplinary cause or reason.

35 (6) "Medical disciplinary cause or reason" means that aspect
36 of a licentiate's competence or professional conduct that is
37 reasonably likely to be detrimental to patient safety or to the
38 delivery of patient care.

39 (7) "805 report" means the written report required under
40 subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date of any of the following that occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following occur after notice of either an impending investigation or the denial or rejection of the application for a medical disciplinary cause or reason:

(1) Resignation or leave of absence from membership, staff, or employment.

(2) The withdrawal or abandonment of a licentiate's application for staff privileges or membership.

(3) The request for renewal of those privileges or membership is withdrawn or abandoned.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other

1 information pursuant to Section 800, shall be sent by the peer
2 review body to the licentiate named in the report.

3 The information to be reported in an 805 report shall include the
4 name and license number of the licentiate involved, a description
5 of the facts and circumstances of the medical disciplinary cause
6 or reason, and any other relevant information deemed appropriate
7 by the reporter.

8 A supplemental report shall also be made within 30 days
9 following the date the licentiate is deemed to have satisfied any
10 terms, conditions, or sanctions imposed as disciplinary action by
11 the reporting peer review body. In performing its dissemination
12 functions required by Section 805.5, the agency shall include a
13 copy of a supplemental report, if any, whenever it furnishes a copy
14 of the original 805 report.

15 If another peer review body is required to file an 805 report, a
16 health care service plan is not required to file a separate report
17 with respect to action attributable to the same medical disciplinary
18 cause or reason. If the Medical Board of California or a licensing
19 agency of another state revokes or suspends, without a stay, the
20 license of a physician and surgeon, a peer review body is not
21 required to file an 805 report when it takes an action as a result of
22 the revocation or suspension.

23 (g) The reporting required by this section shall not act as a
24 waiver of confidentiality of medical records and committee reports.
25 The information reported or disclosed shall be kept confidential
26 except as provided in subdivision (c) of Section 800 and Sections
27 803.1 and 2027, provided that a copy of the report containing the
28 information required by this section may be disclosed as required
29 by Section 805.5 with respect to reports received on or after
30 January 1, 1976.

31 (h) The Medical Board of California, the Osteopathic Medical
32 Board of California, and the Dental Board of California shall
33 disclose reports as required by Section 805.5.

34 (i) An 805 report shall be maintained by an agency for
35 dissemination purposes for a period of three years after receipt.

36 (j) No person shall incur any civil or criminal liability as the
37 result of making any report required by this section.

38 (k) A willful failure to file an 805 report by any person who is
39 designated or otherwise required by law to file an 805 report is
40 punishable by a fine not to exceed one hundred thousand dollars

1 (\$100,000) per violation. The fine may be imposed in any civil or
2 administrative action or proceeding brought by or on behalf of any
3 agency having regulatory jurisdiction over the person regarding
4 whom the report was or should have been filed. If the person who
5 is designated or otherwise required to file an 805 report is a
6 licensed physician and surgeon, the action or proceeding shall be
7 brought by the Medical Board of California. The fine shall be paid
8 to that agency but not expended until appropriated by the
9 Legislature. A violation of this subdivision may constitute
10 unprofessional conduct by the licensee. A person who is alleged
11 to have violated this subdivision may assert any defense available
12 at law. As used in this subdivision, “willful” means a voluntary
13 and intentional violation of a known legal duty.

14 (l) Except as otherwise provided in subdivision (k), any failure
15 by the administrator of any peer review body, the chief executive
16 officer or administrator of any health care facility, or any person
17 who is designated or otherwise required by law to file an 805
18 report, shall be punishable by a fine that under no circumstances
19 shall exceed fifty thousand dollars (\$50,000) per violation. The
20 fine may be imposed in any civil or administrative action or
21 proceeding brought by or on behalf of any agency having
22 regulatory jurisdiction over the person regarding whom the report
23 was or should have been filed. If the person who is designated or
24 otherwise required to file an 805 report is a licensed physician and
25 surgeon, the action or proceeding shall be brought by the Medical
26 Board of California. The fine shall be paid to that agency but not
27 expended until appropriated by the Legislature. The amount of the
28 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
29 violation, shall be proportional to the severity of the failure to
30 report and shall differ based upon written findings, including
31 whether the failure to file caused harm to a patient or created a
32 risk to patient safety; whether the administrator of any peer review
33 body, the chief executive officer or administrator of any health
34 care facility, or any person who is designated or otherwise required
35 by law to file an 805 report exercised due diligence despite the
36 failure to file or whether they knew or should have known that an
37 805 report would not be filed; and whether there has been a prior
38 failure to file an 805 report. The amount of the fine imposed may
39 also differ based on whether a health care facility is a small or

1 rural hospital as defined in Section 124840 of the Health and Safety
2 Code.

3 (m) A health care service plan registered under Chapter 2.2
4 (commencing with Section 1340) of Division 2 of the Health and
5 Safety Code or a disability insurer that negotiates and enters into
6 a contract with licentiates to provide services at alternative rates
7 of payment pursuant to Section 10133 of the Insurance Code, when
8 determining participation with the plan or insurer, shall evaluate,
9 on a case-by-case basis, licentiates who are the subject of an 805
10 report, and not automatically exclude or deselect these licentiates.

11 SEC. 2. Section 821.5 of the Business and Professions Code
12 is repealed.

13 SEC. 3. Section 821.6 of the Business and Professions Code
14 is repealed.

15 SEC. 4. Section 2530.2 of the Business and Professions Code
16 is amended to read:

17 2530.2. As used in this chapter, unless the context otherwise
18 requires:

19 (a) “Board” means the Speech-Language Pathology and
20 Audiology Board or any successor.

21 (b) “Person” means any individual, partnership, corporation,
22 limited liability company, or other organization or combination
23 thereof, except that only individuals can be licensed under this
24 chapter.

25 (c) A “speech-language pathologist” is a person who practices
26 speech-language pathology.

27 (d) The practice of speech-language pathology means all of the
28 following:

29 (1) The application of principles, methods, instrumental
30 procedures, and noninstrumental procedures for measurement,
31 testing, screening, evaluation, identification, prediction, and
32 counseling related to the development and disorders of speech,
33 voice, language, or swallowing.

34 (2) The application of principles and methods for preventing,
35 planning, directing, conducting, and supervising programs for
36 habilitating, rehabilitating, ameliorating, managing, or modifying
37 disorders of speech, voice, language, or swallowing in individuals
38 or groups of individuals.

39 (3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be

1 responsible for the extent, kind, and quality of the services provided
2 by the speech-language pathology assistant.

3 (2) The supervising speech-language pathologist employed or
4 contracted for by a public school may hold a valid and current
5 license issued by the board, a valid, current, and professional clear
6 clinical or rehabilitative services credential in language, speech,
7 and hearing issued by the Commission on Teacher Credentialing,
8 or other credential authorizing service in language, speech, and
9 hearing issued by the Commission on Teacher Credentialing that
10 is not issued on the basis of an emergency permit or waiver of
11 requirements. For purposes of this paragraph, a “clear” credential
12 is a credential that is not issued pursuant to a waiver or emergency
13 permit and is as otherwise defined by the Commission on Teacher
14 Credentialing. Nothing in this section referring to credentialed
15 supervising speech-language pathologists expands existing
16 exemptions from licensing pursuant to Section 2530.5.

17 (j) An “audiologist” is one who practices audiology.

18 (k) “The practice of audiology” means the application of
19 principles, methods, and procedures of measurement, testing,
20 appraisal, prediction, consultation, counseling, instruction related
21 to auditory, vestibular, and related functions and the modification
22 of communicative disorders involving speech, language, auditory
23 behavior or other aberrant behavior resulting from auditory
24 dysfunction; and the planning, directing, conducting, supervising,
25 or participating in programs of identification of auditory disorders,
26 hearing conservation, cerumen removal, aural habilitation, and
27 rehabilitation, including, hearing aid recommendation and
28 evaluation procedures including, but not limited to, specifying
29 amplification requirements and evaluation of the results thereof,
30 auditory training, and speech reading.

31 (l) “Audiology aide” means any person, meeting the minimum
32 requirements established by the board. An audiology aide may not
33 perform any function that constitutes the practice of audiology
34 unless he or she is under the supervision of an audiologist. The
35 board may by regulation exempt certain functions performed by
36 an industrial audiology aide from supervision provided that his or
37 her employer has established a set of procedures or protocols that
38 the aide shall follow in performing those functions.

39 (m) “Medical board” means the Medical Board of California.

(n) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 5. Section 2532.2 of the Business and Professions Code is amended to read:

2532.2. Except as required by Section 2532.25, to be eligible for licensure by the board as a speech-language pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master’s degree in speech-language pathology or audiology from an educational institution approved by the board or qualifications deemed equivalent by the board.

(b) Submit transcripts from an educational institution approved by the board evidencing the successful completion of at least 60 semester units of courses related to the normal development, function, and use of speech, hearing, and language; and courses

that provide information about, and training in, the management of speech, hearing, and language disorders. At least 24 of the required 60 semester units shall be related to disorders of speech, voice, or language for speech-language pathology applicants or to disorders of hearing and the modification of communication disorders involving speech and language resulting from hearing disorders for audiology applicants. These 60 units do not include credit for thesis, dissertation, or clinical practice.

(c) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and communication disorders. The board shall establish by regulation the required number of clock hours, not to exceed 300 clock hours, of supervised clinical practice necessary for the applicant.

The clinical practice shall be under the direction of an educational institution approved by the board.

(d) Submit evidence of no less than 36 weeks of satisfactorily completed supervised professional full-time experience or 72 weeks of professional part-time experience obtained under the supervision of a licensed speech-language pathologist or audiologist or a speech-language pathologist or audiologist having qualifications deemed equivalent by the board. This experience shall be evaluated and approved by the board. The required professional experience shall follow completion of the requirements listed in subdivisions (a), (b), and (c). Full time is defined as at least 36 weeks in a calendar year and a minimum of 30 hours per week. Part time is defined as a minimum of 72 weeks and a minimum of 15 hours per week.

(e) Pass an examination or examinations approved by the board. The board shall determine the subject matter and scope of the examinations and may waive the examination upon evidence that the applicant has successfully completed an examination approved by the board. Written examinations may be supplemented by oral examinations as the board shall determine. An applicant who fails his or her examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

A speech-language pathologist or audiologist who holds a license from another state or territory of the United States or who holds equivalent qualifications as determined by the board and who has

1 completed no less than one year of full-time continuous
2 employment as a speech-language pathologist or audiologist within
3 the past three years is exempt from the supervised professional
4 experience in subdivision (d).

5 (f) As applied to licensure as an audiologist, this section shall
6 apply to applicants who graduated from an approved educational
7 institution on or before December 31, 2007.

8 SEC. 6. Section 2532.25 is added to the Business and
9 Professions Code, to read:

10 2532.25. (a) An applicant seeking licensure as an audiologist
11 shall possess a doctorate in audiology earned from an educational
12 institution approved by the board. The board may, in its discretion,
13 accept qualifications it deems to be equivalent to a doctoral degree
14 in audiology. The board shall not, however, accept as equivalent
15 qualifications graduation from a master's program that the applicant
16 was enrolled in on or after January 1, 2008.

17 (b) In addition to meeting the qualifications specified in
18 subdivision (a), an applicant seeking licensure as an audiologist
19 shall do all of the following:

20 (1) Submit evidence of the satisfactory completion of supervised
21 clinical practice with individuals representative of a wide spectrum
22 of ages and audiological disorders. The board shall establish by
23 regulation the required number of clock hours of supervised clinical
24 practice necessary for the applicant. The clinical practice shall be
25 under the direction of an educational institution approved by the
26 board.

27 (2) Submit evidence of no less than 12 months of satisfactorily
28 completed supervised professional full-time experience or its
29 part-time equivalent obtained under the supervision of a licensed
30 audiologist or an audiologist having qualifications deemed
31 equivalent by the board. This experience shall be completed under
32 the direction of a board-approved audiology doctoral program.
33 The required professional experience shall follow completion of
34 the didactic and clinical rotation requirements of the audiology
35 doctoral program.

36 (3) Pass an examination or examinations approved by the board.
37 The board shall determine the subject matter and scope of the
38 examination or examinations and may waive an examination upon
39 evidence that the applicant has successfully completed an
40 examination approved by the board. Written examinations may be

1 supplemented by oral examinations as the board shall determine.
2 An applicant who fails an examination may be reexamined at a
3 subsequent examination upon payment of the reexamination fee
4 required by this chapter.

5 (c) This section shall apply to applicants who graduate from an
6 approved educational institution on and after January 1, 2008.

7 SEC. 7. Section 2532.7 of the Business and Professions Code
8 is amended to read:

9 2532.7. (a) Upon approval of an application filed pursuant to
10 Section 2532.1, and upon payment of the fee prescribed by Section
11 2534.2, the board may issue a required professional experience
12 (RPE) temporary license for a period to be determined by the board
13 to an applicant who is obtaining the required professional
14 experience specified in subdivision (d) of Section 2532.2 or
15 paragraph (2) of subdivision (b) of Section 2532.25.

16 (b) Effective July 1, 2003, no person shall obtain the required
17 professional experience for licensure in either an exempt or
18 nonexempt setting, as defined in Section 2530.5, unless he or she
19 is licensed in accordance with this section or is completing the
20 final clinical externship of a board-approved audiology doctoral
21 training program in accordance with paragraph (2) of subdivision
22 (b) of Section 2532.25 in another state.

23 (c) A person who obtains an RPE temporary license outside the
24 State of California shall not be required to hold a temporary license
25 issued pursuant to subdivision (a) if the person is completing the
26 final clinical externship of an audiology doctoral training program
27 in accordance with paragraph (2) of subdivision (b) of Section
28 2532.25.

29 (d) Any experience obtained in violation of this act shall not be
30 approved by the board.

31 (e) An RPE temporary license shall terminate upon notice
32 thereof by certified mail, return receipt requested, if it is issued by
33 mistake or if the application for permanent licensure is denied.

34 (f) Upon written application, the board may reissue an RPE
35 temporary license for a period to be determined by the board to
36 an applicant who is obtaining the required professional experience
37 specified in subdivision (d) of Section 2532.2 or paragraph (2) of
38 subdivision (b) of Section 2532.25.

39 SEC. 8. Section 2570.2 of the Business and Professions Code
40 is amended to read:

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

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

(b) “Aide” means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy.

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

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

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

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

(g) “Occupational therapist” means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment

1 of a client, and the development of an occupational therapy plan
2 of treatment.

3 (h) “Occupational therapy assistant” means an individual who
4 is licensed pursuant to the provisions of this chapter, who is in
5 good standing as determined by the board, and based thereon, who
6 is qualified to assist in the practice of occupational therapy under
7 this chapter, and who works under the appropriate supervision of
8 a licensed occupational therapist.

9 (i) “Occupational therapy services” means the services of an
10 occupational therapist or the services of an occupational therapy
11 assistant under the appropriate supervision of an occupational
12 therapist.

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

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

1 independence. Services are provided individually, in groups, or
2 through social groups.

3 (l) “Hand therapy” is the art and science of rehabilitation of the
4 hand, wrist, and forearm requiring comprehensive knowledge of
5 the upper extremity and specialized skills in assessment and
6 treatment to prevent dysfunction, restore function, or reverse the
7 advancement of pathology. This definition is not intended to
8 prevent an occupational therapist practicing hand therapy from
9 providing other occupational therapy services authorized under
10 this act in conjunction with hand therapy.

11 (m) “Physical agent modalities” means techniques that produce
12 a response in soft tissue through the use of light, water,
13 temperature, sound, or electricity. These techniques are used as
14 adjunctive methods in conjunction with, or in immediate
15 preparation for, occupational therapy services.

16 SEC. 9. Section 2570.3 of the Business and Professions Code
17 is amended to read:

18 2570.3. (a) No person shall practice occupational therapy or
19 hold himself or herself out as an occupational therapist or as being
20 able to practice occupational therapy, or to render occupational
21 therapy services in this state unless he or she is licensed as an
22 occupational therapist under the provisions of this chapter. No
23 person shall hold himself or herself out as an occupational therapy
24 assistant or work as an occupational therapy assistant under the
25 supervision of an occupational therapist unless he or she is licensed
26 as an occupational therapy assistant under the provisions of this
27 chapter.

28 (b) Only an individual may be licensed under this chapter.

29 (c) Nothing in this chapter shall be construed as authorizing an
30 occupational therapist to practice physical therapy, as defined in
31 Section 2620; speech-language pathology or audiology, as defined
32 in Section 2530.2; nursing, as defined in Section 2725; psychology,
33 as defined in Section 2903; or spinal manipulation or other forms
34 of healing, except as authorized by this section.

35 (d) An occupational therapist may provide advanced practices
36 if the therapist has the knowledge, skill, and ability to do so and
37 has demonstrated to the satisfaction of the board that he or she has
38 met educational training and competency requirements. These
39 advanced practices include the following:

40 (1) Hand therapy.

1 (2) The use of physical agent modalities.

2 (3) Swallowing assessment, evaluation, or intervention.

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

7 (1) Anatomy of the upper extremity and how it is altered by
8 pathology.

9 (2) Histology as it relates to tissue healing and the effects of
10 immobilization and mobilization on connective tissue.

11 (3) Muscle, sensory, vascular, and connective tissue physiology.

12 (4) Kinesiology of the upper extremity, such as biomechanical
13 principles of pulleys, intrinsic and extrinsic muscle function,
14 internal forces of muscles, and the effects of external forces.

15 (5) The effects of temperature and electrical currents on nerve
16 and connective tissue.

17 (6) Surgical procedures of the upper extremity and their
18 postoperative course.

19 (f) An occupational therapist using physical agent modalities
20 shall demonstrate to the satisfaction of the board that he or she has
21 completed post professional education and training in all of the
22 following areas:

23 (1) Anatomy and physiology of muscle, sensory, vascular, and
24 connective tissue in response to the application of physical agent
25 modalities.

26 (2) Principles of chemistry and physics related to the selected
27 modality.

28 (3) Physiological, neurophysiological, and electrophysiological
29 changes that occur as a result of the application of a modality.

30 (4) Guidelines for the preparation of the patient, including
31 education about the process and possible outcomes of treatment.

32 (5) Safety rules and precautions related to the selected modality.

33 (6) Methods for documenting immediate and long-term effects
34 of treatment.

35 (7) Characteristics of the equipment, including safe operation,
36 adjustment, indications of malfunction, and care.

37 (g) An occupational therapist in the process of achieving the
38 education, training, and competency requirements established by
39 the board for providing hand therapy or using physical agent
40 modalities may practice these techniques under the supervision of

1 an occupational therapist who has already met the requirements
2 established by the board, a physical therapist, or a physician and
3 surgeon.

4 (h) The board shall develop and adopt regulations regarding the
5 educational training and competency requirements for advanced
6 practices in collaboration with the Speech-Language Pathology
7 and Audiology Board, the Board of Registered Nursing, and the
8 Physical Therapy Board of California.

9 (i) Nothing in this chapter shall be construed as authorizing an
10 occupational therapist to seek reimbursement for services other
11 than for the practice of occupational therapy as defined in this
12 chapter.

13 (j) “Supervision of an occupational therapy assistant” means
14 that the responsible occupational therapist shall at all times be
15 responsible for all occupational therapy services provided to the
16 client. The occupational therapist who is responsible for appropriate
17 supervision shall formulate and document in each client’s record,
18 with his or her signature, the goals and plan for that client, and
19 shall make sure that the occupational therapy assistant assigned
20 to that client functions under appropriate supervision. As part of
21 the responsible occupational therapist’s appropriate supervision,
22 he or she shall conduct at least weekly review and inspection of
23 all aspects of occupational therapy services by the occupational
24 therapy assistant.

25 (1) The supervising occupational therapist has the continuing
26 responsibility to follow the progress of each patient, provide direct
27 care to the patient, and to assure that the occupational therapy
28 assistant does not function autonomously.

29 (2) An occupational therapist shall not supervise more
30 occupational therapy assistants, at any one time, than can be
31 appropriately supervised in the opinion of the board. Two
32 occupational therapy assistants shall be the maximum number of
33 occupational therapy assistants supervised by an occupational
34 therapist at any one time, but the board may permit the supervision
35 of a greater number by an occupational therapist if, in the opinion
36 of the board, there would be adequate supervision and the public’s
37 health and safety would be served. In no case shall the total number
38 of occupational therapy assistants exceed twice the number of
39 occupational therapists regularly employed by a facility at any one
40 time.

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

6 SEC. 10. Section 2570.4 of the Business and Professions Code
7 is amended to read:

8 2570.4. Nothing in this chapter shall be construed as preventing
9 or restricting the practice, services, or activities of any of the
10 following persons:

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

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

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

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

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

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

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

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

39 SEC. 11. 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 under this chapter and is waiting to take
6 the first available examination or awaiting the announcement of
7 the results of the examination, according to the application
8 requirements for a limited permit, may practice as an occupational
9 therapist or as an occupational therapy assistant under the direction
10 and appropriate supervision of an occupational therapist duly
11 licensed under this chapter. If that person fails to qualify for or
12 pass the first announced examination, all privileges under this
13 section shall automatically cease upon due notice to the applicant
14 of that failure and may not be renewed.

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

17 SEC. 12. Section 2570.6 of the Business and Professions Code
18 is amended to read:

19 2570.6. An applicant applying for a license as an occupational
20 therapist or as an occupational therapy assistant shall file with the
21 board a written application provided by the board, showing to the
22 satisfaction of the board that he or she meets all of the following
23 requirements:

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

27 (b) (1) That the applicant has successfully completed the
28 academic requirements of an educational program for occupational
29 therapists or occupational therapy assistants that is approved by
30 the board and accredited by the American Occupational Therapy
31 Association's Accreditation Council for Occupational Therapy
32 Education (ACOTE).

33 (2) The curriculum of an education program for occupational
34 therapists shall contain the content specifically required in the
35 ACOTE accreditation standards, including all of the following
36 subjects:

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

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

40 (C) Human development throughout the life span.

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

2 (E) Etiology, clinical course, management, and prognosis of
3 disease processes and traumatic injuries, and the effects of those
4 conditions on human functioning.

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

7 (i) Human performance, that shall include occupational
8 performance throughout the life cycle, human interaction, roles,
9 values, and the influences of the nonhuman environment.

10 (ii) Activity processes that shall include the following:

11 (I) Theories underlying the use of purposeful activity and the
12 meaning and dynamics of activity.

13 (II) Performance of selected life tasks and activities.

14 (III) Analysis, adaptation, and application of purposeful activity
15 as therapeutic intervention.

16 (IV) Use of self, dyadic, and group interaction.

17 (iii) Theoretical approaches, including those related to
18 purposeful activity, human performance, and adaptation.

19 (iv) Application of occupational therapy theory to practice, that
20 shall include the following:

21 (I) Assessment and interpretation, observation, interviews,
22 history, and standardized and nonstandardized tests.

23 (II) Directing, planning, and implementation, that shall include:
24 therapeutic intervention related to daily living skills and
25 occupational components; therapeutic adaptation, including
26 methods of accomplishing daily life tasks, environmental
27 adjustments, orthotics, and assistive devices and equipment; health
28 maintenance, including energy conservation, joint protection, body
29 mechanics, and positioning; and prevention programs to foster
30 age-appropriate recommendations to maximize treatment gains.

31 (III) Program termination including reevaluation, determination
32 of discharge, summary of occupational therapy outcome, and
33 appropriate recommendations to maximize treatment gains.

34 (IV) Documentation.

35 (v) Development and implementation of quality assurance.

36 (vi) Management of occupational therapy service, that shall
37 include:

38 (I) Planning services for client groups.

39 (II) Personnel management, including occupational therapy
40 assistants, aides, volunteers, and level I students.

- 1 (III) Departmental operations, including budgeting, scheduling,
- 2 recordkeeping, safety, and maintenance of supplies and equipment.
- 3 (3) The curriculum of an education program for occupational
- 4 therapy assistants shall contain the content specifically required
- 5 in the ACOTE accreditation standards, including all of the
- 6 following subjects:
- 7 (A) Biological, behavioral, and health sciences.
- 8 (B) Structure and function of the normal human body.
- 9 (C) Human development.
- 10 (D) Conditions commonly referred to occupational therapists.
- 11 (E) Occupational therapy principles and skills, that shall include
- 12 the following:
- 13 (i) Human performance, including life tasks and roles as related
- 14 to the developmental process from birth to death.
- 15 (ii) Activity processes and skills, that shall include the following:
- 16 (I) Performance of selected life tasks and activities.
- 17 (II) Analysis and adaptation of activities.
- 18 (III) Instruction of individuals and groups in selected life tasks
- 19 and activities.
- 20 (iii) Concepts related to occupational therapy practice, that shall
- 21 include the following:
- 22 (I) The importance of human occupation as a health determinant.
- 23 (II) The use of self, interpersonal, and communication skills.
- 24 (iv) Use of occupational therapy concepts and skills, that shall
- 25 include the following:
- 26 (I) Data collection, that shall include structured observation and
- 27 interviews, history, and structured tests.
- 28 (II) Participation in planning and implementation, that shall
- 29 include: therapeutic intervention related to daily living skills and
- 30 occupational components; therapeutic adaptation, including
- 31 methods of accomplishing daily life tasks, environmental
- 32 adjustments, orthotics, and assistive devices and equipment; health
- 33 maintenance, including mental health techniques, energy
- 34 conservation, joint protection, body mechanics, and positioning;
- 35 and prevention programs to foster age-appropriate balance of
- 36 self-care and work.
- 37 (III) Program termination, including assisting in reevaluation,
- 38 summary of occupational therapy outcome, and appropriate
- 39 recommendations to maximize treatment gains.
- 40 (IV) Documentation.

1 (c) That the applicant has successfully completed a period of
2 supervised fieldwork experience approved by the board and
3 arranged by a recognized educational institution where he or she
4 met the academic requirements of subdivision (b) or arranged by
5 a nationally recognized professional association. The fieldwork
6 requirements shall be as follows:

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

10 (2) For an occupational therapy assistant, a minimum of 640
11 hours of supervised fieldwork experience shall be completed within
12 20 months of the completion of didactic coursework.

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

15 (e) That the applicant, at the time of application, is a person
16 over 18 years of age, is not addicted to alcohol or any controlled
17 substance, and has not committed acts or crimes constituting
18 grounds for denial of licensure under Section 480.

19 SEC. 13. Section 2570.7 of the Business and Professions Code
20 is amended to read:

21 2570.7. (a) An applicant who has satisfied the requirements
22 of Section 2570.6 may apply for examination for licensure in a
23 manner prescribed by the board. Subject to the provisions of this
24 chapter, an applicant who fails an examination may apply for
25 reexamination.

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

37 (c) Applicants for licensure shall be examined at a time and
38 place and under that supervision as the board may require.

39 SEC. 14. Section 2570.9 of the Business and Professions Code
40 is amended to read:

1 2570.9. The board shall issue a license to any applicant who
2 meets the requirements of this chapter, including the payment of
3 the prescribed licensure or renewal fee, and who meets any other
4 requirement in accordance with applicable state law.

5 SEC. 15. Section 2570.10 of the Business and Professions
6 Code is amended to read:

7 2570.10. (a) Any license issued under this chapter shall be
8 subject to renewal as prescribed by the board and shall expire
9 unless renewed in that manner. The board may provide for the late
10 renewal of a license as provided for in Section 163.5.

11 (b) In addition to any other qualifications and requirements for
12 licensure renewal, the board may by rule establish and require the
13 satisfactory completion of continuing competency requirements
14 as a condition of renewal of a license.

15 SEC. 16. Section 2570.13 of the Business and Professions
16 Code is amended to read:

17 2570.13. (a) Consistent with this section, subdivisions (a), (b),
18 and (c) of Section 2570.2, and accepted professional standards,
19 the board shall adopt rules necessary to assure appropriate
20 supervision of occupational therapy assistants and aides.

21 (b) An occupational therapy assistant may practice only under
22 the supervision of an occupational therapist who is authorized to
23 practice occupational therapy in this state.

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

27 SEC. 17. Section 2570.16 of the Business and Professions
28 Code is amended to read:

29 2570.16. Initial license and renewal fees shall be established
30 by the board in an amount that does not exceed a ceiling of one
31 hundred fifty dollars (\$150) per year. The board shall establish the
32 following additional fees:

33 (a) An application fee not to exceed fifty dollars (\$50).

34 (b) A late renewal fee as provided for in Section 2570.10.

35 (c) A limited permit fee.

36 (d) A fee to collect fingerprints for criminal history record
37 checks.

38 SEC. 18. Section 2570.17 is added to the Business and
39 Professions Code, to read:

1 2570.17. (a) The board shall issue, upon application and
2 payment of a twenty-five dollar (\$25) fee, a retired license to an
3 occupational therapist or an occupational therapy assistant who
4 holds a license that is current and active, or capable of being
5 renewed pursuant to Section 2570.10, and whose license is not
6 suspended, revoked, or otherwise restricted by the board or subject
7 to discipline under this chapter.

8 (b) The holder of a retired license issued pursuant to this section
9 shall not engage in any activity for which an active license is
10 required. An occupational therapist holding a retired license shall
11 be permitted to use the title “occupational therapist, retired” or
12 “retired occupational therapist.” An occupational therapy assistant
13 holding a retired license shall be permitted to use the title
14 “occupational therapy assistant, retired” or “retired occupational
15 therapy assistant.” The designation of retired shall not be
16 abbreviated in any way.

17 (c) The holder of a retired license shall not be required to renew
18 that license.

19 (d) In order for the holder of a retired license issued pursuant
20 to this section to restore his or her license, he or she shall comply
21 with Section 2570.14.

22 SEC. 19. Section 2570.18 of the Business and Professions
23 Code is amended to read:

24 2570.18. (a) A person shall not represent to the public by title,
25 by description of services, methods, or procedures, or otherwise,
26 that the person is authorized to practice occupational therapy in
27 this state, unless authorized to practice occupational therapy under
28 this chapter.

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

35 (c) Unless licensed to assist in the practice of occupational
36 therapy as an occupational therapy assistant under this chapter, a
37 person may not use the professional abbreviations “O.T.A.,”
38 “O.T.A./L.,” “C.O.T.A.,” “C.O.T.A./L.,” or “Occupational Therapy
39 Assistant,” “Licensed Occupational Therapy Assistant,” or any
40 other words, letters, or symbols, with the intent to represent that

1 the person assists in, or is authorized to assist in, the practice of
2 occupational therapy as an occupational therapy assistant.

3 (d) The unauthorized practice or representation as an
4 occupational therapist or as an occupational therapy assistant
5 constitutes an unfair business practice under Section 17200 and
6 false and misleading advertising under Section 17500.

7 SEC. 20. Section 2570.20 of the Business and Professions
8 Code is amended to read:

9 2570.20. (a) The board shall administer, coordinate, and
10 enforce the provisions of this chapter, evaluate the qualifications,
11 and approve the examinations for licensure under this chapter.

12 (b) The board shall adopt rules in accordance with the
13 Administrative Procedure Act relating to professional conduct to
14 carry out the purpose of this chapter, including, but not limited to,
15 rules relating to professional licensure and to the establishment of
16 ethical standards of practice for persons holding a license to
17 practice occupational therapy or to assist in the practice of
18 occupational therapy in this state.

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

22 SEC. 21. Section 2570.26 of the Business and Professions
23 Code is amended to read:

24 2570.26. (a) The board may, after a hearing, deny, suspend,
25 revoke, or place on probation a license, inactive license, or limited
26 permit.

27 (b) As used in this chapter, “license” includes a license, limited
28 permit, or any other authorization to engage in practice regulated
29 by this chapter.

30 (c) The proceedings under this section shall be conducted in
31 accordance with Chapter 5 (commencing with Section 11500) of
32 Part 1 of Division 3 of Title 2 of the Government Code, and the
33 board shall have all the powers granted therein.

34 SEC. 22. Section 2570.28 of the Business and Professions
35 Code is amended to read:

36 2570.28. The board may deny or discipline a licensee for any
37 of the following:

38 (a) Unprofessional conduct, including, but not limited to, the
39 following:

1 (1) Incompetence or gross negligence in carrying out usual
2 occupational therapy functions.

3 (2) Repeated similar negligent acts in carrying out usual
4 occupational therapy functions.

5 (3) A conviction of practicing medicine without a license in
6 violation of Chapter 5 (commencing with Section 2000), in which
7 event a certified copy of the record of conviction shall be
8 conclusive evidence thereof.

9 (4) The use of advertising relating to occupational therapy which
10 violates Section 17500.

11 (5) Denial of licensure, revocation, suspension, restriction, or
12 any other disciplinary action against a licensee by another state or
13 territory of the United States, by any other government agency, or
14 by another California health care professional licensing board. A
15 certified copy of the decision, order, or judgment shall be
16 conclusive evidence thereof.

17 (b) Procuring a license by fraud, misrepresentation, or mistake.

18 (c) Violating or attempting to violate, directly or indirectly, or
19 assisting in or abetting the violation of, or conspiring to violate,
20 any provision or term of this chapter or any regulation adopted
21 pursuant to this chapter.

22 (d) Making or giving any false statement or information in
23 connection with the application for issuance or renewal of a license.

24 (e) Conviction of a crime or of any offense substantially related
25 to the qualifications, functions, or duties of a licensee, in which
26 event the record of the conviction shall be conclusive evidence
27 thereof.

28 (f) Impersonating an applicant or acting as proxy for an applicant
29 in any examination required under this chapter for the issuance of
30 a license.

31 (g) Impersonating a licensed practitioner, or permitting or
32 allowing another unlicensed person to use a license.

33 (h) Committing any fraudulent, dishonest, or corrupt act that is
34 substantially related to the qualifications, functions, or duties of a
35 licensee.

36 (i) Committing any act punishable as a sexually related crime,
37 if that act is substantially related to the qualifications, functions,
38 or duties of a licensee, in which event a certified copy of the record
39 of conviction shall be conclusive evidence thereof.

1 (j) Using excessive force upon or mistreating or abusing any
2 patient. For the purposes of this subdivision, “excessive force”
3 means force clearly in excess of that which would normally be
4 applied in similar clinical circumstances.

5 (k) Falsifying or making grossly incorrect, grossly inconsistent,
6 or unintelligible entries in a patient or hospital record or any other
7 record.

8 (l) Changing the prescription of a physician and surgeon or
9 falsifying verbal or written orders for treatment or a diagnostic
10 regime received, whether or not that action resulted in actual patient
11 harm.

12 (m) Failing to maintain confidentiality of patient medical
13 information, except as disclosure is otherwise permitted or required
14 by law.

15 (n) Delegating to an unlicensed employee or person a service
16 that requires the knowledge, skills, abilities, or judgment of a
17 licensee.

18 (o) Committing any act that would be grounds for denial of a
19 license under Section 480.

20 (p) Except for good cause, the knowing failure to protect patients
21 by failing to follow infection control guidelines of the board,
22 thereby risking transmission of infectious diseases from licensee
23 to patient, from patient to patient, or from patient to licensee.

24 (1) In administering this subdivision, the board shall consider
25 referencing the standards, regulations, and guidelines of the State
26 Department of Public Health developed pursuant to Section
27 1250.11 of the Health and Safety Code and the standards,
28 guidelines, and regulations pursuant to the California Occupational
29 Safety and Health Act of 1973 (Part 1 (commencing with Section
30 63001) of Division 5 of the Labor Code) for preventing the
31 transmission of HIV, hepatitis B, and other blood-borne pathogens
32 in health care settings. As necessary to encourage appropriate
33 consistency in the implementation of this subdivision, the board
34 shall consult with the Medical Board of California, the Board of
35 Podiatric Medicine, the Dental Board of California, the Board of
36 Registered Nursing, and the Board of Vocational Nursing and
37 Psychiatric Technicians.

38 (2) The board shall seek to ensure that licensees are informed
39 of their responsibility to minimize the risk of transmission of
40 infectious diseases from health care provider to patient, from

1 patient to patient, and from patient to health care provider, and are
2 informed of the most recent scientifically recognized safeguards
3 for minimizing the risks of transmission.

4 SEC. 23. Section 2571 of the Business and Professions Code
5 is amended to read:

6 2571. (a) An occupational therapist licensed pursuant to this
7 chapter and approved by the board in the use of physical agent
8 modalities may apply topical medications prescribed by the
9 patient's physician and surgeon, certified nurse-midwife pursuant
10 to Section 2746.51, nurse practitioner pursuant to Section 2836.1,
11 or physician assistant pursuant to Section 3502.1, if the licensee
12 complies with regulations adopted by the board pursuant to this
13 section.

14 (b) The board shall adopt regulations implementing this section,
15 after meeting and conferring with the Medical Board of California,
16 the California State Board of Pharmacy, and the Physical Therapy
17 Board of California, specifying those topical medications applicable
18 to the practice of occupational therapy and protocols for their use.

19 (c) Nothing in this section shall be construed to authorize an
20 occupational therapist to prescribe medications.

21 SEC. 24. Section 2872.2 of the Business and Professions Code
22 is amended to read:

23 2872.2. An applicant for license by examination shall submit
24 a written application in the form prescribed by the board.

25 Provided that the application for licensure by examination is
26 received by the board no later than four months after completion
27 of a board accredited nursing program and approval of the
28 application, the board may issue an interim permit authorizing the
29 applicant to practice vocational nursing pending the results of the
30 first licensing examination, or for a period of nine months,
31 whichever occurs first.

32 If the applicant passes the examination, the interim permit shall
33 remain in effect until an initial license is issued by the board or
34 for a maximum period of six months after passing the examination,
35 whichever occurs first. If the applicant fails the examination, the
36 interim permit shall terminate upon notice by certified mail, return
37 receipt requested, or if the applicant fails to receive the notice,
38 upon the date specified in the interim permit, whichever occurs
39 first.

1 A permittee shall function under the supervision of a licensed
2 vocational nurse or a registered nurse, who shall be present and
3 available on the premises during the time the permittee is rendering
4 professional services. The supervising licensed vocational nurse
5 or registered nurse may delegate to the permittee any function
6 taught in the permittee's basic nursing program.

7 An interim permittee shall not use any title or designation other
8 than vocational nurse interim permittee or "V.N.I.P."

9 SEC. 25. Section 3357 of the Business and Professions Code
10 is amended to read:

11 3357. (a) An applicant who has fulfilled the requirements of
12 Section 3352, and has made application therefor, and who proves
13 to the satisfaction of the bureau that he or she will be supervised
14 and trained by a hearing aid dispenser who is approved by the
15 bureau may have a temporary license issued to him or her. The
16 temporary license shall entitle the temporary licensee to fit or sell
17 hearing aids as set forth in regulations of the bureau. The
18 supervising dispenser shall be responsible for any acts or omissions
19 committed by a temporary licensee under his or her supervision
20 that may constitute a violation of this chapter.

21 (b) The bureau shall adopt regulations setting forth criteria for
22 its refusal to approve a hearing aid dispenser to supervise a
23 temporary licensee, including procedures to appeal that decision.

24 (c) A temporary license issued pursuant to this section is
25 effective and valid for six months from date of issue. The bureau
26 may renew the temporary license for an additional period of six
27 months. Except as provided in subdivision (d), the bureau shall
28 not issue more than two renewals of a temporary license to any
29 applicant. Notwithstanding subdivision (d), if a temporary licensee
30 who is entitled to renew a temporary license does not renew the
31 temporary license and applies for a new temporary license at a
32 later time, the new temporary license shall only be issued and
33 renewed subject to the limitations set forth in this subdivision.

34 (d) A new temporary license may be issued pursuant to this
35 section if a temporary license issued pursuant to subdivision (c)
36 has lapsed for a minimum of three years from the expiration or
37 cancellation date of the previous temporary license. The bureau
38 may issue only one new temporary license under this subdivision.

39 SEC. 26. Section 3362 of the Business and Professions Code
40 is amended to read:

1 3362. (a) Before engaging in the practice of fitting or selling
2 hearing aids, each licensee shall notify the bureau in writing of the
3 address or addresses where he or she is to engage, or intends to
4 engage, in the fitting or selling of hearing aids, and of any changes
5 in his or her place of business within 30 days of engaging in that
6 practice.

7 (b) If a street address is not the address at which the licensee
8 receives mail, the licensee shall also notify the bureau in writing
9 of the mailing address for each location where the licensee is to
10 engage, or intends to engage, in the fitting or selling of hearing
11 aids, and of any change in the mailing address of his or her place
12 or places of business.

13 SEC. 27. Section 3366 of the Business and Professions Code
14 is amended to read:

15 3366. A licensee shall, upon the consummation of a sale of a
16 hearing aid, keep and maintain records in his or her office or place
17 of business at all times and each record shall be kept and
18 maintained for a seven-year period. All records related to the sale
19 and fitting of hearing aids shall be open to inspection by the bureau
20 or its authorized representatives upon reasonable notice. The
21 records kept shall include:

22 (a) Results of test techniques as they pertain to fitting of the
23 hearing aid.

24 (b) A copy of the written receipt required by Section 3365 and
25 the written recommendation and receipt required by Section 3365.5
26 when applicable.

27 (c) Records of maintenance or calibration of equipment used in
28 the practice of fitting or selling hearing aids.

29 SEC. 28. Section 3456 of the Business and Professions Code
30 is amended to read:

31 3456. The amount of fees and penalties prescribed by this
32 chapter shall be those set forth in this section unless a lower fee
33 is fixed by the bureau:

34 (a) The fee for applicants applying for the first time for a license
35 is seventy-five dollars (\$75), which shall not be refunded, except
36 to applicants who are found to be ineligible to take an examination
37 for a license. Those applicants are entitled to a refund of fifty
38 dollars (\$50).

39 (b) The fees for taking or retaking the written and practical
40 examinations shall be amounts fixed by the bureau, which shall

1 be equal to the actual cost of preparing, grading, analyzing, and
2 administering the examinations.

3 (c) The initial temporary license fee is one hundred dollars
4 (\$100). The fee for renewal of a temporary license is one hundred
5 dollars (\$100) for each renewal.

6 (d) The initial permanent license fee is two hundred eighty
7 dollars (\$280). The fee for renewal of a permanent license is not
8 more than two hundred eighty dollars (\$280) for each renewal.

9 (e) The initial branch office license fee is twenty-five dollars
10 (\$25). The fee for renewal of a branch office license is twenty-five
11 dollars (\$25) for each renewal.

12 (f) The delinquency fee is twenty-five dollars (\$25).

13 (g) The fee for issuance of a replacement license is twenty-five
14 dollars (\$25).

15 (h) The continuing education course approval application fee
16 is fifty dollars (\$50).

17 (i) The fee for official certification of licensure is fifteen dollars
18 (\$15).

19 SEC. 29. Section 3740 of the Business and Professions Code
20 is amended to read:

21 3740. (a) Except as otherwise provided in this chapter, all
22 applicants for licensure under this chapter shall have completed
23 an education program for respiratory care that is accredited by the
24 Commission on Accreditation for Respiratory Care or its successor
25 and been awarded a minimum of an associate degree from an
26 institution or university accredited by a regional accreditation
27 agency or association recognized by the United States Department
28 of Education.

29 (b) Notwithstanding subdivision (a), meeting the following
30 qualifications shall be deemed equivalent to the required education:

31 (1) Enrollment in a baccalaureate degree program in an
32 institution or university accredited by a regional accreditation
33 agency or association recognized by the United States Department
34 of Education.

35 (2) Completion of science, general academic, and respiratory
36 therapy coursework commensurate with the requirements for an
37 associate degree in subdivision (a).

38 (c) An applicant whose application is based on a diploma issued
39 to the applicant by a foreign respiratory therapy school or a
40 certificate or license issued by another state, district, or territory

1 of the United States that does not meet the requirements in
2 subdivision (a) or (b), shall enroll in an advanced standing and
3 approved respiratory educational program for evaluation of his or
4 her education and training and furnish documentary evidence,
5 satisfactory to the board, that he or she satisfies all of the following
6 requirements:

7 (1) Holds an associate degree or higher level degree equivalent
8 to that required in subdivision (a) or (b).

9 (2) Completion of a respiratory therapy educational program
10 equivalent to that required in subdivision (a) or (b).

11 (3) Possession of knowledge and skills to competently and safely
12 practice respiratory care in accordance with national standards.

13 (d) Notwithstanding subdivision (c), an applicant whose
14 application is based on education provided by a Canadian
15 institution or university that does not meet the requirements in
16 subdivision (a) or (b) shall furnish documentary evidence,
17 satisfactory to the board, that he or she satisfies both of the
18 following requirements:

19 (1) Holds a degree equivalent to that required in subdivision (a)
20 or (b).

21 (2) Completion of a respiratory therapy educational program
22 recognized by the Canadian Board of Respiratory Care.

23 (e) A school shall give the director of a respiratory care program
24 adequate release time to perform his or her administrative duties
25 consistent with the established policies of the educational
26 institution.

27 (f) Satisfactory evidence as to educational qualifications shall
28 take the form of certified transcripts of the applicant's college
29 record mailed directly to the board from the educational institution.
30 However, the board may require an evaluation of educational
31 credentials by an evaluation service approved by the board.

32 (g) At the board's discretion, it may waive its educational
33 requirements if evidence is presented and the board deems it as
34 meeting the current educational requirements that will ensure the
35 safe and competent practice of respiratory care. This evidence may
36 include, but is not limited to:

37 (1) Work experience.

38 (2) Good standing of licensure in another state.

39 (3) Previous good standing of licensure in the State of California.

1 (h) Nothing contained in this section shall prohibit the board
2 from disapproving any respiratory therapy school, nor from
3 denying the applicant if the instruction, including modalities and
4 advancements in technology, received by the applicant or the
5 courses were not equivalent to that required by the board.

6 SEC. 30. Section 3750.5 of the Business and Professions Code
7 is amended to read:

8 3750.5. In addition to any other grounds specified in this
9 chapter, the board may deny, suspend, place on probation, or
10 revoke the license of any applicant or licenseholder who has done
11 any of the following:

12 (a) Obtained, possessed, used, or administered to himself or
13 herself in violation of law, or furnished or administered to another,
14 any controlled substances as defined in Division 10 (commencing
15 with Section 11000) of the Health and Safety Code, or any
16 dangerous drug as defined in Article 2 (commencing with Section
17 4015) of Chapter 9, except as directed by a licensed physician and
18 surgeon, dentist, podiatrist, or other authorized health care provider.

19 (b) Used any controlled substance as defined in Division 10
20 (commencing with Section 11000) of the Health and Safety Code,
21 or any dangerous drug as defined in Article 2 (commencing with
22 Section 4015) of Chapter 9 of this code, or alcoholic beverages,
23 to an extent or in a manner dangerous or injurious to himself or
24 herself, or to others, or that impaired his or her ability to conduct
25 with safety the practice authorized by his or her license.

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

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

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

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

4 SEC. 31. Section 3773 of the Business and Professions Code
5 is amended to read:

6 3773. (a) At the time of application for renewal of a respiratory
7 care practitioner license, the licensee shall notify the board of all
8 of the following:

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

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

13 (b) The licensee shall cooperate in furnishing additional
14 information as requested by the board. If the licensee fails to
15 provide the requested information within 30 days, the license shall
16 be made inactive until the information is received.

17 SEC. 32. Section 4013 is added to the Business and Professions
18 Code, to read:

19 4013. (a) Any facility licensed by the board shall join the
20 board's e-mail notification list within 60 days of obtaining a license
21 or at the time of license renewal.

22 (b) Any facility licensed by the board shall update its e-mail
23 address with the board's e-mail notification list within 30 days of
24 a change in the facility's e-mail address.

25 (c) This section shall become operative on July 1, 2010.

26 SEC. 33. Section 4101 of the Business and Professions Code
27 is amended to read:

28 4101. (a) A pharmacist may take charge of and act as the
29 pharmacist-in-charge of a pharmacy upon application by the
30 pharmacy and approval by the board. Any pharmacist-in-charge
31 who ceases to act as the pharmacist-in-charge of the pharmacy
32 shall notify the board in writing within 30 days of the date of that
33 change in status.

34 (b) A designated representative or a pharmacist may take charge
35 of, and act as, the designated representative-in-charge of a
36 wholesaler or veterinary food drug-animal retailer upon application
37 by the wholesaler or veterinary food drug-animal retailer and
38 approval by the board. Any designated representative-in-charge
39 who ceases to act as the designated representative-in-charge at that

1 entity shall notify the board in writing within 30 days of the date
2 of that change in status.

3 SEC. 34. Section 4112 of the Business and Professions Code
4 is amended to read:

5 4112. (a) Any pharmacy located outside this state that ships,
6 mails, or delivers, in any manner, controlled substances, dangerous
7 drugs, or dangerous devices into this state shall be considered a
8 nonresident pharmacy.

9 (b) A person may not act as a nonresident pharmacy unless he
10 or she has obtained a license from the board. The board may
11 register a nonresident pharmacy that is organized as a limited
12 liability company in the state in which it is licensed.

13 (c) A nonresident pharmacy shall disclose to the board the
14 location, names, and titles of (1) its agent for service of process in
15 this state, (2) all principal corporate officers, if any, (3) all general
16 partners, if any, and (4) all pharmacists who are dispensing
17 controlled substances, dangerous drugs, or dangerous devices to
18 residents of this state. A report containing this information shall
19 be made on an annual basis and within 30 days after any change
20 of office, corporate officer, partner, or pharmacist.

21 (d) All nonresident pharmacies shall comply with all lawful
22 directions and requests for information from the regulatory or
23 licensing agency of the state in which it is licensed as well as with
24 all requests for information made by the board pursuant to this
25 section. The nonresident pharmacy shall maintain, at all times, a
26 valid unexpired license, permit, or registration to conduct the
27 pharmacy in compliance with the laws of the state in which it is a
28 resident. As a prerequisite to registering with the board, the
29 nonresident pharmacy shall submit a copy of the most recent
30 inspection report resulting from an inspection conducted by the
31 regulatory or licensing agency of the state in which it is located.

32 (e) All nonresident pharmacies shall maintain records of
33 controlled substances, dangerous drugs, or dangerous devices
34 dispensed to patients in this state so that the records are readily
35 retrievable from the records of other drugs dispensed.

36 (f) Any pharmacy subject to this section shall, during its regular
37 hours of operation, but not less than six days per week, and for a
38 minimum of 40 hours per week, provide a toll-free telephone
39 service to facilitate communication between patients in this state
40 and a pharmacist at the pharmacy who has access to the patient's

1 records. This toll-free telephone number shall be disclosed on a
2 label affixed to each container of drugs dispensed to patients in
3 this state.

4 (g) The board shall adopt regulations that apply the same
5 requirements or standards for oral consultation to a nonresident
6 pharmacy that operates pursuant to this section and ships, mails,
7 or delivers any controlled substances, dangerous drugs, or
8 dangerous devices to residents of this state, as are applied to an
9 in-state pharmacy that operates pursuant to Section 4037 when the
10 pharmacy ships, mails, or delivers any controlled substances,
11 dangerous drugs, or dangerous devices to residents of this state.
12 The board shall not adopt any regulations that require face-to-face
13 consultation for a prescription that is shipped, mailed, or delivered
14 to the patient. The regulations adopted pursuant to this subdivision
15 shall not result in any unnecessary delay in patients receiving their
16 medication.

17 (h) The registration fee shall be the fee specified in subdivision
18 (a) of Section 4400.

19 (i) The registration requirements of this section shall apply only
20 to a nonresident pharmacy that ships, mails, or delivers controlled
21 substances, dangerous drugs, and dangerous devices into this state
22 pursuant to a prescription.

23 (j) Nothing in this section shall be construed to authorize the
24 dispensing of contact lenses by nonresident pharmacists except as
25 provided by Section 4124.

26 SEC. 35. Section 4113 of the Business and Professions Code
27 is amended to read:

28 ~~4113. (a) Every pharmacy shall be supervised or managed by~~
29 ~~a pharmacist-in-charge. As part of its initial application for a~~
30 ~~license, and for each renewal, each pharmacy shall, on a form~~
31 ~~designed by the board, provide identifying information and the~~
32 ~~California license number for a pharmacist proposed to serve as~~
33 ~~the pharmacist-in-charge. The proposed pharmacist-in-charge shall~~

34 *4113. (a) Every pharmacy shall designate a*
35 *pharmacist-in-charge and, within 30 days thereof, shall notify the*
36 *board in writing of the identity and license number of that*
37 *pharmacist and the date he or she was designated.*

38 *(b) The proposed pharmacist-in-charge shall be subject to*
39 *approval by the board. The board shall not issue or renew a*

1 pharmacy license without identification of an approved
2 pharmacist-in-charge for the pharmacy.

3 ~~(b)~~

4 (c) The pharmacist-in-charge shall be responsible for a
5 pharmacy's compliance with all state and federal laws and
6 regulations pertaining to the practice of pharmacy.

7 ~~(c)~~

8 (d) Every pharmacy shall notify the board in writing, on a form
9 designed by the board, within 30 days of the date when a
10 pharmacist-in-charge ceases to act as the pharmacist-in-charge,
11 and shall on the same form propose another pharmacist to take
12 over as the pharmacist-in-charge. The proposed replacement
13 pharmacist-in-charge shall be subject to approval by the board. If
14 disapproved, the pharmacy shall propose another replacement
15 within 15 days of the date of disapproval and shall continue to
16 name proposed replacements until a pharmacist-in-charge is
17 approved by the board.

18 ~~(d)~~

19 (e) If a pharmacy is unable, in the exercise of reasonable
20 diligence, to identify within 30 days a permanent replacement
21 pharmacist-in-charge to propose to the board on the notification
22 form, the pharmacy may instead provide on that form the name of
23 any pharmacist who is an employee, officer, or administrator of
24 the pharmacy or the entity that owns the pharmacy and who is
25 actively involved in the management of the pharmacy on a daily
26 basis, to act as the interim pharmacist-in-charge for a period not
27 to exceed 120 days. The pharmacy, or the entity that owns the
28 pharmacy, shall be prepared during normal business hours to
29 provide a representative of the board with the name of the interim
30 pharmacist-in-charge with documentation of the active involvement
31 of the interim pharmacist-in-charge in the daily management of
32 the pharmacy, and with documentation of the pharmacy's good
33 faith efforts prior to naming the interim pharmacist-in-charge to
34 obtain a permanent pharmacist-in-charge. By no later than 120
35 days following the identification of the interim
36 pharmacist-in-charge, the pharmacy shall propose to the board the
37 name of a pharmacist to serve as the permanent
38 pharmacist-in-charge. The proposed permanent
39 pharmacist-in-charge shall be subject to approval by the board. If
40 disapproved, the pharmacy shall propose another replacement

1 within 15 days of the date of disapproval, and shall continue to
2 name proposed replacements until a pharmacist-in-charge is
3 approved by the board.

4 SEC. 36. Section 4146 is added to the Business and Professions
5 Code, to read:

6 4146. A pharmacy may accept the return of needles and
7 syringes from the public if contained in a sharps container, as
8 defined in Section 117750 of the Health and Safety Code.

9 SEC. 37. Section 4160 of the Business and Professions Code
10 is amended to read:

11 4160. (a) A person may not act as a wholesaler of any
12 dangerous drug or dangerous device unless he or she has obtained
13 a license from the board.

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

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

19 (d) Every wholesaler shall be supervised or managed by a
20 designated representative-in-charge. The designated
21 representative-in-charge shall be responsible for the wholesaler's
22 compliance with state and federal laws governing wholesalers. As
23 part of its initial application for a license, and for each renewal,
24 each wholesaler shall, on a form designed by the board, provide
25 identifying information and the California license number for a
26 designated representative or pharmacist proposed to serve as the
27 designated representative-in-charge. The proposed designated
28 representative-in-charge shall be subject to approval by the board.
29 The board shall not issue or renew a wholesaler license without
30 identification of an approved designated representative-in-charge
31 for the wholesaler.

32 (e) Every wholesaler shall notify the board in writing, on a form
33 designed by the board, within 30 days of the date when a
34 designated representative-in-charge ceases to act as the designated
35 representative-in-charge, and shall on the same form propose
36 another designated representative or pharmacist to take over as
37 the designated representative-in-charge. The proposed replacement
38 designated representative-in-charge shall be subject to approval
39 by the board. If disapproved, the wholesaler shall propose another
40 replacement within 15 days of the date of disapproval, and shall

1 continue to name proposed replacements until a designated
2 representative-in-charge is approved by the board.

3 (f) A drug manufacturer premises licensed by the Food and
4 Drug Administration or licensed pursuant to Section 111615 of
5 the Health and Safety Code that only distributes dangerous drugs
6 and dangerous devices of its own manufacture is exempt from this
7 section and Section 4161.

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

26 SEC. 38. Section 4196 of the Business and Professions Code
27 is amended to read:

28 4196. (a) No person shall conduct a veterinary food-animal
29 drug retailer in the State of California unless he or she has obtained
30 a license from the board. A license shall be required for each
31 veterinary food-animal drug retailer owned or operated by a
32 specific person. A separate license shall be required for each of
33 the premises of any person operating a veterinary food-animal
34 drug retailer in more than one location. The license shall be
35 renewed annually and shall not be transferable.

36 (b) The board may issue a temporary license, upon conditions
37 and for periods of time as the board determines to be in the public
38 interest. A temporary license fee shall be fixed by the board at an
39 amount not to exceed the annual fee for renewal of a license to
40 conduct a veterinary food-animal drug retailer.

1 (c) No person other than a pharmacist, an intern pharmacist, a
2 designated representative, an authorized officer of the law, or a
3 person authorized to prescribe, shall be permitted in that area,
4 place, or premises described in the permit issued by the board
5 pursuant to Section 4041, wherein veterinary food-animal drugs
6 are stored, possessed, or repacked. A pharmacist or designated
7 representative shall be responsible for any individual who enters
8 the veterinary food-animal drug retailer for the purpose of
9 performing clerical, inventory control, housekeeping, delivery,
10 maintenance, or similar functions relating to the veterinary
11 food-animal drug retailer.

12 (d) Every veterinary food-animal drug retailer shall be
13 supervised or managed by a designated representative-in-charge.
14 The designated representative-in-charge shall be responsible for
15 the veterinary food-animal drug retailer's compliance with state
16 and federal laws governing veterinary food-animal drug retailers.
17 As part of its initial application for a license, and for each renewal,
18 each veterinary food-animal drug retailer shall, on a form designed
19 by the board, provide identifying information and the California
20 license number for a designated representative or pharmacist
21 proposed to serve as the designated representative-in-charge. The
22 proposed designated representative-in-charge shall be subject to
23 approval by the board. The board shall not issue or renew a
24 veterinary food-animal drug retailer license without identification
25 of an approved designated representative-in-charge for the
26 veterinary food-animal drug retailer.

27 (e) Every veterinary food-animal drug retailer shall notify the
28 board in writing, on a form designed by the board, within 30 days
29 of the date when a designated representative-in-charge who ceases
30 to act as the designated representative or pharmacist to take over
31 as the designated representative-in-charge. The proposed
32 replacement designated representative-in-charge shall be subject
33 to approval by the board. If disapproved, the veterinary food-animal
34 drug retailer shall propose another replacement within 15 days of
35 the date of disapproval, and shall continue to name proposed
36 replacements until a designated representative-in-charge is
37 approved by the board.

38 (f) For purposes of this section, designated
39 representative-in-charge means a person granted a designated

1 representative license pursuant to Section 4053, or a registered
2 pharmacist, who is the supervisor or manager of the facility.

3 SEC. 39. Section 4510.1 of the Business and Professions Code
4 is amended to read:

5 4510.1. An applicant for license by examination shall submit
6 a written application in the form prescribed by the board. Provided
7 that the application for licensure is received by the board no later
8 than four months after completion of a board accredited psychiatric
9 technician program and approval of the application, the board may
10 issue an interim permit authorizing the applicant to practice all
11 skills included in the permittee's basic course of study, pending
12 the results of the first licensing examination, or for a period of nine
13 months, whichever occurs first.

14 A permittee shall function under the supervision of a licensed
15 psychiatric technician or a registered nurse, who shall be present
16 and available on the premises during the time the permittee is
17 rendering professional services. The permittee may perform any
18 function taught in the permittee's basic psychiatric technician
19 program.

20 If the applicant passes the examination, the interim permit shall
21 remain in effect until an initial license is issued by the board or
22 for a maximum period of six months after passing the examination,
23 whichever occurs first. If the applicant fails the examination, the
24 interim permit shall terminate upon notice by certified mail, return
25 receipt requested, or if the applicant fails to receive the notice,
26 upon the date specified in the interim permit, whichever occurs
27 first. An interim permittee shall not use any title or designation
28 other than psychiatric technician interim permittee or "P.T.I.P."

29 SEC. 40. Section 4933 of the Business and Professions Code
30 is amended to read:

31 4933. (a) The board shall administer this chapter.

32 (b) The board may adopt, amend, or repeal, in accordance with
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code), regulations as may be necessary to enable it to carry into
36 effect the provisions of law relating to the practice of acupuncture.

37 (c) Four members of the board, including at least one
38 acupuncturist, shall constitute a quorum to conduct business.

1 (d) It shall require an affirmative vote of a majority of those
2 present at a meeting of the board to take any action or pass any
3 motion.

4 SEC. 41. Section 4980.45 of the Business and Professions
5 Code is amended to read:

6 4980.45. (a) A licensed professional in private practice who
7 has satisfied the requirements of subdivision (g) of Section 4980.03
8 may supervise or employ, at any one time, no more than a total of
9 two individuals registered as either a marriage and family therapist
10 intern or associate clinical social worker in that private practice.

11 (b) A marriage and family therapy corporation may employ, at
12 any one time, no more than a total of two individuals registered
13 as either a marriage and family therapist intern or associate clinical
14 social worker for each employee or shareholder who has satisfied
15 the requirements of subdivision (g) of Section 4980.03. In no event
16 shall any corporation employ, at any one time, more than a total
17 of 10 individuals registered as either a marriage and family
18 therapist intern or associate clinical social worker. In no event
19 shall any supervisor supervise, at any one time, more than a total
20 of two individuals registered as either a marriage and family
21 therapist intern or associate clinical social worker. Persons who
22 supervise individuals registered as either a marriage and family
23 therapist intern or associate clinical social worker shall be
24 employed full time by the professional corporation and shall be
25 actively engaged in performing professional services at and for
26 the professional corporation. Employment and supervision within
27 a marriage and family therapy corporation shall be subject to all
28 laws and regulations governing experience and supervision gained
29 in a private practice setting.

30 SEC. 42. Section 4980.48 of the Business and Professions
31 Code is amended to read:

32 4980.48. (a) A trainee shall inform each client or patient, prior
33 to performing any professional services, that he or she is unlicensed
34 and under the supervision of a licensed marriage and family
35 therapist, a licensed clinical social worker, a licensed psychologist,
36 or a licensed physician certified in psychiatry by the American
37 Board of Psychiatry and Neurology.

38 (b) Any person that advertises services performed by a trainee
39 shall include the trainee's name, the supervisor's license
40 designation or abbreviation, and the supervisor's license number.

1 SEC. 43. Section 4982 of the Business and Professions Code
2 is amended to read:

3 4982. The board may deny a license or registration or may
4 suspend or revoke the license or registration of a licensee or
5 registrant if he or she has been guilty of unprofessional conduct.
6 Unprofessional conduct includes, but is not limited to, the
7 following:

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

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

34 (c) Administering to himself or herself any controlled substance
35 or using of any of the dangerous drugs specified in Section 4022,
36 or of any alcoholic beverage to the extent, or in a manner, as to be
37 dangerous or injurious to the person applying for a registration or
38 license or holding a registration or license under this chapter, or
39 to any other person, or to the public, or, to the extent that the use
40 impairs the ability of the person applying for or holding a

1 registration or license to conduct with safety to the public the
2 practice authorized by the registration or license. The board shall
3 deny an application for a registration or license or revoke the
4 license or registration of any person, other than one who is licensed
5 as a physician and surgeon, who uses or offers to use drugs in the
6 course of performing marriage and family therapy services.

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

9 (e) Violating, attempting to violate, or conspiring to violate any
10 of the provisions of this chapter or any regulation adopted by the
11 board.

12 (f) Misrepresentation as to the type or status of a license or
13 registration held by the person, or otherwise misrepresenting or
14 permitting misrepresentation of his or her education, professional
15 qualifications, or professional affiliations to any person or entity.

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

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

22 (i) Intentionally or recklessly causing physical or emotional
23 harm to any client.

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

27 (k) Engaging in sexual relations with a client, or a former client
28 within two years following termination of therapy, soliciting sexual
29 relations with a client, or committing an act of sexual abuse, or
30 sexual misconduct with a client, or committing an act punishable
31 as a sexually related crime, if that act or solicitation is substantially
32 related to the qualifications, functions, or duties of a marriage and
33 family therapist.

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

38 (m) Failure to maintain confidentiality, except as otherwise
39 required or permitted by law, of all information that has been
40 received from a client in confidence during the course of treatment

1 and all information about the client that is obtained from tests or
2 other means.

3 (n) Prior to the commencement of treatment, failing to disclose
4 to the client or prospective client the fee to be charged for the
5 professional services, or the basis upon which that fee will be
6 computed.

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

16 (p) Advertising in a manner that is false, fraudulent, misleading,
17 or deceptive, as defined in Section 651.

18 (q) Reproduction or description in public, or in any publication
19 subject to general public distribution, of any psychological test or
20 other assessment device, the value of which depends in whole or
21 in part on the naivete of the subject, in ways that might invalidate
22 the test or device.

23 (r) Any conduct in the supervision of any registered intern,
24 associate clinical social worker, or trainee by any licensee that
25 violates this chapter or any rules or regulations adopted by the
26 board.

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

32 (t) Permitting a trainee or registered intern under one's
33 supervision or control to perform, or permitting the trainee or
34 registered intern to hold himself or herself out as competent to
35 perform, professional services beyond the trainee's or registered
36 intern's level of education, training, or experience.

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

1 (v) Failure to keep records consistent with sound clinical
2 judgment, the standards of the profession, and the nature of the
3 services being rendered.

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

6 (x) Failure to comply with the elder and dependent adult abuse
7 reporting requirements of Section 15630 of the Welfare and
8 Institutions Code.

9 (y) Willful violation of Chapter 1 (commencing with Section
10 123100) of Part 1 of Division 106 of the Health and Safety Code.

11 (z) Failure to comply with Section 2290.5.

12 (aa) (1) Engaging in an act described in Section 261, 286, 288a,
13 or 289 of the Penal Code with a minor or an act described in
14 Section 288 or 288.5 of the Penal Code regardless of whether the
15 act occurred prior to or after the time the registration or license
16 was issued by the board. An act described in this subdivision
17 occurring prior to the effective date of this subdivision shall
18 constitute unprofessional conduct and shall subject the licensee to
19 refusal, suspension, or revocation of a license under this section.

20 (2) The Legislature hereby finds and declares that protection of
21 the public, and in particular minors, from sexual misconduct by a
22 licensee is a compelling governmental interest, and that the ability
23 to suspend or revoke a license for sexual conduct with a minor
24 occurring prior to the effective date of this section is equally
25 important to protecting the public as is the ability to refuse a license
26 for sexual conduct with a minor occurring prior to the effective
27 date of this section.

28 (ab) Engaging in any conduct that subverts or attempts to subvert
29 any licensing examination or the administration of an examination
30 as described in Section 123.

31 SEC. 44. Section 4982.2 of the Business and Professions Code
32 is amended to read:

33 4982.2. (a) A licensed marriage and family therapist, marriage
34 and family therapist intern, licensed clinical social worker,
35 associate clinical social worker, or licensed educational
36 psychologist whose license or registration has been revoked or
37 suspended or who has been placed on probation may petition the
38 board for reinstatement or modification of the penalty, including
39 modification or termination of probation, after a period not less
40 than the following minimum periods has elapsed from the effective

1 date of the decision ordering the disciplinary action, or if the order
2 of the board, or any portion of it, is stayed by the board itself, or
3 by the superior court, from the date the disciplinary action is
4 actually implemented in its entirety:

5 (1) At least three years for reinstatement of a license or
6 registration that was revoked for unprofessional conduct, except
7 that the board may, in its sole discretion at the time of adoption,
8 specify in its order that a petition for reinstatement may be filed
9 after two years.

10 (2) At least two years for early termination of any probation
11 period of three years, or more.

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

15 (b) The petition may be heard by the board itself, or the board
16 may assign the petition to an administrative law judge pursuant to
17 Section 11512 of the Government Code. The board shall give
18 notice to the Attorney General of the filing of the petition. The
19 petitioner and the Attorney General shall be given timely notice
20 by letter of the time and place of the hearing on the petition, and
21 an opportunity to present both oral and documentary evidence and
22 argument to the board. The petitioner shall at all times have the
23 burden of production and proof to establish by clear and convincing
24 evidence that he or she is entitled to the relief sought in the petition.
25 The board, when it is hearing the petition itself, or an administrative
26 law judge sitting for the board, may consider all activities of the
27 petitioner since the disciplinary action was taken, the offense for
28 which the petitioner was disciplined, the petitioner's activities
29 during the time his or her license was in good standing, and the
30 petitioner's rehabilitative efforts, general reputation for truth, and
31 professional ability.

32 (c) The hearing may be continued from time to time as the board
33 or the administrative law judge deems appropriate.

34 (d) The board itself, or the administrative law judge if one is
35 designated by the board, shall hear the petition and shall prepare
36 a written decision setting forth the reasons supporting the decision.
37 In a decision granting a petition reinstating a license or modifying
38 a penalty, the board itself, or the administrative law judge may
39 impose any terms and conditions that the agency deems reasonably
40 appropriate, including those set forth in Sections 823 and 4982.15.

1 Where a petition is heard by an administrative law judge sitting
2 alone, the administrative law judge shall prepare a proposed
3 decision and submit it to the board.

4 (e) The board may take action with respect to the proposed
5 decision and petition as it deems appropriate.

6 (f) The petition shall be on a form provided by the board, and
7 shall state any facts and information as may be required by the
8 board including, but not limited to, proof of compliance with the
9 terms and conditions of the underlying disciplinary order.

10 (g) The petitioner shall pay a fingerprinting fee and provide a
11 current set of his or her fingerprints to the board. The petitioner
12 shall execute a form authorizing release to the board or its designee,
13 of all information concerning the petitioner's current physical and
14 mental condition. Information provided to the board pursuant to
15 the release shall be confidential and shall not be subject to
16 discovery or subpoena in any other proceeding, and shall not be
17 admissible in any action, other than before the board, to determine
18 the petitioner's fitness to practice as required by Section 822.

19 (h) The petition shall be verified by the petitioner, who shall
20 file an original and sufficient copies of the petition, together with
21 any supporting documents, for the members of the board, the
22 administrative law judge, and the Attorney General.

23 (i) The board may delegate to its executive officer authority to
24 order investigation of the contents of the petition, but in no case,
25 may the hearing on the petition be delayed more than 180 days
26 from its filing without the consent of the petitioner.

27 (j) The petitioner may request that the board schedule the hearing
28 on the petition for a board meeting at a specific city where the
29 board regularly meets.

30 (k) No petition shall be considered while the petitioner is under
31 sentence for any criminal offense, including any period during
32 which the petitioner is on court-imposed probation or parole, or
33 the petitioner is required to register pursuant to Section 290 of the
34 Penal Code. No petition shall be considered while there is an
35 accusation or petition to revoke probation pending against the
36 petitioner.

37 (l) Except in those cases where the petitioner has been
38 disciplined for violation of Section 822, the board may in its
39 discretion deny without hearing or argument any petition that is
40 filed pursuant to this section within a period of two years from the

1 effective date of a prior decision following a hearing under this
2 section.

3 SEC. 45. Section 4989.22 of the Business and Professions
4 Code is amended to read:

5 4989.22. (a) Only persons who satisfy the requirements of
6 Section 4989.20 are eligible to take the licensure examination.

7 (b) An applicant who fails the written examination may, within
8 one year from the notification date of failure, retake the
9 examination as regularly scheduled without further application.
10 Thereafter, the applicant shall not be eligible for further
11 examination until he or she files a new application, meets all
12 current requirements, and pays all fees required.

13 (c) Notwithstanding any other provision of law, the board may
14 destroy all examination materials two years after the date of an
15 examination.

16 (d) The board shall not deny any applicant, whose application
17 for licensure is complete, admission to the standard written
18 examination, nor shall the board postpone or delay any applicant's
19 standard written examination or delay informing the candidate of
20 the results of the standard written examination, solely upon the
21 receipt by the board of a complaint alleging acts or conduct that
22 would constitute grounds to deny licensure.

23 (e) If an applicant for examination who has passed the standard
24 written examination is the subject of a complaint or is under board
25 investigation for acts or conduct that, if proven to be true, would
26 constitute grounds for the board to deny licensure, the board shall
27 permit the applicant to take the clinical vignette written
28 examination for licensure, but may withhold the results of the
29 examination or notify the applicant that licensure will not be
30 granted pending completion of the investigation.

31 (f) Notwithstanding Section 135, the board may deny any
32 applicant who has previously failed either the standard written or
33 clinical vignette written examination permission to retake either
34 examination pending completion of the investigation of any
35 complaint against the applicant. Nothing in this section shall
36 prohibit the board from denying an applicant admission to any
37 examination, withholding the results, or refusing to issue a license
38 to any applicant when an accusation or statement of issues has
39 been filed against the applicant pursuant to Section 11503 or 11504

1 of the Government Code, or the applicant has been denied in
2 accordance with subdivision (b) of Section 485.

3 SEC. 46. Section 4989.49 is added to the Business and
4 Professions Code, to read:

5 4989.49. "Advertising," as used in this chapter, includes, but
6 is not limited to, any public communication as defined in
7 subdivision (a) of Section 651, the issuance of any card, sign, or
8 device to any person, or the causing, permitting, or allowing of
9 any sign or marking on, or in, any building or structure, or in any
10 newspaper, magazine, or directory, or any printed matter
11 whatsoever, with or without any limiting qualification. Signs within
12 religious buildings or notices in bulletins from a religious
13 organization mailed to a congregation shall not be construed as
14 advertising within the meaning of this chapter.

15 SEC. 47. Section 4989.54 of the Business and Professions
16 Code is amended to read:

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

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

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

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

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

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

1 verdict of guilty or dismissing the accusation, information, or
2 indictment.

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

7 (c) Administering to himself or herself a controlled substance
8 or using any of the dangerous drugs specified in Section 4022 or
9 an alcoholic beverage to the extent, or in a manner, as to be
10 dangerous or injurious to himself or herself or to any other person
11 or to the public or to the extent that the use impairs his or her ability
12 to safely perform the functions authorized by the license. The board
13 shall deny an application for a license or revoke the license of any
14 person, other than one who is licensed as a physician and surgeon,
15 who uses or offers to use drugs in the course of performing
16 educational psychology.

17 (d) Failure to comply with the consent provisions in Section
18 2290.5.

19 (e) Advertising in a manner that is false, fraudulent, misleading,
20 or deceptive, as defined in Section 651.

21 (f) Violating, attempting to violate, or conspiring to violate any
22 of the provisions of this chapter or any regulation adopted by the
23 board.

24 (g) Commission of any dishonest, corrupt, or fraudulent act
25 substantially related to the qualifications, functions, or duties of a
26 licensee.

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

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

37 (j) Failure to keep records consistent with sound clinical
38 judgment, the standards of the profession, and the nature of the
39 services being rendered.

1 (k) Gross negligence or incompetence in the practice of
2 educational psychology.

3 (l) Misrepresentation as to the type or status of a license held
4 by the licensee or otherwise misrepresenting or permitting
5 misrepresentation of his or her education, professional
6 qualifications, or professional affiliations to any person or entity.

7 (m) Intentionally or recklessly causing physical or emotional
8 harm to any client.

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

16 (o) Prior to the commencement of treatment, failing to disclose
17 to the client or prospective client the fee to be charged for the
18 professional services or the basis upon which that fee will be
19 computed.

20 (p) Paying, accepting, or soliciting any consideration,
21 compensation, or remuneration, whether monetary or otherwise,
22 for the referral of professional clients.

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

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

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

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

3 (u) When employed by another person or agency, encouraging,
4 either orally or in writing, the employer's or agency's clientele to
5 utilize his or her private practice for further counseling without
6 the approval of the employing agency or administration.

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

9 (w) Failing to comply with the elder and adult dependent abuse
10 reporting requirements of Section 15630 of the Welfare and
11 Institutions Code.

12 (x) Willful violation of Chapter 1 (commencing with Section
13 123100) of Part 1 of Division 106 of the Health and Safety Code.

14 (y) (1) Engaging in an act described in Section 261, 286, 288a,
15 or 289 of the Penal Code with a minor or an act described in
16 Section 288 or 288.5 of the Penal Code regardless of whether the
17 act occurred prior to or after the time the registration or license
18 was issued by the board. An act described in this subdivision
19 occurring prior to the effective date of this subdivision shall
20 constitute unprofessional conduct and shall subject the licensee to
21 refusal, suspension, or revocation of a license under this section.

22 (2) The Legislature hereby finds and declares that protection of
23 the public, and in particular minors, from sexual misconduct by a
24 licensee is a compelling governmental interest, and that the ability
25 to suspend or revoke a license for sexual conduct with a minor
26 occurring prior to the effective date of this section is equally
27 important to protecting the public as is the ability to refuse a license
28 for sexual conduct with a minor occurring prior to the effective
29 date of this section.

30 (z) Engaging in any conduct that subverts or attempts to subvert
31 any licensing examination or the administration of the examination
32 as described in Section 123.

33 SEC. 48. Section 4992.1 of the Business and Professions Code
34 is amended to read:

35 4992.1. (a) Only individuals who have the qualifications
36 prescribed by the board under this chapter are eligible to take the
37 examination.

38 (b) Every applicant who is issued a clinical social worker license
39 shall be examined by the board.

1 (c) Notwithstanding any other provision of law, the board may
2 destroy all examination materials two years following the date of
3 an examination.

4 (d) The board shall not deny any applicant, whose application
5 for licensure is complete, admission to the standard written
6 examination, nor shall the board postpone or delay any applicant's
7 standard written examination or delay informing the candidate of
8 the results of the standard written examination, solely upon the
9 receipt by the board of a complaint alleging acts or conduct that
10 would constitute grounds to deny licensure.

11 (e) If an applicant for examination who has passed the standard
12 written examination is the subject of a complaint or is under board
13 investigation for acts or conduct that, if proven to be true, would
14 constitute grounds for the board to deny licensure, the board shall
15 permit the applicant to take the clinical vignette written
16 examination for licensure, but may withhold the results of the
17 examination or notify the applicant that licensure will not be
18 granted pending completion of the investigation.

19 (f) Notwithstanding Section 135, the board may deny any
20 applicant who has previously failed either the standard written or
21 clinical vignette written examination permission to retake either
22 examination pending completion of the investigation of any
23 complaint against the applicant. Nothing in this section shall
24 prohibit the board from denying an applicant admission to any
25 examination, withholding the results, or refusing to issue a license
26 to any applicant when an accusation or statement of issues has
27 been filed against the applicant pursuant to Section 11503 or 11504
28 of the Government Code, or the applicant has been denied in
29 accordance with subdivision (b) of Section 485.

30 (g) On or after January 1, 2002, no applicant shall be eligible
31 to participate in a clinical vignette written examination if his or
32 her passing score on the standard written examination occurred
33 more than seven years before.

34 SEC. 49. Section 4992.2 is added to the Business and
35 Professions Code, to read:

36 4992.2. "Advertising," as used in this chapter, includes, but is
37 not limited to, any public communication as defined in subdivision
38 (a) of Section 651, the issuance of any card, sign, or device to any
39 person, or the causing, permitting, or allowing of any sign or
40 marking on, or in, any building or structure, or in any newspaper,

1 magazine, or directory, or any printed matter whatsoever, with or
2 without any limiting qualification. Signs within religious buildings
3 or notices in bulletins from a religious organization mailed to a
4 congregation shall not be construed as advertising within the
5 meaning of this chapter.

6 SEC. 50. Section 4992.3 of the Business and Professions Code
7 is amended to read:

8 4992.3. The board may deny a license or a registration, or may
9 suspend or revoke the license or registration of a licensee or
10 registrant if he or she has been guilty of unprofessional conduct.
11 Unprofessional conduct includes, but is not limited to, the
12 following:

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

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

39 (c) Administering to himself or herself any controlled substance
40 or using any of the dangerous drugs specified in Section 4022 or

1 any alcoholic beverage to the extent, or in a manner, as to be
2 dangerous or injurious to the person applying for a registration or
3 license or holding a registration or license under this chapter, or
4 to any other person, or to the public, or, to the extent that the use
5 impairs the ability of the person applying for or holding a
6 registration or license to conduct with safety to the public the
7 practice authorized by the registration or license. The board shall
8 deny an application for a registration or license or revoke the
9 license or registration of any person who uses or offers to use drugs
10 in the course of performing clinical social work. This provision
11 does not apply to any person also licensed as a physician and
12 surgeon under Chapter 5 (commencing with Section 2000) or the
13 Osteopathic Act who lawfully prescribes drugs to a patient under
14 his or her care.

15 (d) Gross negligence or incompetence in the performance of
16 clinical social work.

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

19 (f) Misrepresentation as to the type or status of a license or
20 registration held by the person, or otherwise misrepresenting or
21 permitting misrepresentation of his or her education, professional
22 qualifications, or professional affiliations to any person or entity.
23 For purposes of this subdivision, this misrepresentation includes,
24 but is not limited to, misrepresentation of the person's
25 qualifications as an adoption service provider pursuant to Section
26 8502 of the Family Code.

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

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

33 (i) Intentionally or recklessly causing physical or emotional
34 harm to any client.

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

38 (k) Engaging in sexual relations with a client or with a former
39 client within two years from the termination date of therapy with
40 the client, soliciting sexual relations with a client, or committing

1 an act of sexual abuse, or sexual misconduct with a client, or
2 committing an act punishable as a sexually related crime, if that
3 act or solicitation is substantially related to the qualifications,
4 functions, or duties of a clinical social worker.

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

10 (m) Failure to maintain confidentiality, except as otherwise
11 required or permitted by law, of all information that has been
12 received from a client in confidence during the course of treatment
13 and all information about the client that is obtained from tests or
14 other means.

15 (n) Prior to the commencement of treatment, failing to disclose
16 to the client or prospective client the fee to be charged for the
17 professional services, or the basis upon which that fee will be
18 computed.

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

28 (p) Advertising in a manner that is false, fraudulent, misleading,
29 or deceptive, as defined in Section 651.

30 (q) Reproduction or description in public, or in any publication
31 subject to general public distribution, of any psychological test or
32 other assessment device, the value of which depends in whole or
33 in part on the naivete of the subject, in ways that might invalidate
34 the test or device.

35 (r) Any conduct in the supervision of any registered associate
36 clinical social worker, intern, or trainee by any licensee that violates
37 this chapter or any rules or regulations adopted by the board.

38 (s) Failure to keep records consistent with sound clinical
39 judgment, the standards of the profession, and the nature of the
40 services being rendered.

1 (t) Failure to comply with the child abuse reporting requirements
2 of Section 11166 of the Penal Code.

3 (u) Failure to comply with the elder and dependent adult abuse
4 reporting requirements of Section 15630 of the Welfare and
5 Institutions Code.

6 (v) Willful violation of Chapter 1 (commencing with Section
7 123100) of Part 1 of Division 106 of the Health and Safety Code.

8 (w) Failure to comply with Section 2290.5.

9 (x) (1) Engaging in an act described in Section 261, 286, 288a,
10 or 289 of the Penal Code with a minor or an act described in
11 Section 288 or 288.5 of the Penal Code regardless of whether the
12 act occurred prior to or after the time the registration or license
13 was issued by the board. An act described in this subdivision
14 occurring prior to the effective date of this subdivision shall
15 constitute unprofessional conduct and shall subject the licensee to
16 refusal, suspension, or revocation of a license under this section.

17 (2) The Legislature hereby finds and declares that protection of
18 the public, and in particular minors, from sexual misconduct by a
19 licensee is a compelling governmental interest, and that the ability
20 to suspend or revoke a license for sexual conduct with a minor
21 occurring prior to the effective date of this section is equally
22 important to protecting the public as is the ability to refuse a license
23 for sexual conduct with a minor occurring prior to the effective
24 date of this section.

25 (y) Engaging in any conduct that subverts or attempts to subvert
26 any licensing examination or the administration of the examination
27 as described in Section 123.

28 SEC. 51. Section 4996.23 of the Business and Professions
29 Code is amended to read:

30 4996.23. The experience required by subdivision (c) of Section
31 4996.2 shall meet the following criteria:

32 (a) All persons registered with the board on and after January
33 1, 2002, shall have at least 3,200 hours of post-master's degree
34 supervised experience providing clinical social work services as
35 permitted by Section 4996.9. At least 1,700 hours shall be gained
36 under the supervision of a licensed clinical social worker. The
37 remaining required supervised experience may be gained under
38 the supervision of a licensed mental health professional acceptable
39 to the board as defined by a regulation adopted by the board. This
40 experience shall consist of the following:

1 (1) A minimum of 2,000 hours in clinical psychosocial
2 diagnosis, assessment, and treatment, including psychotherapy or
3 counseling.

4 (2) A maximum of 1,200 hours in client-centered advocacy,
5 consultation, evaluation, and research.

6 (3) Of the 2,000 clinical hours required in paragraph (1), no less
7 than 750 hours shall be face-to-face individual or group
8 psychotherapy provided to clients in the context of clinical social
9 work services.

10 (4) A minimum of two years of supervised experience is required
11 to be obtained over a period of not less than 104 weeks and shall
12 have been gained within the six years immediately preceding the
13 date on which the application for licensure was filed.

14 (5) Experience shall not be credited for more than 40 hours in
15 any week.

16 (b) "Supervision" means responsibility for, and control of, the
17 quality of clinical social work services being provided.
18 Consultation or peer discussion shall not be considered to be
19 supervision.

20 (c) (1) Prior to the commencement of supervision, a supervisor
21 shall comply with all requirements enumerated in Section 1870 of
22 Title 16 of the California Code of Regulations and shall sign under
23 penalty of perjury the "Responsibility Statement for Supervisors
24 of an Associate Clinical Social Worker" form.

25 (2) Supervised experience shall include at least one hour of
26 direct supervisor contact for a minimum of 104 weeks. For
27 purposes of this subdivision, "one hour of director supervisor
28 contact" means one hour per week of face-to-face contact on an
29 individual basis or two hours of face-to-face contact in a group
30 conducted within the same week as the hours claimed.

31 (3) An associate shall receive an average of at least one hour of
32 direct supervisor contact for every week in which more than 10
33 hours of face-to-face psychotherapy is performed in each setting
34 in which experience is gained. No more than five hours of
35 supervision, whether individual or group, shall be credited during
36 any single week.

37 (4) Group supervision shall be provided in a group of not more
38 than eight supervisees and shall be provided in segments lasting
39 no less than one continuous hour.

1 (5) An associate clinical social worker working in a
2 governmental entity, a school, college, or university, or an
3 institution that is both a nonprofit and charitable institution may
4 be credited with up to 30 hours of direct supervisor contact, via
5 two-way, real-time videoconferencing. The supervisor shall be
6 responsible for ensuring that client confidentiality is maintained.

7 (6) Of the 104 weeks of required supervision, 52 weeks shall
8 be individual supervision, and of the 52 weeks of required
9 individual supervision, not less than 13 weeks shall be supervised
10 by a licensed clinical social worker.

11 (d) The supervisor and the associate shall develop a supervisory
12 plan that describes the goals and objectives of supervision. These
13 goals shall include the ongoing assessment of strengths and
14 limitations and the assurance of practice in accordance with the
15 laws and regulations. The associate shall submit to the board the
16 initial original supervisory plan upon application for licensure.

17 (e) Experience shall only be gained in a setting that meets both
18 of the following:

19 (1) Lawfully and regularly provides clinical social work, mental
20 health counseling, or psychotherapy.

21 (2) Provides oversight to ensure that the associate's work at the
22 setting meets the experience and supervision requirements set forth
23 in this chapter and is within the scope of practice for the profession
24 as defined in Section 4996.9.

25 (f) Experience shall not be gained until the applicant has been
26 registered as an associate clinical social worker.

27 (g) Employment in a private practice as defined in subdivision
28 (h) shall not commence until the applicant has been registered as
29 an associate clinical social worker.

30 (h) A private practice setting is a setting that is owned by a
31 licensed clinical social worker, a licensed marriage and family
32 therapist, a licensed psychologist, a licensed physician and surgeon,
33 or a professional corporation of any of those licensed professions.

34 (i) If volunteering, the associate shall provide the board with a
35 letter from his or her employer verifying his or her voluntary status
36 upon application for licensure.

37 (j) If employed, the associate shall provide the board with copies
38 of his or her W-2 tax forms for each year of experience claimed
39 upon application for licensure.

1 (k) While an associate may be either a paid employee or
2 volunteer, employers are encouraged to provide fair remuneration
3 to associates.

4 (l) An associate shall not do the following:

5 (1) Receive any remuneration from patients or clients and shall
6 only be paid by his or her employer.

7 (2) Have any proprietary interest in the employer's business.

8 (3) Lease or rent space, pay for furnishings, equipment, or
9 supplies, or in any other way pay for the obligations of his or her
10 employer.

11 (m) An associate, whether employed or volunteering, may obtain
12 supervision from a person not employed by the associate's
13 employer if that person has signed a written agreement with the
14 employer to take supervisory responsibility for the associate's
15 social work services.

16 (n) Notwithstanding any other provision of law, associates and
17 applicants for examination shall receive a minimum of one hour
18 of supervision per week for each setting in which he or she is
19 working.

20 SEC. 52. Section 4996.24 is added to the Business and
21 Professions Code, to read:

22 4996.24. (a) A licensee in private practice who has satisfied
23 the requirements of Section 1870 of Title 16 of the California Code
24 of Regulations may supervise or employ, at any one time, no more
25 than a total of two individuals registered as either a marriage and
26 family therapist intern or associate clinical social worker in that
27 private practice.

28 (b) A licensed clinical social workers' corporation may employ,
29 at any one time, no more than a total of two individuals registered
30 as either a marriage and family therapist intern or associate clinical
31 social worker for each employee or shareholder who has satisfied
32 the requirements of Section 1870 of Title 16 of the California Code
33 of Regulations.

34 (c) In no event shall any corporation employ, at any one time,
35 more than a total of 10 individuals registered as either a marriage
36 and family therapist intern or associate clinical social worker. In
37 no event shall any supervisor supervise, at any one time, more than
38 a total of two individuals registered as either a marriage and family
39 therapist intern or associate clinical social worker. Persons who
40 supervise individuals registered as either a marriage and family

1 therapist intern or associate clinical social worker shall be
2 employed full time by the professional corporation and shall be
3 actively engaged in performing professional services at and for
4 the professional corporation. Employment and supervision within
5 the licensed clinical social workers' corporation shall be subject
6 to all laws and regulations governing experience and supervision
7 gained in a private practice setting.

8 SEC. 53. Section 4996.28 of the Business and Professions
9 Code is amended to read:

10 4996.28. (a) Registration as an associate clinical social worker
11 shall expire one year from the last day of the month during which
12 it was issued. To renew a registration, the registrant shall, on or
13 before the expiration date of the registration, complete all of the
14 following actions:

15 (1) Apply for renewal on a form prescribed by the board.
16 (2) Pay a renewal fee prescribed by the board.
17 (3) Notify the board whether he or she has been convicted, as
18 defined in Section 490, of a misdemeanor or felony, and whether
19 any disciplinary action has been taken by a regulatory or licensing
20 board in this or any other state, subsequent to the last renewal of
21 the registration.

22 (b) A registration as an associate clinical social worker may be
23 renewed a maximum of five times. When no further renewals are
24 possible, an applicant may apply for and obtain a new associate
25 clinical social worker registration if the applicant meets all
26 requirements for registration in effect at the time of his or her
27 application for a new associate clinical social worker registration.
28 An applicant issued a subsequent associate registration pursuant
29 to this subdivision may be employed or volunteer in any allowable
30 work setting except private practice.

31 SEC. 54. Section 4996.5 of the Business and Professions Code
32 is amended to read:

33 4996.5. The board shall issue a license to each applicant
34 meeting the requirements of this article, which license, so long as
35 the renewal fees have been paid, licenses the holder to engage in
36 the practice of clinical social work as defined in Section 4996.9,
37 entitles the holder to use the title of licensed clinical social worker,
38 and authorizes the holder to hold himself or herself out as qualified
39 to perform any of the functions delineated by this chapter. The

1 form and content of the license shall be determined by the director
2 in accordance with Section 164.

3 SEC. 55. Section 4999.2 of the Business and Professions Code,
4 as amended by Section 48 of Chapter 31 of the Statutes of 2008,
5 is amended to read:

6 4999.2. (a) In order to obtain and maintain a registration,
7 in-state or out-of-state telephone medical advice services shall
8 comply with the requirements established by the department. Those
9 requirements shall include, but shall not be limited to, all of the
10 following:

11 (1) (A) Ensuring that all staff who provide medical advice
12 services are appropriately licensed, certified, or registered as a
13 physician and surgeon pursuant to Chapter 5 (commencing with
14 Section 2000) or the Osteopathic Initiative Act, as a dentist, dental
15 hygienist, dental hygienist in alternative practice, or dental
16 hygienist in extended functions pursuant to Chapter 4 (commencing
17 with Section 1600), as an occupational therapist pursuant to
18 Chapter 5.6 (commencing with Section 2570), as a registered nurse
19 pursuant to Chapter 6 (commencing with Section 2700), as a
20 psychologist pursuant to Chapter 6.6 (commencing with Section
21 2900), as a marriage and family therapist pursuant to Chapter 13
22 (commencing with Section 4980), as a licensed clinical social
23 worker pursuant to Chapter 14 (commencing with Section 4990.1),
24 as an optometrist pursuant to Chapter 7 (commencing with Section
25 3000), or as a chiropractor pursuant to the Chiropractic Initiative
26 Act, and operating consistent with the laws governing their
27 respective scopes of practice in the state within which they provide
28 telephone medical advice services, except as provided in paragraph
29 (2).

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

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

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

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

7 (5) Complying with all directions and requests for information
8 made by the department.

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

14 SEC. 56. Section 123105 of the Health and Safety Code is
15 amended to read:

16 123105. As used in this chapter:

17 (a) “Health care provider” means any of the following:

18 (1) A health facility licensed pursuant to Chapter 2 (commencing
19 with Section 1250) of Division 2.

20 (2) A clinic licensed pursuant to Chapter 1 (commencing with
21 Section 1200) of Division 2.

22 (3) A home health agency licensed pursuant to Chapter 8
23 (commencing with Section 1725) of Division 2.

24 (4) A physician and surgeon licensed pursuant to Chapter 5
25 (commencing with Section 2000) of Division 2 of the Business
26 and Professions Code or pursuant to the Osteopathic Act.

27 (5) A podiatrist licensed pursuant to Article 22 (commencing
28 with Section 2460) of Chapter 5 of Division 2 of the Business and
29 Professions Code.

30 (6) A dentist licensed pursuant to Chapter 4 (commencing with
31 Section 1600) of Division 2 of the Business and Professions Code.

32 (7) A psychologist licensed pursuant to Chapter 6.6
33 (commencing with Section 2900) of Division 2 of the Business
34 and Professions Code.

35 (8) An optometrist licensed pursuant to Chapter 7 (commencing
36 with Section 3000) of Division 2 of the Business and Professions
37 Code.

38 (9) A chiropractor licensed pursuant to the Chiropractic Initiative
39 Act.

1 (10) A marriage and family therapist licensed pursuant to
2 Chapter 13 (commencing with Section 4980) of Division 2 of the
3 Business and Professions Code.

4 (11) A clinical social worker licensed pursuant to Chapter 14
5 (commencing with Section 4990) of Division 2 of the Business
6 and Professions Code.

7 (12) A physical therapist licensed pursuant to Chapter 5.7
8 (commencing with Section 2600) of Division 2 of the Business
9 and Professions Code.

10 (13) An occupational therapist licensed pursuant to Chapter 5.6
11 (commencing with Section 2570).

12 (b) “Mental health records” means patient records, or discrete
13 portions thereof, specifically relating to evaluation or treatment of
14 a mental disorder. “Mental health records” includes, but is not
15 limited to, all alcohol and drug abuse records.

16 (c) “Patient” means a patient or former patient of a health care
17 provider.

18 (d) “Patient records” means records in any form or medium
19 maintained by, or in the custody or control of, a health care
20 provider relating to the health history, diagnosis, or condition of
21 a patient, or relating to treatment provided or proposed to be
22 provided to the patient. “Patient records” includes only records
23 pertaining to the patient requesting the records or whose
24 representative requests the records. “Patient records” does not
25 include information given in confidence to a health care provider
26 by a person other than another health care provider or the patient,
27 and that material may be removed from any records prior to
28 inspection or copying under Section 123110 or 123115. “Patient
29 records” does not include information contained in aggregate form,
30 such as indices, registers, or logs.

31 (e) “Patient’s representative” or “representative” means any of
32 the following:

33 (1) A parent or guardian of a minor who is a patient.

34 (2) The guardian or conservator of the person of an adult patient.

35 (3) An agent as defined in Section 4607 of the Probate Code,
36 to the extent necessary for the agent to fulfill his or her duties as
37 set forth in Division 4.7 (commencing with Section 4600) of the
38 Probate Code.

1 (4) The beneficiary as defined in Section 24 of the Probate Code
2 or personal representative as defined in Section 58 of the Probate
3 Code, of a deceased patient.

4 (f) “Alcohol and drug abuse records” means patient records, or
5 discrete portions thereof, specifically relating to evaluation and
6 treatment of alcoholism or drug abuse.

7 SEC. 57. Section 3 of Chapter 294 of the Statutes of 2004 is
8 amended to read:

9 Sec. 3. The sum of one hundred thirty-eight thousand dollars
10 (\$138,000) in the 2004–05 fiscal year, and the sum of two hundred
11 sixty-four thousand dollars (\$264,000) in the 2005–06 fiscal year
12 and subsequent fiscal years, is hereby appropriated from the State
13 Dental Hygiene Fund to the Dental Hygiene Committee of
14 California for operating expenses necessary to manage the dental
15 hygiene licensing examination.

16 SEC. 58. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.