

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 6, 2009

AMENDED IN ASSEMBLY JUNE 15, 2009

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 139, ~~146~~, 805, 1632.5, 1634.2, 2493, 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, 4200.3, 4200.4, 4510.1, 4933, 4938, 4980.45, 4980.48, 4982, 4982.2, 4989.22, 4989.54, 4992.1, 4992.3, 4996.23, 4996.28, 4996.5, 4999.2, 5016, 5021, 5022, 5023, 5651, 7028.7, 7044, 7159, 7159.5, 7159.14, 7303.2, 7500.1, 7505.5, 7507.9, 7507.12, 7606, 7616, 7641, 7643, 7646, 7647, 7662, 7665, 7666, 7671, 7725.5, 7729, 9884.2, ~~9884.7, 9884.12~~, 9889.3, and 10146 of, to add Sections 2532.25, 2570.17, 4013, 4146, 4989.49, 4992.2, 4996.24, ~~5515.5~~, 7044.01, and 7507.115 to, to repeal Sections 821.5, ~~821.6~~, and ~~6763.1~~ and 821.6 of, and to repeal and add Section 7108.5 of, ~~of~~, the Business and Professions Code, to amend Sections 44014.2, 44017.3, 44072.1, 44072.2, 44095, and 123105 of the Health and Safety Code, to amend Sections 28, 5201,

and 24603 of the Vehicle Code, and to amend Section 3 of Chapter 294 of the Statutes of 2004, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 821, as amended, Committee on Business, Professions and Economic Development. Consumer affairs: professions and vocations.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs. Existing law requires that certain examinations for licensure be developed by, or in consultation, with the Office of Examination Resources in the department, as specified.

This bill would rename that office the Office of Professional Examination Services.

~~(2) Existing law prohibits a person from holding himself or herself out to the public as a professional fiduciary without a license. Existing law specifies that a violation of certain requirements to be registered, licensed, or certified to engage in certain businesses is punishable as an infraction subject to specified procedures and fines.~~

~~This bill would make a violation of the professional fiduciary licensure requirement punishable as an infraction, thereby imposing a state-mandated local program.~~

~~(3)~~

(2) 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 “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.

~~(4)~~

(3) Existing law, the Bagley-Keene Open Meeting Act, requires a state body, as defined, to provide prescribed notice of its meetings to any person who requests that notice in writing. Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy and requires the executive officer of the board to give at least 7 days’ notice of board meetings. Existing law authorizes the board to appoint an administrative committee and an advisory committee

for certain purposes and requires members of the administrative committee to hold office for one year.

This bill would designate the advisory committee as the qualifications committee and would require members of that committee and the administrative committee to hold office for 2 years. The bill would require notice of each meeting of the board to be given in accordance with the Bagley-Keene Open Meeting Act.

~~(5) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.~~

~~This bill would modify the term length for certain members of the board.~~

~~(6)~~

~~(4) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board. Existing law requires the board to ascertain the qualifications of applicants for a license by means of written examination. Under existing law, the board may waive the written examination for a person licensed out of state, as specified, if the person has passed an equivalent examination and a supplemental examination, as specified.~~

~~This bill would also require an out-of-state licensee to submit proof of job experience equivalent to that required of California applicants in order to waive the written examination.~~

~~(7) Existing law, the Professional Engineers Act, provides for the licensure and regulation of professional engineers by the Board for Professional Engineers and Land Surveyors within the department. Under existing law, in order to use the title "structural engineer," a person must, in addition to passing the examination prescribed by the board, successfully pass a written test incorporating a national examination for structural engineering by a nationally recognized entity approved by the board, and a supplemental California specific examination.~~

~~This bill would eliminate the requirement to successfully pass those examinations, so that only the board-prescribed examination would be required.~~

~~(8)~~

(5) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law imposes specified requirements on home improvement contracts and service and repair contracts and requires contractors to pay subcontractors within a specified period of time. Existing law makes it a misdemeanor for a person to engage in the business or act in the capacity of a contractor without a license and provides certain exemptions from that licensure requirement, including exemptions for owner-builders, as specified. Existing law authorizes the Registrar of Contractors to issue citations for violations of that licensure requirement, as specified.

This bill would make various technical, nonsubstantive changes to those provisions.

Under existing law, a person who violates the law by engaging in work as an owner-builder without a contractor's license or an exemption from licensure is prohibited from obtaining a contractor's license for a period of one year following the violation.

This bill would delete that prohibition.

(9)

(6) 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.

(10)

(7) The Occupational Therapy Practice Act provides for the licensure and regulation of occupational therapists and occupational ~~therapist~~ *therapy* 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.

(11)

(8) 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.

(12)

(9) 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.

~~(13)~~

(10) 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.

~~(14)~~

(11) 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.

~~(15)~~

(12) 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.

~~(16)~~

(13) 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.

(17)

(14) 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, impersonation, incompetence, and fraudulent advertising. The bill would define the term "advertising" for purposes of those provisions.

(18)

(15) 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, access to certain psychological tests, 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, as specified.

(19)

(16) 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.

(20)

(17) Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. The act defines “collateral” as any vehicle, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. Under the act, a person may be actively in charge of only one repossession office at a time. A violation of the act is a misdemeanor.

This bill would specify that the act also applies to trailers and would authorize a person to be actively in charge of 2 repossession offices at a time. The bill would prohibit a licensee from appraising the value of any collateral. Because a violation of that prohibition would be a crime, the bill would impose a state-mandated local program.

(21)

(18) Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral. Existing law allows a debtor to waive the preparation and presentation of an inventory in certain circumstances and authorizes a repossession agency to release those personal effects to someone other than the debtor when authorized by the debtor or legal owner. Existing law requires specified special interest license plates that remain the personal effects of the debtor to be removed from the collateral and inventoried and requires the destruction of those plates and notification to the Department of Motor Vehicles if the plates are not claimed by the debtor within 60 days.

This bill would authorize a debtor to make that waiver only with the consent of the licensee and would authorize the release of personal effects to someone other than the debtor only when authorized by the debtor. The bill would also authorize a licensee to retain those special interest license plates indefinitely for return to the debtor, as specified.

Existing law provides that whenever possession is taken of any vehicle by or on behalf of any legal owner under the terms of a security agreement or lease agreement, the person taking possession is required to notify specified law enforcement agencies within one hour after taking possession of the vehicle and by the most expeditious means available. Failure to provide that notice is an infraction.

This bill would require separate notifications for multiple vehicle repossessions. By changing the definition of a crime, the bill would impose a state-mandated local program.

(22)

(19) Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of embalmers and funeral directors by the Cemetery and Funeral Bureau. Existing law requires an applicant for an embalmer's license to, among other things, have successfully completed a course of instruction in a specified embalming school and to either furnish proof of completion of a high school course or evidence of licensure and practice for a certain period of time prior to application.

This bill would instead require the applicant to have graduated from a specified mortuary science program and to furnish official transcripts from that program. The bill would make other conforming changes.

Existing law requires the applicant to pass an examination including specified subjects and requires the bureau to examine applicants at least once annually.

This bill would require the applicant to pass the sciences section of a specified national examination and an examination on the state's laws and the rules and regulations of the bureau and would delete the requirement that the board examine applicants at least once annually. The bill would, until June 30, 2010, authorize an applicant who failed the examination previously administered by the bureau to retake that examination.

(23)

(20) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salespersons by the Real Estate Commissioner. Existing law authorizes the commissioner to issue rules and regulations he or she deems necessary to regulate the method of accounting and to accomplish certain purposes related to advance fees, as specified.

This bill would make certain nonsubstantive, technical changes to those provisions.

(24)

(21) Existing law, the Automotive Repair Act, provides for the registration, licensure, and regulation of automotive repair dealers, lamp and brake adjusting stations, and smog check stations and technicians by the Bureau of Automotive Repair in the Department of Consumer Affairs and requires the Director of Consumer Affairs to validate an

automotive repair dealer registration upon receipt of a specified form and fee. Existing law authorizes the director to refuse to validate or invalidate that registration for, among other things, a conviction for providing consideration to insurance agents for referrals. Under existing law, the director may deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station or smog check station and technician applicants and licensees for, among other things, the conviction of a crime substantially related to the qualifications, functions, and duties of the licensee.

This bill would require the director to issue an automotive repair dealer registration upon receipt of a specified form and fee and would authorize the director to deny, suspend, revoke, or place on probation a registration for, among other things, conviction of a crime that is substantially related to the qualifications, functions, or duties of an automotive repair dealer. The bill would also authorize the director to deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station and smog check station and technician applicants and licensees for the conviction of a crime substantially related to the qualifications, functions, or duties of that licensee.

(25)

(22) Existing law establishes the vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs and prescribes certain cost limits for repairs under the program. Existing law requires a smog check station where smog check inspections are performed to post a sign advising customers of those cost limits.

This bill would instead require the department to provide licensed smog check stations with a sign informing customers about their options when a vehicle fails a smog check inspection, as specified.

The bill would revise provisions relating to repair assistance agreements and would make other technical, nonsubstantive changes.

(23) *This bill would incorporate additional changes in Section 4160 of the Business and Professions Code proposed by AB 1071, to be operative if AB 1071 and this bill become effective on or before January 1, 2010, and this bill is enacted last.*

(26)

(24) 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 139 of the Business and Professions Code
2 is amended to read:

3 139. (a) The Legislature finds and declares that occupational
4 analyses and examination validation studies are fundamental
5 components of licensure programs. It is the intent of the Legislature
6 that the policy developed by the department pursuant to subdivision
7 (b) be used by the fiscal, policy, and sunset review committees of
8 the Legislature in their annual reviews of these boards, programs,
9 and bureaus.

10 (b) Notwithstanding any other provision of law, the department
11 shall develop, in consultation with the boards, programs, bureaus,
12 and divisions under its jurisdiction, and the Osteopathic Medical
13 Board of California and the State Board of Chiropractic Examiners,
14 a policy regarding examination development and validation, and
15 occupational analysis. The department shall finalize and distribute
16 this policy by September 30, 1999, to each of the boards, programs,
17 bureaus, and divisions under its jurisdiction and to the Osteopathic
18 Medical Board of California and the State Board of Chiropractic
19 Examiners. This policy shall be submitted in draft form at least 30
20 days prior to that date to the appropriate fiscal, policy, and sunset
21 review committees of the Legislature for review. This policy shall
22 address, but shall not be limited to, the following issues:

23 (1) An appropriate schedule for examination validation and
24 occupational analyses, and circumstances under which more
25 frequent reviews are appropriate.

26 (2) Minimum requirements for psychometrically sound
27 examination validation, examination development, and
28 occupational analyses, including standards for sufficient number
29 of test items.

30 (3) Standards for review of state and national examinations.

31 (4) Setting of passing standards.

32 (5) Appropriate funding sources for examination validations
33 and occupational analyses.

1 (6) Conditions under which boards, programs, and bureaus
2 should use internal and external entities to conduct these reviews.

3 (7) Standards for determining appropriate costs of reviews of
4 different types of examinations, measured in terms of hours
5 required.

6 (8) Conditions under which it is appropriate to fund permanent
7 and limited term positions within a board, program, or bureau to
8 manage these reviews.

9 (c) Every regulatory board and bureau, as defined in Section
10 22, and every program and bureau administered by the department,
11 the Osteopathic Medical Board of California, and the State Board
12 of Chiropractic Examiners, shall submit to the director on or before
13 December 1, 1999, and on or before December 1 of each
14 subsequent year, its method for ensuring that every licensing
15 examination administered by or pursuant to contract with the board
16 is subject to periodic evaluation. The evaluation shall include (1)
17 a description of the occupational analysis serving as the basis for
18 the examination; (2) sufficient item analysis data to permit a
19 psychometric evaluation of the items; (3) an assessment of the
20 appropriateness of prerequisites for admittance to the examination;
21 and (4) an estimate of the costs and personnel required to perform
22 these functions. The evaluation shall be revised and a new
23 evaluation submitted to the director whenever, in the judgment of
24 the board, program, or bureau, there is a substantial change in the
25 examination or the prerequisites for admittance to the examination.

26 (d) The evaluation may be conducted by the board, program,
27 or bureau, the Office of Professional Examination Services of the
28 department, the Osteopathic Medical Board of California, or the
29 State Board of Chiropractic Examiners or pursuant to a contract
30 with a qualified private testing firm. A board, program, or bureau
31 that provides for development or administration of a licensing
32 examination pursuant to contract with a public or private entity
33 may rely on an occupational analysis or item analysis conducted
34 by that entity. The department shall compile this information, along
35 with a schedule specifying when examination validations and
36 occupational analyses shall be performed, and submit it to the
37 appropriate fiscal, policy, and sunset review committees of the
38 Legislature by September 30 of each year. It is the intent of the
39 Legislature that the method specified in this report be consistent

1 with the policy developed by the department pursuant to
2 subdivision (b).

3 ~~SEC. 2. Section 146 of the Business and Professions Code is~~
4 ~~amended to read:~~

5 ~~146. (a) Notwithstanding any other provision of law, a~~
6 ~~violation of any code section listed in subdivision (c) or (d) is an~~
7 ~~infraction subject to the procedures described in Sections 19.6 and~~
8 ~~19.7 of the Penal Code when:~~

9 ~~(1) A complaint or a written notice to appear in court pursuant~~
10 ~~to Chapter 5c (commencing with Section 853.5) of Title 3 of Part~~
11 ~~2 of the Penal Code is filed in court charging the offense as an~~
12 ~~infraction unless the defendant, at the time he or she is arraigned,~~
13 ~~after being advised of his or her rights, elects to have the case~~
14 ~~proceed as a misdemeanor, or~~

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

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

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

26 ~~(1) Sections 2052 and 2054.~~

27 ~~(2) Section 2630.~~

28 ~~(3) Section 2903.~~

29 ~~(4) Section 3660.~~

30 ~~(5) Sections 3760 and 3761.~~

31 ~~(6) Section 4080.~~

32 ~~(7) Section 4825.~~

33 ~~(8) Section 4935.~~

34 ~~(9) Section 4980.~~

35 ~~(10) Section 4996.~~

36 ~~(11) Section 5536.~~

37 ~~(12) Section 6530.~~

38 ~~(13) Section 6704.~~

39 ~~(14) Section 6980.10.~~

40 ~~(15) Section 7317.~~

~~(16) Section 7502 or 7592.~~

~~(17) Section 7520.~~

~~(18) Section 7617 or 7641.~~

~~(19) Subdivision (a) of Section 7872.~~

~~(20) Section 8016.~~

~~(21) Section 8505.~~

~~(22) Section 8725.~~

~~(23) Section 9681.~~

~~(24) Section 9840.~~

~~(25) Subdivision (c) of Section 9891.24.~~

~~(26) Section 19049.~~

~~(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.~~

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

~~SEC. 3.~~

~~SEC. 2. Section 805 of the Business and Professions Code is amended to read:~~

~~805. (a) As used in this section, the following terms have the following definitions:~~

~~(1) "Peer review body" includes:~~

~~(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center.~~

~~(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.~~

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

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

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

17 (3) “Agency” means the relevant state licensing agency having
18 regulatory jurisdiction over the licentiates listed in paragraph (2).

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

28 (5) “Denial or termination of staff privileges, membership, or
29 employment” includes failure or refusal to renew a contract or to
30 renew, extend, or reestablish any staff privileges, if the action is
31 based on medical disciplinary cause or reason.

32 (6) “Medical disciplinary cause or reason” means that aspect
33 of a licentiate’s competence or professional conduct that is
34 reasonably likely to be detrimental to patient safety or to the
35 delivery of patient care.

36 (7) “805 report” means the written report required under
37 subdivision (b).

38 (b) The chief of staff of a medical or professional staff or other
39 chief executive officer, medical director, or administrator of any
40 peer review body and the chief executive officer or administrator

1 of any licensed health care facility or clinic shall file an 805 report
2 with the relevant agency within 15 days after the effective date of
3 any of the following that occur as a result of an action of a peer
4 review body:

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

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

9 (3) Restrictions are imposed, or voluntarily accepted, on staff
10 privileges, membership, or employment for a cumulative total of
11 30 days or more for any 12-month period, for a medical disciplinary
12 cause or reason.

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

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

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

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

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

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

35 (f) A copy of the 805 report, and a notice advising the licentiate
36 of his or her right to submit additional statements or other
37 information pursuant to Section 800, shall be sent by the peer
38 review body to the licentiate named in the report.

39 The information to be reported in an 805 report shall include the
40 name and license number of the licentiate involved, a description

1 of the facts and circumstances of the medical disciplinary cause
2 or reason, and any other relevant information deemed appropriate
3 by the reporter.

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

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

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

27 (h) The Medical Board of California, the Osteopathic Medical
28 Board of California, and the Dental Board of California shall
29 disclose reports as required by Section 805.5.

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

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

34 (k) A willful failure to file an 805 report by any person who is
35 designated or otherwise required by law to file an 805 report is
36 punishable by a fine not to exceed one hundred thousand dollars
37 (\$100,000) per violation. The fine may be imposed in any civil or
38 administrative action or proceeding brought by or on behalf of any
39 agency having regulatory jurisdiction over the person regarding
40 whom the report was or should have been filed. If the person who

1 is designated or otherwise required to file an 805 report is a
2 licensed physician and surgeon, the action or proceeding shall be
3 brought by the Medical Board of California. The fine shall be paid
4 to that agency but not expended until appropriated by the
5 Legislature. A violation of this subdivision may constitute
6 unprofessional conduct by the licensee. A person who is alleged
7 to have violated this subdivision may assert any defense available
8 at law. As used in this subdivision, “willful” means a voluntary
9 and intentional violation of a known legal duty.

10 (l) Except as otherwise provided in subdivision (k), any failure
11 by the administrator of any peer review body, the chief executive
12 officer or administrator of any health care facility, or any person
13 who is designated or otherwise required by law to file an 805
14 report, shall be punishable by a fine that under no circumstances
15 shall exceed fifty thousand dollars (\$50,000) per violation. The
16 fine may be imposed in any civil or administrative action or
17 proceeding brought by or on behalf of any agency having
18 regulatory jurisdiction over the person regarding whom the report
19 was or should have been filed. If the person who is designated or
20 otherwise required to file an 805 report is a licensed physician and
21 surgeon, the action or proceeding shall be brought by the Medical
22 Board of California. The fine shall be paid to that agency but not
23 expended until appropriated by the Legislature. The amount of the
24 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
25 violation, shall be proportional to the severity of the failure to
26 report and shall differ based upon written findings, including
27 whether the failure to file caused harm to a patient or created a
28 risk to patient safety; whether the administrator of any peer review
29 body, the chief executive officer or administrator of any health
30 care facility, or any person who is designated or otherwise required
31 by law to file an 805 report exercised due diligence despite the
32 failure to file or whether they knew or should have known that an
33 805 report would not be filed; and whether there has been a prior
34 failure to file an 805 report. The amount of the fine imposed may
35 also differ based on whether a health care facility is a small or
36 rural hospital as defined in Section 124840 of the Health and Safety
37 Code.

38 (m) A health care service plan registered under Chapter 2.2
39 (commencing with Section 1340) of Division 2 of the Health and
40 Safety Code or a disability insurer that negotiates and enters into

1 a contract with licentiates to provide services at alternative rates
2 of payment pursuant to Section 10133 of the Insurance Code, when
3 determining participation with the plan or insurer, shall evaluate,
4 on a case-by-case basis, licentiates who are the subject of an 805
5 report, and not automatically exclude or deselect these licentiates.

6 ~~SEC. 4.~~

7 *SEC. 3.* Section 821.5 of the Business and Professions Code
8 is repealed.

9 ~~SEC. 5.~~

10 *SEC. 4.* Section 821.6 of the Business and Professions Code
11 is repealed.

12 ~~SEC. 6.~~

13 *SEC. 5.* Section 1632.5 of the Business and Professions Code
14 is amended to read:

15 1632.5. (a) Prior to implementation of paragraph (2) of
16 subdivision (c) of Section 1632, the department's Office of
17 Professional Examination Services shall review the Western
18 Regional Examining Board examination to ensure compliance
19 with the requirements of Section 139 and to certify that the
20 examination process meets those standards. If the department
21 determines that the examination process fails to meet those
22 standards, paragraph (2) of subdivision (c) of Section 1632 shall
23 not be implemented. The review of the Western Regional
24 Examining Board examination shall be conducted during or after
25 the Dental Board of California's occupational analysis scheduled
26 for the 2004–05 fiscal year, but not later than September 30, 2005.
27 However, an applicant who successfully completes the Western
28 Regional Examining Board examination on or after January 1,
29 2005, shall be deemed to have met the requirements of subdivision
30 (c) of Section 1632 if the department certifies that the Western
31 Regional Examining Board examination meets the standards set
32 forth in this subdivision.

33 (b) The Western Regional Examining Board examination
34 process shall be regularly reviewed by the department pursuant to
35 Section 139.

36 (c) The Western Regional Examining Board examination shall
37 meet the mandates of subdivision (a) of Section 12944 of the
38 Government Code.

39 (d) As part of its next scheduled review by the Joint Committee
40 on Boards, Commissions, and Consumer Protection, the Dental

1 Board of California shall report to that committee and the
2 department on the pass rates of applicants who sat for the Western
3 Regional Examining Board examination, compared with the pass
4 rates of applicants who sat for the state clinical and written
5 examination administered by the Dental Board of California. This
6 report shall be a component of the evaluation of the examination
7 process that is based on psychometrically sound principles for
8 establishing minimum qualifications and levels of competency.

9 ~~SEC. 7.~~

10 *SEC. 6.* Section 1634.2 of the Business and Professions Code
11 is amended to read:

12 1634.2. (a) An advanced education program's compliance
13 with subdivision (c) of Section 1634.1 shall be regularly reviewed
14 by the department pursuant to Section 139.

15 (b) An advanced education program described in subdivision
16 (c) of Section 1634.1 shall meet the requirements of subdivision
17 (a) of Section 12944 of the Government Code.

18 (c) The clinical residency program completion certification
19 required by subdivision (c) of Section 1634.1 shall include a list
20 of core competencies commensurate to those found in the board's
21 examinations. The board, together with the department's Office
22 of Professional Examination Services, shall ensure the alignment
23 of the competencies stated in the clinical residency program
24 completion certification with the board's current occupational
25 analysis. The board shall implement use of the clinical residency
26 program completion certification form and use of the core
27 competency list through the adoption of emergency regulations
28 by January 1, 2008.

29 (d) As part of its next scheduled review after January 1, 2007,
30 by the Joint Committee on Boards, Commissions and Consumer
31 Protection, the board shall report to that committee and to the
32 department the number of complaints received for those dentists
33 who have obtained licensure by passing the state clinical
34 examination and for those dentists who have obtained licensure
35 through an advanced education program. The report shall also
36 contain tracking information on these complaints and their
37 disposition. This report shall be a component of the evaluation of
38 the examination process that is based on psychometrically sound
39 principles for establishing minimum qualifications and levels of
40 competency.

1 ~~SEC. 8.~~

2 *SEC. 7.* Section 2493 of the Business and Professions Code is
3 amended to read:

4 2493. (a) An applicant for a certificate to practice podiatric
5 medicine shall pass an examination in the subjects required by
6 Section 2483 in order to ensure a minimum of entry-level
7 competence.

8 (b) The board shall require a passing score on the National Board
9 of Podiatric Medical Examiners Part III examination that is
10 consistent with the postgraduate training requirement in Section
11 2484. The board, as of July 1, 2005, shall require a passing score
12 one standard error of measurement higher than the national passing
13 scale score until such time as the National Board of Podiatric
14 Medical Examiners recommends a higher passing score consistent
15 with Section 2484. In consultation with the Office of Professional
16 Examination Services of the Department of Consumer Affairs, the
17 board shall ensure that the part III examination adequately evaluates
18 the full scope of practice established by Section 2472, including
19 amputation and other foot and ankle surgical procedures, pursuant
20 to Section 139.

21 ~~SEC. 9.~~

22 *SEC. 8.* Section 2530.2 of the Business and Professions Code
23 is amended to read:

24 2530.2. As used in this chapter, unless the context otherwise
25 requires:

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

28 (b) “Person” means any individual, partnership, corporation,
29 limited liability company, or other organization or combination
30 thereof, except that only individuals can be licensed under this
31 chapter.

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

34 (d) The practice of speech-language pathology means all of the
35 following:

36 (1) The application of principles, methods, instrumental
37 procedures, and noninstrumental procedures for measurement,
38 testing, screening, evaluation, identification, prediction, and
39 counseling related to the development and disorders of speech,
40 voice, language, or swallowing.

1 (2) The application of principles and methods for preventing,
2 planning, directing, conducting, and supervising programs for
3 habilitating, rehabilitating, ameliorating, managing, or modifying
4 disorders of speech, voice, language, or swallowing in individuals
5 or groups of individuals.

6 (3) Conducting hearing screenings.

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

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

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

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

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

37 (h) "Speech-language pathology aide" means any person
38 meeting the minimum requirements established by the board, who
39 works directly under the supervision of a speech-language
40 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 responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

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

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

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

(l) “Audiology aide” means any person, meeting the minimum requirements established by the board. An audiology aide may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by

1 an industrial audiology aide from supervision provided that his or
2 her employer has established a set of procedures or protocols that
3 the aide shall follow in performing those functions.

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

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

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

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

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

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

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

32 ~~SEC. 10.~~

33 *SEC. 9.* Section 2532.2 of the Business and Professions Code
34 is amended to read:

35 2532.2. Except as required by Section 2532.25, to be eligible
36 for licensure by the board as a speech-language pathologist or
37 audiologist, the applicant shall possess all of the following
38 qualifications:

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

4 (b) Submit transcripts from an educational institution approved
5 by the board evidencing the successful completion of at least 60
6 semester units of courses related to the normal development,
7 function, and use of speech, hearing, and language; and courses
8 that provide information about, and training in, the management
9 of speech, hearing, and language disorders. At least 24 of the
10 required 60 semester units shall be related to disorders of speech,
11 voice, or language for speech-language pathology applicants or to
12 disorders of hearing and the modification of communication
13 disorders involving speech and language resulting from hearing
14 disorders for audiology applicants. These 60 units do not include
15 credit for thesis, dissertation, or clinical practice.

16 (c) Submit evidence of the satisfactory completion of supervised
17 clinical practice with individuals representative of a wide spectrum
18 of ages and communication disorders. The board shall establish
19 by regulation the required number of clock hours, not to exceed
20 300 clock hours, of supervised clinical practice necessary for the
21 applicant.

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

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

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

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

5 A speech-language pathologist or audiologist who holds a license
6 from another state or territory of the United States or who holds
7 equivalent qualifications as determined by the board and who has
8 completed no less than one year of full-time continuous
9 employment as a speech-language pathologist or audiologist within
10 the past three years is exempt from the supervised professional
11 experience in subdivision (d).

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

15 ~~SEC. 11.~~

16 *SEC. 10.* Section 2532.25 is added to the Business and
17 Professions Code, to read:

18 2532.25. (a) An applicant seeking licensure as an audiologist
19 shall possess a doctorate in audiology earned from an educational
20 institution approved by the board. The board may, in its discretion,
21 accept qualifications it deems to be equivalent to a doctoral degree
22 in audiology. The board shall not, however, accept as equivalent
23 qualifications graduation from a master's program that the applicant
24 was enrolled in on or after January 1, 2008.

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

28 (1) Submit evidence of the satisfactory completion of supervised
29 clinical practice with individuals representative of a wide spectrum
30 of ages and audiological disorders. The board shall establish by
31 regulation the required number of clock hours of supervised clinical
32 practice necessary for the applicant. The clinical practice shall be
33 under the direction of an educational institution approved by the
34 board.

35 (2) Submit evidence of no less than 12 months of satisfactorily
36 completed supervised professional full-time experience or its
37 part-time equivalent obtained under the supervision of a licensed
38 audiologist or an audiologist having qualifications deemed
39 equivalent by the board. This experience shall be completed under
40 the direction of a board-approved audiology doctoral program.

1 The required professional experience shall follow completion of
2 the didactic and clinical rotation requirements of the audiology
3 doctoral program.

4 (3) Pass an examination or examinations approved by the board.
5 The board shall determine the subject matter and scope of the
6 examination or examinations and may waive an examination upon
7 evidence that the applicant has successfully completed an
8 examination approved by the board. Written examinations may be
9 supplemented by oral examinations as the board shall determine.
10 An applicant who fails an examination may be reexamined at a
11 subsequent examination upon payment of the reexamination fee
12 required by this chapter.

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

15 ~~SEC. 12.~~

16 *SEC. 11.* Section 2532.7 of the Business and Professions Code
17 is amended to read:

18 2532.7. (a) Upon approval of an application filed pursuant to
19 Section 2532.1, and upon payment of the fee prescribed by Section
20 2534.2, the board may issue a required professional experience
21 (RPE) temporary license for a period to be determined by the board
22 to an applicant who is obtaining the required professional
23 experience specified in subdivision (d) of Section 2532.2 or
24 paragraph (2) of subdivision (b) of Section 2532.25.

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

32 (c) A person who obtains an RPE temporary license outside the
33 State of California shall not be required to hold a temporary license
34 issued pursuant to subdivision (a) if the person is completing the
35 final clinical externship of an audiology doctoral training program
36 in accordance with paragraph (2) of subdivision (b) of Section
37 2532.25.

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

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

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

9 ~~SEC. 13.~~

10 *SEC. 12.* Section 2570.2 of the Business and Professions Code
11 is amended to read:

12 2570.2. As used in this chapter, unless the context requires
13 otherwise:

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

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

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

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

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

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

6 (g) “Occupational therapist” means an individual who meets
7 the minimum education requirements specified in Section 2570.6
8 and is licensed pursuant to the provisions of this chapter and whose
9 license is in good standing as determined by the board to practice
10 occupational therapy under this chapter. Only the occupational
11 therapist is responsible for the occupational therapy assessment
12 of a client, and the development of an occupational therapy plan
13 of treatment.

14 (h) “Occupational therapy assistant” means an individual who
15 is licensed pursuant to the provisions of this chapter, who is in
16 good standing as determined by the board, and based thereon, who
17 is qualified to assist in the practice of occupational therapy under
18 this chapter, and who works under the appropriate supervision of
19 a licensed occupational therapist.

20 (i) “Occupational therapy services” means the services of an
21 occupational therapist or the services of an occupational therapy
22 assistant under the appropriate supervision of an occupational
23 therapist.

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

26 (k) “Practice of occupational therapy” means the therapeutic
27 use of purposeful and meaningful goal-directed activities
28 (occupations) which engage the individual’s body and mind in
29 meaningful, organized, and self-directed actions that maximize
30 independence, prevent or minimize disability, and maintain health.
31 Occupational therapy services encompass occupational therapy
32 assessment, treatment, education of, and consultation with,
33 individuals who have been referred for occupational therapy
34 services subsequent to diagnosis of disease or disorder (or who
35 are receiving occupational therapy services as part of an
36 Individualized Education Plan (IEP) pursuant to the federal
37 Individuals with Disabilities Education Act (IDEA)). Occupational
38 therapy assessment identifies performance abilities and limitations
39 that are necessary for self-maintenance, learning, work, and other
40 similar meaningful activities. Occupational therapy treatment is

focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

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

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

~~SEC. 14.~~

SEC. 13. Section 2570.3 of the Business and Professions Code is amended to read:

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

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

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

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

(1) Hand therapy.

(2) The use of physical agent modalities.

(3) Swallowing assessment, evaluation, or intervention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (g) An occupational therapist in the process of achieving the
11 education, training, and competency requirements established by
12 the board for providing hand therapy or using physical agent
13 modalities may practice these techniques under the supervision of
14 an occupational therapist who has already met the requirements
15 established by the board, a physical therapist, or a physician and
16 surgeon.

17 (h) The board shall develop and adopt regulations regarding the
18 educational training and competency requirements for advanced
19 practices in collaboration with the Speech-Language Pathology
20 and Audiology Board, the Board of Registered Nursing, and the
21 Physical Therapy Board of California.

22 (i) Nothing in this chapter shall be construed as authorizing an
23 occupational therapist to seek reimbursement for services other
24 than for the practice of occupational therapy as defined in this
25 chapter.

26 (j) “Supervision of an occupational therapy assistant” means
27 that the responsible occupational therapist shall at all times be
28 responsible for all occupational therapy services provided to the
29 client. The occupational therapist who is responsible for appropriate
30 supervision shall formulate and document in each client’s record,
31 with his or her signature, the goals and plan for that client, and
32 shall make sure that the occupational therapy assistant assigned
33 to that client functions under appropriate supervision. As part of
34 the responsible occupational therapist’s appropriate supervision,
35 he or she shall conduct at least weekly review and inspection of
36 all aspects of occupational therapy services by the occupational
37 therapy assistant.

38 (1) The supervising occupational therapist has the continuing
39 responsibility to follow the progress of each patient, provide direct

1 care to the patient, and to assure that the occupational therapy
2 assistant does not function autonomously.

3 (2) An occupational therapist shall not supervise more
4 occupational therapy assistants, at any one time, than can be
5 appropriately supervised in the opinion of the board. Two
6 occupational therapy assistants shall be the maximum number of
7 occupational therapy assistants supervised by an occupational
8 therapist at any one time, but the board may permit the supervision
9 of a greater number by an occupational therapist if, in the opinion
10 of the board, there would be adequate supervision and the public's
11 health and safety would be served. In no case shall the total number
12 of occupational therapy assistants exceed twice the number of
13 occupational therapists regularly employed by a facility at any one
14 time.

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

20 ~~SEC. 15:~~

21 *SEC. 14.* Section 2570.4 of the Business and Professions Code
22 is amended to read:

23 2570.4. Nothing in this chapter shall be construed as preventing
24 or restricting the practice, services, or activities of any of the
25 following persons:

26 (a) Any person licensed or otherwise recognized in this state
27 by any other law or regulation when that person is engaged in the
28 profession or occupation for which he or she is licensed or
29 otherwise recognized.

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

34 (c) Any person fulfilling the supervised fieldwork experience
35 requirements of subdivision (c) of Section 2570.6, if the experience
36 constitutes a part of the experience necessary to meet the
37 requirement of that provision.

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

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

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

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

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

~~SEC. 16.~~

SEC. 15. Section 2570.5 of the Business and Professions Code is amended to read:

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

(b) A person who meets the qualifications to be admitted to the examination for licensure under this chapter and is waiting to take the first available examination or awaiting the announcement of the results of the examination, according to the application requirements for a limited permit, may practice as an occupational therapist or as an occupational therapy assistant under the direction and appropriate supervision of an occupational therapist duly licensed under this chapter. If that person fails to qualify for or pass the first announced examination, all privileges under this section shall automatically cease upon due notice to the applicant of that failure and may not be renewed.

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

~~SEC. 17.~~

SEC. 16. Section 2570.6 of the Business and Professions Code is amended to read:

2570.6. An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the

1 satisfaction of the board that he or she meets all of the following
2 requirements:

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

6 (b) (1) That the applicant has successfully completed the
7 academic requirements of an educational program for occupational
8 therapists or occupational therapy assistants that is approved by
9 the board and accredited by the American Occupational Therapy
10 Association's Accreditation Council for Occupational Therapy
11 Education (ACOTE).

12 (2) The curriculum of an education program for occupational
13 therapists shall contain the content specifically required in the
14 ACOTE accreditation standards, including all of the following
15 subjects:

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

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

19 (C) Human development throughout the life span.

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

21 (E) Etiology, clinical course, management, and prognosis of
22 disease processes and traumatic injuries, and the effects of those
23 conditions on human functioning.

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

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

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

30 (I) Theories underlying the use of purposeful activity and the
31 meaning and dynamics of activity.

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

33 (III) Analysis, adaptation, and application of purposeful activity
34 as therapeutic intervention.

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

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

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

1 (I) Assessment and interpretation, observation, interviews,
2 history, and standardized and nonstandardized tests.

3 (II) Directing, planning, and implementation, that shall include:
4 therapeutic intervention related to daily living skills and
5 occupational components; therapeutic adaptation, including
6 methods of accomplishing daily life tasks, environmental
7 adjustments, orthotics, and assistive devices and equipment; health
8 maintenance, including energy conservation, joint protection, body
9 mechanics, and positioning; and prevention programs to foster
10 age-appropriate recommendations to maximize treatment gains.

11 (III) Program termination including reevaluation, determination
12 of discharge, summary of occupational therapy outcome, and
13 appropriate recommendations to maximize treatment gains.

14 (IV) Documentation.

15 (v) Development and implementation of quality assurance.

16 (vi) Management of occupational therapy service, that shall
17 include:

18 (I) Planning services for client groups.

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

21 (III) Departmental operations, including budgeting, scheduling,
22 recordkeeping, safety, and maintenance of supplies and equipment.

23 (3) The curriculum of an education program for occupational
24 therapy assistants shall contain the content specifically required
25 in the ACOTE accreditation standards, including all of the
26 following subjects:

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

28 (B) Structure and function of the normal human body.

29 (C) Human development.

30 (D) Conditions commonly referred to occupational therapists.

31 (E) Occupational therapy principles and skills, that shall include
32 the following:

33 (i) Human performance, including life tasks and roles as related
34 to the developmental process from birth to death.

35 (ii) Activity processes and skills, that shall include the following:

36 (I) Performance of selected life tasks and activities.

37 (II) Analysis and adaptation of activities.

38 (III) Instruction of individuals and groups in selected life tasks
39 and activities.

(iii) Concepts related to occupational therapy practice, that shall include the following:

(I) The importance of human occupation as a health determinant.

(II) The use of self, interpersonal, and communication skills.

(iv) Use of occupational therapy concepts and skills, that shall include the following:

(I) Data collection, that shall include structured observation and interviews, history, and structured tests.

(II) Participation in planning and implementation, that shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including mental health techniques, energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate balance of self-care and work.

(III) Program termination, including assisting in reevaluation, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.

(IV) Documentation.

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

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

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

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

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

~~SEC. 18.~~

SEC. 17. Section 2570.7 of the Business and Professions Code is amended to read:

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

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

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

~~SEC. 19.~~

SEC. 18. Section 2570.9 of the Business and Professions Code is amended to read:

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

~~SEC. 20.~~

SEC. 19. Section 2570.10 of the Business and Professions Code is amended to read:

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

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

1 ~~SEC. 21.~~

2 *SEC. 20.* Section 2570.13 of the Business and Professions
3 Code is amended to read:

4 2570.13. (a) Consistent with this section, subdivisions (a), (b),
5 and (c) of Section 2570.2, and accepted professional standards,
6 the board shall adopt rules necessary to assure appropriate
7 supervision of occupational therapy assistants and aides.

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

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

14 ~~SEC. 22.~~

15 *SEC. 21.* Section 2570.16 of the Business and Professions
16 Code is amended to read:

17 2570.16. Initial license and renewal fees shall be established
18 by the board in an amount that does not exceed a ceiling of one
19 hundred fifty dollars (\$150) per year. The board shall establish the
20 following additional fees:

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

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

23 (c) A limited permit fee.

24 (d) A fee to collect fingerprints for criminal history record
25 checks.

26 ~~SEC. 23.~~

27 *SEC. 22.* Section 2570.17 is added to the Business and
28 Professions Code, to read:

29 2570.17. (a) The board shall issue, upon application and
30 payment of a twenty-five dollar (\$25) fee, a retired license to an
31 occupational therapist or an occupational therapy assistant who
32 holds a license that is current and active, or capable of being
33 renewed pursuant to Section 2570.10, and whose license is not
34 suspended, revoked, or otherwise restricted by the board or subject
35 to discipline under this chapter.

36 (b) The holder of a retired license issued pursuant to this section
37 shall not engage in any activity for which an active license is
38 required. An occupational therapist holding a retired license shall
39 be permitted to use the title “occupational therapist, retired” or
40 “retired occupational therapist.” An occupational therapy assistant

1 holding a retired license shall be permitted to use the title
2 “occupational therapy assistant, retired” or “retired occupational
3 therapy assistant.” The designation of retired shall not be
4 abbreviated in any way.

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

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

10 ~~SEC. 24.~~

11 *SEC. 23.* Section 2570.18 of the Business and Professions
12 Code is amended to read:

13 2570.18. (a) A person shall not represent to the public by title,
14 by description of services, methods, or procedures, or otherwise,
15 that the person is authorized to practice occupational therapy in
16 this state, unless authorized to practice occupational therapy under
17 this chapter.

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

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

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

36 ~~SEC. 25.~~

37 *SEC. 24.* Section 2570.20 of the Business and Professions
38 Code is amended to read:

1 2570.20. (a) The board shall administer, coordinate, and
2 enforce the provisions of this chapter, evaluate the qualifications,
3 and approve the examinations for licensure under this chapter.

4 (b) The board shall adopt rules in accordance with the
5 Administrative Procedure Act relating to professional conduct to
6 carry out the purpose of this chapter, including, but not limited to,
7 rules relating to professional licensure and to the establishment of
8 ethical standards of practice for persons holding a license to
9 practice occupational therapy or to assist in the practice of
10 occupational therapy in this state.

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

14 ~~SEC. 26:~~

15 *SEC. 25.* Section 2570.26 of the Business and Professions
16 Code is amended to read:

17 2570.26. (a) The board may, after a hearing, deny, suspend,
18 revoke, or place on probation a license, inactive license, or limited
19 permit.

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

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

27 ~~SEC. 27:~~

28 *SEC. 26.* Section 2570.28 of the Business and Professions
29 Code is amended to read:

30 2570.28. The board may deny or discipline a licensee for any
31 of the following:

32 (a) Unprofessional conduct, including, but not limited to, the
33 following:

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

36 (2) Repeated similar negligent acts in carrying out usual
37 occupational therapy functions.

38 (3) A conviction of practicing medicine without a license in
39 violation of Chapter 5 (commencing with Section 2000), in which

1 event a certified copy of the record of conviction shall be
2 conclusive evidence thereof.

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

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

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

12 (c) Violating or attempting to violate, directly or indirectly, or
13 assisting in or abetting the violation of, or conspiring to violate,
14 any provision or term of this chapter or any regulation adopted
15 pursuant to this chapter.

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

18 (e) Conviction of a crime or of any offense substantially related
19 to the qualifications, functions, or duties of a licensee, in which
20 event the record of the conviction shall be conclusive evidence
21 thereof.

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

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

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

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

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

38 (k) Falsifying or making grossly incorrect, grossly inconsistent,
39 or unintelligible entries in a patient or hospital record or any other
40 record.

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

5 (m) Failing to maintain confidentiality of patient medical
6 information, except as disclosure is otherwise permitted or required
7 by law.

8 (n) Delegating to an unlicensed employee or person a service
9 that requires the knowledge, skills, abilities, or judgment of a
10 licensee.

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

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

17 (1) In administering this subdivision, the board shall consider
18 referencing the standards, regulations, and guidelines of the State
19 Department of Public Health developed pursuant to Section
20 1250.11 of the Health and Safety Code and the standards,
21 guidelines, and regulations pursuant to the California Occupational
22 Safety and Health Act of 1973 (Part 1 (commencing with Section
23 63001) of Division 5 of the Labor Code) for preventing the
24 transmission of HIV, hepatitis B, and other blood-borne pathogens
25 in health care settings. As necessary to encourage appropriate
26 consistency in the implementation of this subdivision, the board
27 shall consult with the Medical Board of California, the Board of
28 Podiatric Medicine, the Dental Board of California, the Board of
29 Registered Nursing, and the Board of Vocational Nursing and
30 Psychiatric Technicians.

31 (2) The board shall seek to ensure that licensees are informed
32 of their responsibility to minimize the risk of transmission of
33 infectious diseases from health care provider to patient, from
34 patient to patient, and from patient to health care provider, and are
35 informed of the most recent scientifically recognized safeguards
36 for minimizing the risks of transmission.

37 ~~SEC. 28.~~

38 *SEC. 27.* Section 2571 of the Business and Professions Code
39 is amended to read:

1 2571. (a) An occupational therapist licensed pursuant to this
2 chapter and approved by the board in the use of physical agent
3 modalities may apply topical medications prescribed by the
4 patient's physician and surgeon, certified nurse-midwife pursuant
5 to Section 2746.51, nurse practitioner pursuant to Section 2836.1,
6 or physician assistant pursuant to Section 3502.1, if the licensee
7 complies with regulations adopted by the board pursuant to this
8 section.

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

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

16 ~~SEC. 29.~~

17 SEC. 28. Section 2872.2 of the Business and Professions Code
18 is amended to read:

19 2872.2. An applicant for license by examination shall submit
20 a written application in the form prescribed by the board.

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

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

36 A permittee shall function under the supervision of a licensed
37 vocational nurse or a registered nurse, who shall be present and
38 available on the premises during the time the permittee is rendering
39 professional services. The supervising licensed vocational nurse

1 or registered nurse may delegate to the permittee any function
2 taught in the permittee's basic nursing program.

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

5 ~~SEC. 30.~~

6 *SEC. 29.* Section 3357 of the Business and Professions Code
7 is amended to read:

8 3357. (a) An applicant who has fulfilled the requirements of
9 Section 3352, and has made application therefor, and who proves
10 to the satisfaction of the bureau that he or she will be supervised
11 and trained by a hearing aid dispenser who is approved by the
12 bureau may have a temporary license issued to him or her. The
13 temporary license shall entitle the temporary licensee to fit or sell
14 hearing aids as set forth in regulations of the bureau. The
15 supervising dispenser shall be responsible for any acts or omissions
16 committed by a temporary licensee under his or her supervision
17 that may constitute a violation of this chapter.

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

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

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

36 ~~SEC. 31.~~

37 *SEC. 30.* Section 3362 of the Business and Professions Code
38 is amended to read:

39 3362. (a) Before engaging in the practice of fitting or selling
40 hearing aids, each licensee shall notify the bureau in writing of the

1 address or addresses where he or she is to engage, or intends to
2 engage, in the fitting or selling of hearing aids, and of any changes
3 in his or her place of business within 30 days of engaging in that
4 practice.

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

11 ~~SEC. 32.~~

12 *SEC. 31.* Section 3366 of the Business and Professions Code
13 is amended to read:

14 3366. A licensee shall, upon the consummation of a sale of a
15 hearing aid, keep and maintain records in his or her office or place
16 of business at all times and each record shall be kept and
17 maintained for a seven-year period. All records related to the sale
18 and fitting of hearing aids shall be open to inspection by the bureau
19 or its authorized representatives upon reasonable notice. The
20 records kept shall include:

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

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

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

28 ~~SEC. 33.~~

29 *SEC. 32.* 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. 34.~~

20 *SEC. 33.* Section 3740 of the Business and Professions Code
21 is amended to read:

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

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

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

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

39 (c) An applicant whose application is based on a diploma issued
40 to the applicant by a foreign respiratory therapy school or a

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

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

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

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

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

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

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

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

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

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

38 (1) Work experience.

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

40 (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. 35.~~

7 *SEC. 34.* Section 3750.5 of the Business and Professions Code
8 is amended to read:

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

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

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

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

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

35 (e) Been committed or confined by a court of competent
36 jurisdiction for intemperate use of or addiction to the use of any
37 of the substances described in subdivisions (a), (b), and (c), in
38 which event the court order of commitment or confinement is
39 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. 36.~~

5 *SEC. 35.* Section 3773 of the Business and Professions Code
6 is amended to read:

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

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

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

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

18 ~~SEC. 37.~~

19 *SEC. 36.* Section 4013 is added to the Business and Professions
20 Code, to read:

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

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

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

28 ~~SEC. 38.~~

29 *SEC. 37.* Section 4101 of the Business and Professions Code
30 is amended to read:

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

37 (b) A designated representative or a pharmacist may take charge
38 of, and act as, the designated representative-in-charge of a
39 wholesaler or veterinary food drug-animal retailer upon application
40 by the wholesaler or veterinary food drug-animal retailer and

1 approval by the board. Any designated representative-in-charge
2 who ceases to act as the designated representative-in-charge at that
3 entity shall notify the board in writing within 30 days of the date
4 of that change in status.

5 ~~SEC. 39.~~

6 *SEC. 38.* Section 4112 of the Business and Professions Code
7 is amended to read:

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

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

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

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

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

39 (f) Any pharmacy subject to this section shall, during its regular
40 hours of operation, but not less than six days per week, and for a

1 minimum of 40 hours per week, provide a toll-free telephone
2 service to facilitate communication between patients in this state
3 and a pharmacist at the pharmacy who has access to the patient's
4 records. This toll-free telephone number shall be disclosed on a
5 label affixed to each container of drugs dispensed to patients in
6 this state.

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

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

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

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

29 ~~SEC. 40.~~

30 *SEC. 39.* Section 4113 of the Business and Professions Code
31 is amended to read:

32 4113. (a) Every pharmacy shall designate a
33 pharmacist-in-charge and, within 30 days thereof, shall notify the
34 board in writing of the identity and license number of that
35 pharmacist and the date he or she was designated.

36 (b) The proposed pharmacist-in-charge shall be subject to
37 approval by the board. The board shall not issue or renew a
38 pharmacy license without identification of an approved
39 pharmacist-in-charge for the pharmacy.

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

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

14 (e) If a pharmacy is unable, in the exercise of reasonable
15 diligence, to identify within 30 days a permanent replacement
16 pharmacist-in-charge to propose to the board on the notification
17 form, the pharmacy may instead provide on that form the name of
18 any pharmacist who is an employee, officer, or administrator of
19 the pharmacy or the entity that owns the pharmacy and who is
20 actively involved in the management of the pharmacy on a daily
21 basis, to act as the interim pharmacist-in-charge for a period not
22 to exceed 120 days. The pharmacy, or the entity that owns the
23 pharmacy, shall be prepared during normal business hours to
24 provide a representative of the board with the name of the interim
25 pharmacist-in-charge with documentation of the active involvement
26 of the interim pharmacist-in-charge in the daily management of
27 the pharmacy, and with documentation of the pharmacy's good
28 faith efforts prior to naming the interim pharmacist-in-charge to
29 obtain a permanent pharmacist-in-charge. By no later than 120
30 days following the identification of the interim
31 pharmacist-in-charge, the pharmacy shall propose to the board the
32 name of a pharmacist to serve as the permanent
33 pharmacist-in-charge. The proposed permanent
34 pharmacist-in-charge shall be subject to approval by the board. If
35 disapproved, the pharmacy shall propose another replacement
36 within 15 days of the date of disapproval, and shall continue to
37 name proposed replacements until a pharmacist-in-charge is
38 approved by the board.

~~SEC. 41.~~

SEC. 40. Section 4146 is added to the Business and Professions Code, to read:

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

~~SEC. 42.~~

SEC. 41. Section 4160 of the Business and Professions Code is amended to read:

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

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

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

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

(e) Every wholesaler shall notify the board in writing, on a form designed by the board, within 30 days of the date when a designated representative-in-charge ceases to act as the designated representative-in-charge, and shall on the same form propose another designated representative or pharmacist to take over as the designated representative-in-charge. The proposed replacement designated representative-in-charge shall be subject to approval by the board. If disapproved, the wholesaler shall propose another 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. 42. Section 4160 of the Business and Professions Code*
27 *is amended to read:*

28 4160. (a) A person may not act as a wholesaler of any
29 dangerous drug or dangerous device unless he or she has obtained
30 a license from the board.

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

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

36 ~~(d) The board shall not issue or renew a wholesaler license until~~
37 ~~the wholesaler identifies a designated representative-in-charge and~~
38 ~~notifies the board in writing of the identity and license number of~~
39 ~~that designated representative. Every wholesaler shall be supervised~~
40 ~~or managed by a designated representative-in-charge. The~~

designated representative-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. ~~A wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be As part of its initial application for a license, and for each renewal, each wholesaler shall, on a form designed by the board, provide identifying information and the California license number for a designated representative or pharmacist proposed to serve as the designated representative-in-charge. A pharmacist may be identified as the designated representative-in-charge. The proposed designated representative-in-charge shall be subject to approval by the board. The board shall not issue or renew a wholesaler license without identification of an approved designated representative-in-charge for the wholesaler.~~

(e) Every wholesaler shall notify the board in writing, on a form designed by the board, within 30 days of the date when a designated representative-in-charge ceases to act as the designated representative-in-charge, and shall on the same form propose another designated representative or pharmacist to take over as the designated representative-in-charge. The proposed replacement designated representative-in-charge shall be subject to approval by the board. If disapproved, the wholesaler shall propose another replacement within 15 days of the date of disapproval, and shall continue to name proposed replacements until a designated representative-in-charge is approved by the board.

(e)

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

(f)

(g) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be ~~five hundred fifty dollars (\$550) or another amount required in an amount~~ established by the board ~~not to exceed the annual fee for renewal of a license to compound injectable sterile drug products as specified in subdivision (f) of Section 4400.~~ When needed to protect public

1 safety, a temporary license may be issued for a period not to exceed
2 180 days, subject to terms and conditions that the board deems
3 necessary. If the board determines that a temporary license was
4 issued by mistake or denies the application for a permanent license,
5 the temporary license shall terminate upon either personal service
6 of the notice of termination upon the licenseholder or service by
7 certified mail, return receipt requested, at the licenseholder's
8 address of record with the board, whichever occurs first. Neither
9 for purposes of retaining a temporary license, nor for purposes of
10 any disciplinary or license denial proceeding before the board,
11 shall the temporary licenseholder be deemed to have a vested
12 property right or interest in the license.

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

14 SEC. 43. Section 4196 of the Business and Professions Code
15 is amended to read:

16 4196. (a) No person shall conduct a veterinary food-animal
17 drug retailer in the State of California unless he or she has obtained
18 a license from the board. A license shall be required for each
19 veterinary food-animal drug retailer owned or operated by a
20 specific person. A separate license shall be required for each of
21 the premises of any person operating a veterinary food-animal
22 drug retailer in more than one location. The license shall be
23 renewed annually and shall not be transferable.

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

29 (c) No person other than a pharmacist, an intern pharmacist, a
30 designated representative, an authorized officer of the law, or a
31 person authorized to prescribe, shall be permitted in that area,
32 place, or premises described in the permit issued by the board
33 pursuant to Section 4041, wherein veterinary food-animal drugs
34 are stored, possessed, or repacked. A pharmacist or designated
35 representative shall be responsible for any individual who enters
36 the veterinary food-animal drug retailer for the purpose of
37 performing clerical, inventory control, housekeeping, delivery,
38 maintenance, or similar functions relating to the veterinary
39 food-animal drug retailer.

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

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

(f) For purposes of this section, designated representative-in-charge means a person granted a designated representative license pursuant to Section 4053, or a registered pharmacist, who is the supervisor or manager of the facility.

SEC. 44. Section 4200.3 of the Business and Professions Code is amended to read:

4200.3. (a) The examination process shall be regularly reviewed pursuant to Section 139.

(b) The examination process shall meet the standards and guidelines set forth in the Standards for Educational and Psychological Testing and the Federal Uniform Guidelines for Employee Selection Procedures. The board shall work with the Office of Professional Examination Services of the department or with an equivalent organization who shall certify at minimum once

1 every five years that the examination process meets these national
2 testing standards. If the department determines that the examination
3 process fails to meet these standards, the board shall terminate its
4 use of the North American Pharmacy Licensure Examination and
5 shall use only the written and practical examination developed by
6 the board.

7 (c) The examination shall meet the mandates of subdivision (a)
8 of Section 12944 of the Government Code.

9 (d) The board shall work with the Office of Professional
10 Examination Services or with an equivalent organization to develop
11 the state jurisprudence examination to ensure that applicants for
12 licensure are evaluated on their knowledge of applicable state laws
13 and regulations.

14 (e) The board shall annually publish the pass and fail rates for
15 the pharmacist's licensure examination administered pursuant to
16 Section 4200, including a comparison of historical pass and fail
17 rates before utilization of the North American Pharmacist Licensure
18 Examination.

19 (f) The board shall report to the Joint Committee on Boards,
20 Commissions, and Consumer Protection and the department as
21 part of its next scheduled review, the pass rates of applicants who
22 sat for the national examination compared with the pass rates of
23 applicants who sat for the prior state examination. This report shall
24 be a component of the evaluation of the examination process that
25 is based on psychometrically sound principles for establishing
26 minimum qualifications and levels of competency.

27 SEC. 45. Section 4200.4 of the Business and Professions Code
28 is amended to read:

29 4200.4. An applicant who fails the national examination may
30 not retake the examination for at least 90 days or for a period
31 established by regulations adopted by the board in consultation
32 with the Office of Professional Examination Services of the
33 department.

34 SEC. 46. Section 4510.1 of the Business and Professions Code
35 is amended to read:

36 4510.1. An applicant for license by examination shall submit
37 a written application in the form prescribed by the board. Provided
38 that the application for licensure is received by the board no later
39 than four months after completion of a board accredited psychiatric
40 technician program and approval of the application, the board may

1 issue an interim permit authorizing the applicant to practice all
2 skills included in the permittee's basic course of study, pending
3 the results of the first licensing examination, or for a period of nine
4 months, whichever occurs first.

5 A permittee shall function under the supervision of a licensed
6 psychiatric technician or a registered nurse, who shall be present
7 and available on the premises during the time the permittee is
8 rendering professional services. The permittee may perform any
9 function taught in the permittee's basic psychiatric technician
10 program.

11 If the applicant passes the examination, the interim permit shall
12 remain in effect until an initial license is issued by the board or
13 for a maximum period of six months after passing the examination,
14 whichever occurs first. If the applicant fails the examination, the
15 interim permit shall terminate upon notice by certified mail, return
16 receipt requested, or if the applicant fails to receive the notice,
17 upon the date specified in the interim permit, whichever occurs
18 first. An interim permittee shall not use any title or designation
19 other than psychiatric technician interim permittee or "P.T.I.P."

20 SEC. 47. Section 4933 of the Business and Professions Code
21 is amended to read:

22 4933. (a) The board shall administer this chapter.

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

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

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

33 SEC. 48. Section 4938 of the Business and Professions Code
34 is amended to read:

35 4938. The board shall issue a license to practice acupuncture
36 to any person who makes an application and meets the following
37 requirements:

38 (a) Is at least 18 years of age.

39 (b) Furnishes satisfactory evidence of completion of one of the
40 following:

1 (1) An educational and training program approved by the board
2 pursuant to Section 4939.

3 (2) Satisfactory completion of a tutorial program in the practice
4 of an acupuncturist which is approved by the board.

5 (3) In the case of an applicant who has completed education
6 and training outside the United States and Canada, documented
7 educational training and clinical experience which meets the
8 standards established pursuant to Sections 4939 and 4941.

9 (c) Passes a written examination administered by the board that
10 tests the applicant's ability, competency, and knowledge in the
11 practice of an acupuncturist. The written examination shall be
12 developed by the Office of Professional Examination Services of
13 the Department of Consumer Affairs.

14 (d) Is not subject to denial pursuant to Division 1.5 (commencing
15 with Section 475).

16 (e) Completes a clinical internship training program approved
17 by the board. The clinical internship training program shall not
18 exceed nine months in duration and shall be located in a clinic in
19 this state, which is approved by the board pursuant to Section 4939.
20 The length of the clinical internship shall depend upon the grades
21 received in the examination and the clinical training already
22 satisfactorily completed by the individual prior to taking the
23 examination. On and after January 1, 1987, individuals with 800
24 or more hours of documented clinical training shall be deemed to
25 have met this requirement. The purpose of the clinical internship
26 training program shall be to ensure a minimum level of clinical
27 competence.

28 Each applicant who qualifies for a license shall pay, as a
29 condition precedent to its issuance and in addition to other fees
30 required, the initial licensure fee.

31 SEC. 49. Section 4980.45 of the Business and Professions
32 Code is amended to read:

33 4980.45. (a) A licensed professional in private practice who
34 has satisfied the requirements of subdivision (g) of Section 4980.03
35 may supervise or employ, at any one time, no more than a total of
36 two individuals registered as either a marriage and family therapist
37 intern or associate clinical social worker in that private practice.

38 (b) A marriage and family therapy corporation may employ, at
39 any one time, no more than a total of two individuals registered
40 as either a marriage and family therapist intern or associate clinical

1 social worker for each employee or shareholder who has satisfied
2 the requirements of subdivision (g) of Section 4980.03. In no event
3 shall any corporation employ, at any one time, more than a total
4 of 10 individuals registered as either a marriage and family
5 therapist intern or associate clinical social worker. In no event
6 shall any supervisor supervise, at any one time, more than a total
7 of two individuals registered as either a marriage and family
8 therapist intern or associate clinical social worker. Persons who
9 supervise individuals registered as either a marriage and family
10 therapist intern or associate clinical social worker shall be
11 employed full time by the professional corporation and shall be
12 actively engaged in performing professional services at and for
13 the professional corporation. Employment and supervision within
14 a marriage and family therapy corporation shall be subject to all
15 laws and regulations governing experience and supervision gained
16 in a private practice setting.

17 SEC. 50. Section 4980.48 of the Business and Professions
18 Code is amended to read:

19 4980.48. (a) A trainee shall inform each client or patient, prior
20 to performing any professional services, that he or she is unlicensed
21 and under the supervision of a licensed marriage and family
22 therapist, a licensed clinical social worker, a licensed psychologist,
23 or a licensed physician certified in psychiatry by the American
24 Board of Psychiatry and Neurology.

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

28 SEC. 51. Section 4982 of the Business and Professions Code
29 is amended to read:

30 4982. The board may deny a license or registration or may
31 suspend or revoke the license or registration of a licensee or
32 registrant if he or she has been guilty of unprofessional conduct.
33 Unprofessional conduct includes, but is not limited to, the
34 following:

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

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

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

21 (c) Administering to himself or herself any controlled substance
22 or using of any of the dangerous drugs specified in Section 4022,
23 or of any alcoholic beverage to the extent, or in a manner, as to be
24 dangerous or injurious to the person applying for a registration or
25 license or holding a registration or license under this chapter, or
26 to any other person, or to the public, or, to the extent that the use
27 impairs the ability of the person applying for or holding a
28 registration or license to conduct with safety to the public the
29 practice authorized by the registration or license. The board shall
30 deny an application for a registration or license or revoke the
31 license or registration of any person, other than one who is licensed
32 as a physician and surgeon, who uses or offers to use drugs in the
33 course of performing marriage and family therapy services.

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

36 (e) Violating, attempting to violate, or conspiring to violate any
37 of the provisions of this chapter or any regulation adopted by the
38 board.

39 (f) Misrepresentation as to the type or status of a license or
40 registration held by the person, or otherwise misrepresenting or

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

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

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

9 (i) Intentionally or recklessly causing physical or emotional
10 harm to any client.

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

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

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

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

30 (n) Prior to the commencement of treatment, failing to disclose
31 to the client or prospective client the fee to be charged for the
32 professional services, or the basis upon which that fee will be
33 computed.

34 (o) Paying, accepting, or soliciting any consideration,
35 compensation, or remuneration, whether monetary or otherwise,
36 for the referral of professional clients. All consideration,
37 compensation, or remuneration shall be in relation to professional
38 counseling services actually provided by the licensee. Nothing in
39 this subdivision shall prevent collaboration among two or more
40 licensees in a case or cases. However, no fee shall be charged for

1 that collaboration, except when disclosure of the fee has been made
2 in compliance with subdivision (n).

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

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

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

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

19 (t) Permitting a trainee or registered intern under one's
20 supervision or control to perform, or permitting the trainee or
21 registered intern to hold himself or herself out as competent to
22 perform, professional services beyond the trainee's or registered
23 intern's level of education, training, or experience.

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

26 (v) Failure to keep records consistent with sound clinical
27 judgment, the standards of the profession, and the nature of the
28 services being rendered.

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

31 (x) Failure to comply with the elder and dependent adult abuse
32 reporting requirements of Section 15630 of the Welfare and
33 Institutions Code.

34 (y) Willful violation of Chapter 1 (commencing with Section
35 123100) of Part 1 of Division 106 of the Health and Safety Code.

36 (z) Failure to comply with Section 2290.5.

37 (aa) (1) Engaging in an act described in Section 261, 286, 288a,
38 or 289 of the Penal Code with a minor or an act described in
39 Section 288 or 288.5 of the Penal Code regardless of whether the
40 act occurred prior to or after the time the registration or license

1 was issued by the board. An act described in this subdivision
2 occurring prior to the effective date of this subdivision shall
3 constitute unprofessional conduct and shall subject the licensee to
4 refusal, suspension, or revocation of a license under this section.

5 (2) The Legislature hereby finds and declares that protection of
6 the public, and in particular minors, from sexual misconduct by a
7 licensee is a compelling governmental interest, and that the ability
8 to suspend or revoke a license for sexual conduct with a minor
9 occurring prior to the effective date of this section is equally
10 important to protecting the public as is the ability to refuse a license
11 for sexual conduct with a minor occurring prior to the effective
12 date of this section.

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

16 SEC. 52. Section 4982.2 of the Business and Professions Code
17 is amended to read:

18 4982.2. (a) A licensed marriage and family therapist, marriage
19 and family therapist intern, licensed clinical social worker,
20 associate clinical social worker, or licensed educational
21 psychologist whose license or registration has been revoked or
22 suspended or who has been placed on probation may petition the
23 board for reinstatement or modification of the penalty, including
24 modification or termination of probation, after a period not less
25 than the following minimum periods has elapsed from the effective
26 date of the decision ordering the disciplinary action, or if the order
27 of the board, or any portion of it, is stayed by the board itself, or
28 by the superior court, from the date the disciplinary action is
29 actually implemented in its entirety:

30 (1) At least three years for reinstatement of a license or
31 registration that was revoked for unprofessional conduct, except
32 that the board may, in its sole discretion at the time of adoption,
33 specify in its order that a petition for reinstatement may be filed
34 after two years.

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

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

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

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

(d) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4982.15. Where a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board.

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

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

(g) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to

1 the release shall be confidential and shall not be subject to
2 discovery or subpoena in any other proceeding, and shall not be
3 admissible in any action, other than before the board, to determine
4 the petitioner's fitness to practice as required by Section 822.

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

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

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

16 (k) No petition shall be considered while the petitioner is under
17 sentence for any criminal offense, including any period during
18 which the petitioner is on court-imposed probation or parole, or
19 the petitioner is required to register pursuant to Section 290 of the
20 Penal Code. No petition shall be considered while there is an
21 accusation or petition to revoke probation pending against the
22 petitioner.

23 (l) Except in those cases where the petitioner has been
24 disciplined for violation of Section 822, the board may in its
25 discretion deny without hearing or argument any petition that is
26 filed pursuant to this section within a period of two years from the
27 effective date of a prior decision following a hearing under this
28 section.

29 SEC. 53. Section 4989.22 of the Business and Professions
30 Code is amended to read:

31 4989.22. (a) Only persons who satisfy the requirements of
32 Section 4989.20 are eligible to take the licensure examination.

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

1 (c) Notwithstanding any other provision of law, the board may
2 destroy all examination materials two years after the date of an
3 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 SEC. 54. Section 4989.49 is added to the Business and
31 Professions Code, to read:

32 4989.49. "Advertising," as used in this chapter, includes, but
33 is not limited to, any public communication as defined in
34 subdivision (a) of Section 651, the issuance of any card, sign, or
35 device to any person, or the causing, permitting, or allowing of
36 any sign or marking on, or in, any building or structure, or in any
37 newspaper, magazine, or directory, or any printed matter
38 whatsoever, with or without any limiting qualification. Signs within
39 religious buildings or notices in bulletins from a religious

1 organization mailed to a congregation shall not be construed as
2 advertising within the meaning of this chapter.

3 SEC. 55. Section 4989.54 of the Business and Professions
4 Code is amended to read:

5 4989.54. The board may deny a license or may suspend or
6 revoke the license of a licensee if he or she has been guilty of
7 unprofessional conduct. Unprofessional conduct includes, but is
8 not limited to, the following:

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

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

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

17 (3) A plea or verdict of guilty or a conviction following a plea
18 of nolo contendere made to a charge substantially related to the
19 qualifications, functions, or duties of a licensee under this chapter
20 shall be deemed to be a conviction within the meaning of this
21 section.

22 (4) The board may order a license suspended or revoked, or
23 may decline to issue a license when the time for appeal has elapsed,
24 or the judgment of conviction has been affirmed on appeal, or
25 when an order granting probation is made suspending the
26 imposition of sentence, irrespective of a subsequent order under
27 Section 1203.4 of the Penal Code allowing the person to withdraw
28 a plea of guilty and enter a plea of not guilty or setting aside the
29 verdict of guilty or dismissing the accusation, information, or
30 indictment.

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

35 (c) Administering to himself or herself a controlled substance
36 or using any of the dangerous drugs specified in Section 4022 or
37 an alcoholic beverage to the extent, or in a manner, as to be
38 dangerous or injurious to himself or herself or to any other person
39 or to the public or to the extent that the use impairs his or her ability
40 to safely perform the functions authorized by the license. The board

1 shall deny an application for a license or revoke the license of any
2 person, other than one who is licensed as a physician and surgeon,
3 who uses or offers to use drugs in the course of performing
4 educational psychology.

5 (d) Failure to comply with the consent provisions in Section
6 2290.5.

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

9 (f) 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 (g) Commission of any dishonest, corrupt, or fraudulent act
13 substantially related to the qualifications, functions, or duties of a
14 licensee.

15 (h) Denial of licensure, revocation, suspension, restriction, or
16 any other disciplinary action imposed by another state or territory
17 or possession of the United States or by any other governmental
18 agency, on a license, certificate, or registration to practice
19 educational psychology or any other healing art. A certified copy
20 of the disciplinary action, decision, or judgment shall be conclusive
21 evidence of that action.

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

25 (j) Failure to keep records consistent with sound clinical
26 judgment, the standards of the profession, and the nature of the
27 services being rendered.

28 (k) Gross negligence or incompetence in the practice of
29 educational psychology.

30 (l) Misrepresentation as to the type or status of a license held
31 by the licensee or otherwise misrepresenting or permitting
32 misrepresentation of his or her education, professional
33 qualifications, or professional affiliations to any person or entity.

34 (m) Intentionally or recklessly causing physical or emotional
35 harm to any client.

36 (n) Engaging in sexual relations with a client or a former client
37 within two years following termination of professional services,
38 soliciting sexual relations with a client, or committing an act of
39 sexual abuse or sexual misconduct with a client or committing an
40 act punishable as a sexually related crime, if that act or solicitation

1 is substantially related to the qualifications, functions, or duties of
2 a licensed educational psychologist.

3 (o) 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 (p) Paying, accepting, or soliciting any consideration,
8 compensation, or remuneration, whether monetary or otherwise,
9 for the referral of professional clients.

10 (q) Failing 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 (r) Performing, holding himself or herself out as being able to
16 perform, or offering to perform any professional services beyond
17 the scope of the license authorized by this chapter or beyond his
18 or her field or fields of competence as established by his or her
19 education, training, or experience.

20 (s) Reproducing or describing in public, or in any publication
21 subject to general public distribution, any psychological test or
22 other assessment device the value of which depends in whole or
23 in part on the naivete of the subject in ways that might invalidate
24 the test or device. An educational psychologist shall limit access
25 to the test or device to persons with professional interests who can
26 be expected to safeguard its use.

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

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

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

35 (w) Failing to comply with the elder and adult dependent abuse
36 reporting requirements of Section 15630 of the Welfare and
37 Institutions Code.

38 (x) Willful violation of Chapter 1 (commencing with Section
39 123100) of Part 1 of Division 106 of the Health and Safety Code.

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

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

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

(aa) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use his or her license.

(ab) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.

SEC. 56. Section 4992.1 of the Business and Professions Code is amended to read:

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

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

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

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of

1 the results of the standard written examination, solely upon the
2 receipt by the board of a complaint alleging acts or conduct that
3 would constitute grounds to deny licensure.

4 (e) If an applicant for examination who has passed the standard
5 written examination is the subject of a complaint or is under board
6 investigation for acts or conduct that, if proven to be true, would
7 constitute grounds for the board to deny licensure, the board shall
8 permit the applicant to take the clinical vignette written
9 examination for licensure, but may withhold the results of the
10 examination or notify the applicant that licensure will not be
11 granted pending completion of the investigation.

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

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

27 SEC. 57. Section 4992.2 is added to the Business and
28 Professions Code, to read:

29 4992.2. "Advertising," as used in this chapter, includes, but is
30 not limited to, any public communication as defined in subdivision
31 (a) of Section 651, the issuance of any card, sign, or device to any
32 person, or the causing, permitting, or allowing of any sign or
33 marking on, or in, any building or structure, or in any newspaper,
34 magazine, or directory, or any printed matter whatsoever, with or
35 without any limiting qualification. Signs within religious buildings
36 or notices in bulletins from a religious organization mailed to a
37 congregation shall not be construed as advertising within the
38 meaning of this chapter.

39 SEC. 58. Section 4992.3 of the Business and Professions Code
40 is amended to read:

1 4992.3. The board may deny a license or a registration, or may
2 suspend or revoke the license or registration of a licensee or
3 registrant if he or she has been guilty of unprofessional conduct.
4 Unprofessional conduct includes, but is not limited to, the
5 following:

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

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

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

1 deny an application for a registration or license or revoke the
2 license or registration of any person who uses or offers to use drugs
3 in the course of performing clinical social work. This provision
4 does not apply to any person also licensed as a physician and
5 surgeon under Chapter 5 (commencing with Section 2000) or the
6 Osteopathic Act who lawfully prescribes drugs to a patient under
7 his or her care.

8 (d) Incompetence in the performance of clinical social work.

9 (e) An act or omission that falls sufficiently below the standard
10 of conduct of the profession as to constitute an act of gross
11 negligence.

12 (f) Violating, attempting to violate, or conspiring to violate this
13 chapter or any regulation adopted by the board.

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

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

25 (i) Aiding or abetting any unlicensed or unregistered person to
26 engage in conduct for which a license or registration is required
27 under this chapter.

28 (j) Intentionally or recklessly causing physical or emotional
29 harm to any client.

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

33 (l) Engaging in sexual relations with a client or with a former
34 client within two years from the termination date of therapy with
35 the client, soliciting sexual relations with a client, or committing
36 an act of sexual abuse, or sexual misconduct with a client, or
37 committing an act punishable as a sexually related crime, if that
38 act or solicitation is substantially related to the qualifications,
39 functions, or duties of a clinical social worker.

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

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

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

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

24 (q) Advertising in a manner that is false, fraudulent, misleading,
25 or deceptive, as defined in Section 651.

26 (r) Reproduction or description in public, or in any publication
27 subject to general public distribution, of any psychological test or
28 other assessment device, the value of which depends in whole or
29 in part on the naivete of the subject, in ways that might invalidate
30 the test or device. A licensee shall limit access to that test or device
31 to persons with professional interest who are expected to safeguard
32 its use.

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

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

39 (u) Failure to comply with the child abuse reporting
40 requirements of Section 11166 of the Penal Code.

1 (v) Failure to comply with the elder and dependent adult abuse
2 reporting requirements of Section 15630 of the Welfare and
3 Institutions Code.

4 (w) Willful violation of Chapter 1 (commencing with Section
5 123100) of Part 1 of Division 106 of the Health and Safety Code.

6 (x) Failure to comply with Section 2290.5.

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

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

23 (z) Engaging in any conduct that subverts or attempts to subvert
24 any licensing examination or the administration of the examination
25 as described in Section 123.

26 SEC. 59. Section 4996.23 of the Business and Professions
27 Code is amended to read:

28 4996.23. The experience required by subdivision (c) of Section
29 4996.2 shall meet the following criteria:

30 (a) All persons registered with the board on and after January
31 1, 2002, shall have at least 3,200 hours of post-master's degree
32 supervised experience providing clinical social work services as
33 permitted by Section 4996.9. At least 1,700 hours shall be gained
34 under the supervision of a licensed clinical social worker. The
35 remaining required supervised experience may be gained under
36 the supervision of a licensed mental health professional acceptable
37 to the board as defined by a regulation adopted by the board. This
38 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 direct supervisor contact"
28 means one hour per week of face-to-face contact on an individual
29 basis or two hours of face-to-face contact in a group conducted
30 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 (7) Notwithstanding paragraph (2), an associate clinical social
12 worker working for a governmental entity, school, college, or
13 university, or an institution that is both a nonprofit and charitable
14 institution, may obtain the required weekly direct supervisor
15 contact via live two-way videoconferencing. The supervisor shall
16 be responsible for ensuring that client confidentiality is preserved.

17 (d) The supervisor and the associate shall develop a supervisory
18 plan that describes the goals and objectives of supervision. These
19 goals shall include the ongoing assessment of strengths and
20 limitations and the assurance of practice in accordance with the
21 laws and regulations. The associate shall submit to the board the
22 initial original supervisory plan upon application for licensure.

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

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

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

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

33 (g) Employment in a private practice as defined in subdivision

34 (h) shall not commence until the applicant has been registered as
35 an associate clinical social worker.

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

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

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

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

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

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

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

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

17 (m) An associate, whether employed or volunteering, may obtain
18 supervision from a person not employed by the associate's
19 employer if that person has signed a written agreement with the
20 employer to take supervisory responsibility for the associate's
21 social work services.

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

26 SEC. 60. Section 4996.24 is added to the Business and
27 Professions Code, to read:

28 4996.24. (a) A licensee in private practice who has satisfied
29 the requirements of Section 1870 of Title 16 of the California Code
30 of Regulations may supervise or employ, at any one time, no more
31 than a total of two individuals registered as either a marriage and
32 family therapist intern or associate clinical social worker in that
33 private practice.

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

1 (c) In no event shall any corporation employ, at any one time,
2 more than a total of 10 individuals registered as either a marriage
3 and family therapist intern or associate clinical social worker. In
4 no event shall any supervisor supervise, at any one time, more than
5 a total of two individuals registered as either a marriage and family
6 therapist intern or associate clinical social worker. Persons who
7 supervise individuals registered as either a marriage and family
8 therapist intern or associate clinical social worker shall be
9 employed full time by the professional corporation and shall be
10 actively engaged in performing professional services at and for
11 the professional corporation. Employment and supervision within
12 the licensed clinical social workers' corporation shall be subject
13 to all laws and regulations governing experience and supervision
14 gained in a private practice setting.

15 SEC. 61. Section 4996.28 of the Business and Professions
16 Code is amended to read:

17 4996.28. (a) Registration as an associate clinical social worker
18 shall expire one year from the last day of the month during which
19 it was issued. To renew a registration, the registrant shall, on or
20 before the expiration date of the registration, complete all of the
21 following actions:

22 (1) Apply for renewal on a form prescribed by the board.
23 (2) Pay a renewal fee prescribed by the board.
24 (3) Notify the board whether he or she has been convicted, as
25 defined in Section 490, of a misdemeanor or felony, and whether
26 any disciplinary action has been taken by a regulatory or licensing
27 board in this or any other state, subsequent to the last renewal of
28 the registration.

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

38 SEC. 62. Section 4996.5 of the Business and Professions Code
39 is amended to read:

1 4996.5. The board shall issue a license to each applicant
2 meeting the requirements of this article, which license, so long as
3 the renewal fees have been paid, licenses the holder to engage in
4 the practice of clinical social work as defined in Section 4996.9,
5 entitles the holder to use the title of licensed clinical social worker,
6 and authorizes the holder to hold himself or herself out as qualified
7 to perform any of the functions delineated by this chapter. The
8 form and content of the license shall be determined by the director
9 in accordance with Section 164.

10 SEC. 63. Section 4999.2 of the Business and Professions Code,
11 as amended by Section 48 of Chapter 31 of the Statutes of 2008,
12 is amended to read:

13 4999.2. (a) In order to obtain and maintain a registration,
14 in-state or out-of-state telephone medical advice services shall
15 comply with the requirements established by the department. Those
16 requirements shall include, but shall not be limited to, all of the
17 following:

18 (1) (A) Ensuring that all staff who provide medical advice
19 services are appropriately licensed, certified, or registered as a
20 physician and surgeon pursuant to Chapter 5 (commencing with
21 Section 2000) or the Osteopathic Initiative Act, as a dentist, dental
22 hygienist, dental hygienist in alternative practice, or dental
23 hygienist in extended functions pursuant to Chapter 4 (commencing
24 with Section 1600), as an occupational therapist pursuant to
25 Chapter 5.6 (commencing with Section 2570), as a registered nurse
26 pursuant to Chapter 6 (commencing with Section 2700), as a
27 psychologist pursuant to Chapter 6.6 (commencing with Section
28 2900), as a marriage and family therapist pursuant to Chapter 13
29 (commencing with Section 4980), as a licensed clinical social
30 worker pursuant to Chapter 14 (commencing with Section 4990.1),
31 as an optometrist pursuant to Chapter 7 (commencing with Section
32 3000), or as a chiropractor pursuant to the Chiropractic Initiative
33 Act, and operating consistent with the laws governing their
34 respective scopes of practice in the state within which they provide
35 telephone medical advice services, except as provided in paragraph
36 (2).

37 (B) Ensuring that all staff who provide telephone medical advice
38 services from an out-of-state location are health care professionals,
39 as identified in subparagraph (A), who are licensed, registered, or
40 certified in the state within which they are providing the telephone

1 medical advice services and are operating consistent with the laws
2 governing their respective scopes of practice.

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

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

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

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

16 (b) To the extent permitted by Article VII of the California
17 Constitution, the department may contract with a private nonprofit
18 accrediting agency to evaluate the qualifications of applicants for
19 registration pursuant to this chapter and to make recommendations
20 to the department.

21 SEC. 64. Section 5016 of the Business and Professions Code
22 is amended to read:

23 5016. A majority of the board shall constitute a quorum for
24 the transaction of any business at any meeting of the board. Notice
25 of each meeting of the board shall be given in accordance with the
26 Bagley-Keene Open Meeting Act (Article 9 (commencing with
27 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
28 the Government Code). The board shall meet at the call of the
29 president and executive officer, but not less than twice each year.
30 Any two members of the board may request the executive officer
31 to call a special meeting, and the executive officer, upon receiving
32 that notice, shall call a meeting pursuant to the procedure
33 prescribed herein.

34 SEC. 65. Section 5021 of the Business and Professions Code
35 is amended to read:

36 5021. The members of the administrative and qualifications
37 committees shall hold office for two years.

38 SEC. 66. Section 5022 of the Business and Professions Code
39 is amended to read:

1 5022. The qualifications committee shall make
2 recommendations and forward its report to the board for action on
3 any matter on which it is authorized to act. An applicant for
4 registration as a certified public accountant who is aggrieved by
5 any action taken by the committee with respect to his or her
6 qualifications may appeal to the board in accordance with rules or
7 regulations prescribed by the board. The board on the appeal may
8 give an oral or written examination as an aid in determining
9 whether the applicant is qualified under the terms of this chapter.

10 SEC. 67. Section 5023 of the Business and Professions Code
11 is amended to read:

12 5023. The board may establish a qualifications committee of
13 its own certified public accountant members or other certified
14 public accountants of the state in good standing, to perform the
15 following advisory duties:

16 (a) To examine the qualifications of all applicants for the license
17 of certified public accountant.

18 (b) To recommend to the board applicants for the certified public
19 accountant license who fulfill the requirements of this chapter.

20 ~~SEC. 68. Section 5515.5 is added to the Business and~~
21 ~~Professions Code, to read:~~

22 ~~5515.5. (a) Notwithstanding Section 5515, the following~~
23 ~~provisions shall apply:~~

24 ~~(1) Of the architect members of the board appointed by the~~
25 ~~Governor whose terms commence on July 1, 2009, the term of two~~
26 ~~members shall expire on June 30, 2013, and the term of one~~
27 ~~member shall expire on June 30, 2015.~~

28 ~~(2) Of the architect members of the board appointed by the~~
29 ~~Governor whose terms commence on July 1, 2010, one member's~~
30 ~~term shall expire on June 30, 2014, and one member's term shall~~
31 ~~expire on June 30, 2016.~~

32 ~~(3) The term of the public member of the board appointed by~~
33 ~~the Governor whose term commences on July 1, 2010, shall expire~~
34 ~~on June 30, 2015.~~

35 ~~(4) Of the public members of the board appointed by the~~
36 ~~Governor whose terms commence on July 1, 2012, one member's~~
37 ~~term shall expire on June 30, 2016, and one member's term shall~~
38 ~~expire on June 30, 2017.~~

1 ~~(b) Except as provided in subdivision (a), this section shall not~~
2 ~~be construed to affect the application of Section 5515 to the terms~~
3 ~~of any current or future members of the board.~~

4 ~~SEC. 69.~~

5 *SEC. 68.* Section 5651 of the Business and Professions Code
6 is amended to read:

7 5651. (a) The board shall by means of examination, ascertain
8 the professional qualifications of all applicants for licenses to
9 practice landscape architecture in this state and shall issue a license
10 to every person whom it finds to be qualified on payment of the
11 initial license fee prescribed by this chapter.

12 (b) The examination shall consist of a written examination. The
13 written examination may be waived by the board if the applicant
14 meets both of the following requirements:

15 (1) Is currently licensed by a United States jurisdiction, Canadian
16 province, or Puerto Rico, has passed a written examination
17 equivalent to that which is required in California at the time of
18 application, and has submitted proof of job experience equivalent
19 to that required of California applicants at the time of application.

20 (2) Has passed the California supplemental examination if, at
21 the time of application, it is required of all California applicants.

22 ~~SEC. 70. Section 6763.1 of the Business and Professions Code~~
23 ~~is repealed.~~

24 ~~SEC. 71.~~

25 *SEC. 69.* Section 7028.7 of the Business and Professions Code
26 is amended to read:

27 7028.7. (a) If upon inspection or investigation, either upon
28 complaint or otherwise, the registrar has probable cause to believe
29 that a person is acting in the capacity of or engaging in the business
30 of a contractor or salesperson within this state without having a
31 license or registration in good standing to so act or engage, and
32 the person is not otherwise exempted from this chapter, the registrar
33 shall issue a citation to that person.

34 (b) Within 72 hours of receiving notice that a public entity is
35 intending to award, or has awarded, a contract to an unlicensed
36 contractor, the registrar shall give written notice to the public entity
37 that a citation may be issued if a contract is awarded to an
38 unlicensed contractor. If after receiving the written notice from
39 the registrar that the public entity has awarded or awards the
40 contract to an unlicensed contractor, the registrar may issue a

1 citation to the responsible officer or employee of the public entity
2 as specified in Section 7028.15.

3 (c) Each citation shall be in writing and shall describe with
4 particularity the basis of the citation. Each citation shall contain
5 an order of abatement and an assessment of a civil penalty in an
6 amount not less than two hundred dollars (\$200) nor more than
7 fifteen thousand dollars (\$15,000).

8 (d) With the approval of the Contractors' State License Board,
9 the registrar shall prescribe procedures for the issuance of a citation
10 under this section. The Contractors' State License Board shall
11 adopt regulations covering the assessment of a civil penalty that
12 shall give due consideration to the gravity of the violation, and
13 any history of previous violations.

14 (e) The sanctions authorized under this section shall be separate
15 from, and in addition to, all other remedies either civil or criminal.

16 ~~SEC. 72.~~

17 *SEC. 70.* Section 7044 of the Business and Professions Code
18 is amended to read:

19 7044. (a) This chapter does not apply to any of the following:

20 (1) An owner who builds or improves a structure on his or her
21 property, provided that both of the following conditions are met:

22 (A) None of the improvements are intended or offered for sale.

23 (B) The property owner personally performs all of the work or
24 any work not performed by the owner is performed by the owner's
25 employees with wages as their sole compensation.

26 (2) An owner who builds or improves a structure on his or her
27 property, provided that both of the following conditions are met:

28 (A) The owner directly contracts with licensees who are duly
29 licensed to contract for the work of the respective trades involved
30 in completing the project.

31 (B) For projects involving single-family residential structures,
32 no more than four of these structures are intended or offered for
33 sale in a calendar year. This subparagraph shall not apply if the
34 owner contracts with a general contractor for the construction.

35 (3) A homeowner improving his or her principal place of
36 residence or appurtenances thereto, provided that all of the
37 following conditions exist:

38 (A) The work is performed prior to sale.

39 (B) The homeowner has actually resided in the residence for
40 the 12 months prior to completion of the work.

1 (C) The homeowner has not availed himself or herself of the
2 exemption in this paragraph on more than two structures more
3 than once during any three-year period.

4 (b) In all actions brought under this chapter, both of the
5 following shall apply:

6 (1) Except as provided in paragraph (2), proof of the sale or
7 offering for sale of a structure by or for the owner-builder within
8 one year after completion of the structure constitutes a rebuttable
9 presumption affecting the burden of proof that the structure was
10 undertaken for purposes of sale.

11 (2) Proof of the sale or offering for sale of five or more
12 structures by the owner-builder within one year after completion
13 constitutes a conclusive presumption that the structures were
14 undertaken for purposes of sale.

15 ~~SEC. 73.~~

16 *SEC. 71.* Section 7044.01 is added to the Business and
17 Professions Code, to read:

18 7044.01. In addition to all other remedies, any ~~(a)~~ licensed
19 contractor or association of contractors, ~~(b)~~ labor organization, ~~(c)~~
20 consumer affected by the violation, ~~(d)~~ district attorney, or ~~(e)~~
21 consumer affected by the violation, district attorney, or the
22 Attorney General shall be entitled to seek injunctive relief
23 prohibiting any violation of this chapter by an owner-builder who
24 is neither licensed nor exempted from licensure under this chapter.
25 The plaintiff in that action shall not be required to prove irreparable
26 injury and shall be entitled to attorney's fees and all costs incurred
27 in the prosecution of the action, provided the plaintiff is the
28 prevailing party. The defendant in that action shall be entitled to
29 attorney's fees and all costs incurred in the defense against the
30 action, provided the defendant is the prevailing party.

31 ~~SEC. 74.~~

32 *SEC. 72.* Section 7108.5 of the Business and Professions Code
33 is repealed.

34 ~~SEC. 75.~~

35 *SEC. 73.* Section 7108.5 is added to the Business and
36 Professions Code, to read:

37 7108.5. (a) This section applies to all private works of
38 improvement and to all public works of improvement, except where
39 Section 10262 of the Public Contract Code applies.

(b) Except as provided in subdivision (c), a prime contractor or subcontractor shall pay to any subcontractor, not later than 10 days of receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. A prime contractor or subcontractor that fails to comply with this subdivision shall be subject to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made as required under this subdivision.

(c) If there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.

(d) A violation of this section shall constitute a cause for disciplinary action.

(e) In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs.

(f) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.

~~SEC. 76.~~

SEC. 74. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars (\$500), and the licensee complies with the requirements set forth in Section 7159.9.

1 (4) This section does not apply to any costs associated with
2 monitoring a burglar or fire alarm system.

3 (5) Failure by the licensee, his or her agent or salesperson, or
4 by a person subject to be licensed under this chapter, to provide
5 the specified information, notices, and disclosures in the contract,
6 or to otherwise fail to comply with any provision of this section,
7 is cause for discipline.

8 (b) For purposes of this section, “home improvement contract”
9 means an agreement, whether oral or written, or contained in one
10 or more documents, between a contractor and an owner or between
11 a contractor and a tenant, regardless of the number of residence
12 or dwelling units contained in the building in which the tenant
13 resides, if the work is to be performed in, to, or upon the residence
14 or dwelling unit of the tenant, for the performance of a home
15 improvement, as defined in Section 7151, and includes all labor,
16 services, and materials to be furnished and performed thereunder,
17 if the aggregate contract price specified in one or more
18 improvement contracts, including all labor, services, and materials
19 to be furnished by the contractor, exceeds five hundred dollars
20 (\$500). “Home improvement contract” also means an agreement,
21 whether oral or written, or contained in one or more documents,
22 between a salesperson, whether or not he or she is a home
23 improvement salesperson, and an owner or a tenant, regardless of
24 the number of residence or dwelling units contained in the building
25 in which the tenant resides, which provides for the sale, installation,
26 or furnishing of home improvement goods or services.

27 (c) In addition to the specific requirements listed under this
28 section, every home improvement contract and any person subject
29 to licensure under this chapter or his or her agent or salesperson
30 shall comply with all of the following:

31 (1) The writing shall be legible.

32 (2) Any printed form shall be readable. Unless a larger typeface
33 is specified in this article, text in any printed form shall be in at
34 least 10-point typeface and the headings shall be in at least 10-point
35 boldface type.

36 (3) (A) Before any work is started, the contractor shall give the
37 buyer a copy of the contract signed and dated by both the contractor
38 and the buyer. The buyer’s receipt of the copy of the contract
39 initiates the buyer’s rights to cancel the contract pursuant to
40 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

1 (B) The contract shall contain on the first page, in a typeface
2 no smaller than that generally used in the body of the document,
3 both of the following:

4 (i) The date the buyer signed the contract.

5 (ii) The name and address of the contractor to which the
6 applicable “Notice of Cancellation” is to be mailed, immediately
7 preceded by a statement advising the buyer that the “Notice of
8 Cancellation” may be sent to the contractor at the address noted
9 on the contract.

10 (4) The contract shall include a statement that, upon satisfactory
11 payment being made for any portion of the work performed, the
12 contractor, prior to any further payment being made, shall furnish
13 to the person contracting for the home improvement or swimming
14 pool work a full and unconditional release from any potential lien
15 claimant claim or mechanic’s lien authorized pursuant to Section
16 3110 of the Civil Code for that portion of the work for which
17 payment has been made.

18 (5) A change-order form for changes or extra work shall be
19 incorporated into the contract and shall become part of the contract
20 only if it is in writing and signed by the parties prior to the
21 commencement of any work covered by a change order.

22 (6) The contract shall contain, in close proximity to the
23 signatures of the owner and contractor, a notice stating that the
24 owner or tenant has the right to require the contractor to have a
25 performance and payment bond.

26 (7) If the contract provides for a contractor to furnish joint
27 control, the contractor shall not have any financial or other interest
28 in the joint control.

29 (8) The provisions of this section are not exclusive and do not
30 relieve the contractor from compliance with any other applicable
31 provision of law.

32 (d) A home improvement contract and any changes to the
33 contract shall be in writing and signed by the parties to the contract
34 prior to the commencement of work covered by the contract or an
35 applicable change order and, except as provided in paragraph (8)
36 of subdivision (a) of Section 7159.5, shall include or comply with
37 all of the following:

38 (1) The name, business address, and license number of the
39 contractor.

1 (2) If applicable, the name and registration number of the home
2 improvement salesperson that solicited or negotiated the contract.

3 (3) The following heading on the contract form that identifies
4 the type of contract in at least 10-point boldface type: “Home
5 Improvement.”

6 (4) The following statement in at least 12-point boldface type:
7 “You are entitled to a completely filled in copy of this agreement,
8 signed by both you and the contractor, before any work may be
9 started.”

10 (5) The heading: “Contract Price,” followed by the amount of
11 the contract in dollars and cents.

12 (6) If a finance charge will be charged, the heading: “Finance
13 Charge,” followed by the amount in dollars and cents. The finance
14 charge is to be set out separately from the contract amount.

15 (7) The heading: “Description of the Project and Description
16 of the Significant Materials to be Used and Equipment to be
17 Installed,” followed by a description of the project and a description
18 of the significant materials to be used and equipment to be installed.
19 For swimming pools, the project description required under this
20 paragraph also shall include a plan and scale drawing showing the
21 shape, size, dimensions, and the construction and equipment
22 specifications.

23 (8) If a downpayment will be charged, the details of the
24 downpayment shall be expressed in substantially the following
25 form, and shall include the text of the notice as specified in
26 subparagraph (C):

27 (A) The heading: “Downpayment.”

28 (B) A space where the actual downpayment appears.

29 (C) The following statement in at least 12-point boldface type:
30

31 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
32 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
33 LESS.”
34

35 (9) If payments, other than the downpayment, are to be made
36 before the project is completed, the details of these payments,
37 known as progress payments, shall be expressed in substantially
38 the following form, and shall include the text of the statement as
39 specified in subparagraph (C):

1 (A) A schedule of progress payments shall be preceded by the
2 heading: "Schedule of Progress Payments."

3 (B) Each progress payment shall be stated in dollars and cents
4 and specifically reference the amount of work or services to be
5 performed and materials and equipment to be supplied.

6 (C) The section of the contract reserved for the progress
7 payments shall include the following statement in at least 12-point
8 boldface type:

9
10 "The schedule of progress payments must specifically describe
11 each phase of work, including the type and amount of work or
12 services scheduled to be supplied in each phase, along with the
13 amount of each proposed progress payment. IT IS AGAINST THE
14 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
15 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
16 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
17 REQUIRE A DOWNPAYMENT."

18
19 (10) The contract shall address the commencement of work to
20 be performed in substantially the following form:

21 (A) A statement that describes what constitutes substantial
22 commencement of work under the contract.

23 (B) The heading: "Approximate Start Date."

24 (C) The approximate date on which work will be commenced.

25 (11) The estimated completion date of the work shall be
26 referenced in the contract in substantially the following form:

27 (A) The heading: "Approximate Completion Date."

28 (B) The approximate date of completion.

29 (12) If applicable, the heading: "List of Documents to be
30 Incorporated into the Contract," followed by the list of documents
31 incorporated into the contract.

32 (13) The heading: "Note about Extra Work and Change Orders,"
33 followed by the following statement:

34
35 "Extra Work and Change Orders become part of the contract
36 once the order is prepared in writing and signed by the parties prior
37 to the commencement of work covered by the new change order.
38 The order must describe the scope of the extra work or change,
39 the cost to be added or subtracted from the contract, and the effect
40 the order will have on the schedule of progress payments."

1
2 (e) Except as provided in paragraph (8) of subdivision (a) of
3 Section 7159.5, all of the following notices shall be provided to
4 the owner as part of the contract form as specified or, if otherwise
5 authorized under this subdivision, may be provided as an
6 attachment to the contract:

7 (1) A notice concerning commercial general liability insurance.
8 This notice may be provided as an attachment to the contract if
9 the contract includes the following statement: “A notice concerning
10 commercial general liability insurance is attached to this contract.”
11 The notice shall include the heading “Commercial General Liability
12 Insurance (CGL),” followed by whichever of the following
13 statements is both relevant and correct:

14 (A) “(The name on the license or ‘This contractor’) does not
15 carry commercial general liability insurance.”

16 (B) “(The name on the license or ‘This contractor’) carries
17 commercial general liability insurance written by (the insurance
18 company). You may call (the insurance company) at _____
19 to check the contractor’s insurance coverage.”

20 (C) “(The name on the license or ‘This contractor’) is
21 self-insured.”

22 (2) A notice concerning workers’ compensation insurance. This
23 notice may be provided as an attachment to the contract if the
24 contract includes the statement: “A notice concerning workers’
25 compensation insurance is attached to this contract.” The notice
26 shall include the heading “Workers’ Compensation Insurance”
27 followed by whichever of the following statements is correct:

28 (A) “(The name on the license or ‘This contractor’) has no
29 employees and is exempt from workers’ compensation
30 requirements.”

31 (B) “(The name on the license or ‘This contractor’) carries
32 workers’ compensation insurance for all employees.”

33 (3) A notice that provides the buyer with the following
34 information about the performance of extra or change-order work:

35 (A) A statement that the buyer may not require a contractor to
36 perform extra or change-order work without providing written
37 authorization prior to the commencement of work covered by the
38 new change order.

39 (B) A statement informing the buyer that extra work or a change
40 order is not enforceable against a buyer unless the change order

1 also identifies all of the following in writing prior to the
2 commencement of work covered by the new change order:

- 3 (i) The scope of work encompassed by the order.
- 4 (ii) The amount to be added or subtracted from the contract.
- 5 (iii) The effect the order will make in the progress payments or
6 the completion date.

7 (C) A statement informing the buyer that the contractor's failure
8 to comply with the requirements of this paragraph does not
9 preclude the recovery of compensation for work performed based
10 upon legal or equitable remedies designed to prevent unjust
11 enrichment.

12 (4) A notice with the heading "Mechanics' Lien Warning"
13 written as follows:

14
15 "MECHANICS' LIEN WARNING:

16
17 Anyone who helps improve your property, but who is not paid,
18 may record what is called a mechanics' lien on your property. A
19 mechanics' lien is a claim, like a mortgage or home equity loan,
20 made against your property and recorded with the county recorder.

21 Even if you pay your contractor in full, unpaid subcontractors,
22 suppliers, and laborers who helped to improve your property may
23 record mechanics' liens and sue you in court to foreclose the lien.
24 If a court finds the lien is valid, you could be forced to pay twice
25 or have a court officer sell your home to pay the lien. Liens can
26 also affect your credit.

27 To preserve their right to record a lien, each subcontractor and
28 material supplier must provide you with a document called a
29 '20-day Preliminary Notice.' This notice is not a lien. The purpose
30 of the notice is to let you know that the person who sends you the
31 notice has the right to record a lien on your property if he or she
32 is not paid.

33 BE CAREFUL. The Preliminary Notice can be sent up to 20
34 days after the subcontractor starts work or the supplier provides
35 material. This can be a big problem if you pay your contractor
36 before you have received the Preliminary Notices.

37 You will not get Preliminary Notices from your prime contractor
38 or from laborers who work on your project. The law assumes that
39 you already know they are improving your property.

1 PROTECT YOURSELF FROM LIENS. You can protect
2 yourself from liens by getting a list from your contractor of all the
3 subcontractors and material suppliers that work on your project.
4 Find out from your contractor when these subcontractors started
5 work and when these suppliers delivered goods or materials. Then
6 wait 20 days, paying attention to the Preliminary Notices you
7 receive.

8 PAY WITH JOINT CHECKS. One way to protect yourself is
9 to pay with a joint check. When your contractor tells you it is time
10 to pay for the work of a subcontractor or supplier who has provided
11 you with a Preliminary Notice, write a joint check payable to both
12 the contractor and the subcontractor or material supplier.

13 For other ways to prevent liens, visit CSLB's Internet Web site
14 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

15 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING
16 A LIEN PLACED ON YOUR HOME. This can mean that you
17 may have to pay twice, or face the forced sale of your home to pay
18 what you owe.”

19
20 (5) The following notice shall be provided in at least 12-point
21 typeface:

22
23 “Information about the Contractors’ State License Board (CSLB):
24 CSLB is the state consumer protection agency that licenses and
25 regulates construction contractors.

26 Contact CSLB for information about the licensed contractor you
27 are considering, including information about disclosable
28 complaints, disciplinary actions, and civil judgments that are
29 reported to CSLB.

30 Use only licensed contractors. If you file a complaint against a
31 licensed contractor within the legal deadline (usually four years),
32 CSLB has authority to investigate the complaint. If you use an
33 unlicensed contractor, CSLB may not be able to help you resolve
34 your complaint. Your only remedy may be in civil court, and you
35 may be liable for damages arising out of any injuries to the
36 unlicensed contractor or the unlicensed contractor’s employees.

37 For more information:

38 Visit CSLB’s Internet Web site at www.cslb.ca.gov

39 Call CSLB at 800-321-CSLB (2752)

40 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

1
2 (6) (A) The notice set forth in subparagraph (B) and entitled
3 “Three-Day Right to Cancel,” shall be provided to the buyer unless
4 the contract is:

5 (i) Negotiated at the contractor’s place of business.

6 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
7 paragraph (7).

8 (iii) Subject to licensure under the Alarm Company Act (Chapter
9 11.6 (commencing with Section 7590)), provided the alarm
10 company licensee complies with Sections 1689.5, 1689.6, and
11 1689.7 of the Civil Code, as applicable.

12 (B) “Three-Day Right to Cancel

13 You, the buyer, have the right to cancel this contract within three
14 business days. You may cancel by e-mailing, mailing, faxing, or
15 delivering a written notice to the contractor at the contractor’s
16 place of business by midnight of the third business day after you
17 received a signed and dated copy of the contract that includes this
18 notice. Include your name, your address, and the date you received
19 the signed copy of the contract and this notice.

20 If you cancel, the contractor must return to you anything you
21 paid within 10 days of receiving the notice of cancellation. For
22 your part, you must make available to the contractor at your
23 residence, in substantially as good condition as you received them,
24 goods delivered to you under this contract or sale. Or, you may,
25 if you wish, comply with the contractor’s instructions on how to
26 return the goods at the contractor’s expense and risk. If you do
27 make the goods available to the contractor and the contractor does
28 not pick them up within 20 days of the date of your notice of
29 cancellation, you may keep them without any further obligation.
30 If you fail to make the goods available to the contractor, or if you
31 agree to return the goods to the contractor and fail to do so, then
32 you remain liable for performance of all obligations under the
33 contract.”

34 (C) The “Three-Day Right to Cancel” notice required by this
35 paragraph shall comply with all of the following:

36 (i) The text of the notice is at least 12-point boldface type.

37 (ii) The notice is in immediate proximity to a space reserved
38 for the owner’s signature.

39 (iii) The owner acknowledges receipt of the notice by signing
40 and dating the notice form in the signature space.

1 (iv) The notice is written in the same language, e.g., Spanish,
2 as that principally used in any oral sales presentation.

3 (v) The notice may be attached to the contract if the contract
4 includes, in at least 12-point boldface type, a checkbox with the
5 following statement: “The law requires that the contractor give
6 you a notice explaining your right to cancel. Initial the checkbox
7 if the contractor has given you a ‘Notice of the Three-Day Right
8 to Cancel.’”

9 (vi) The notice shall be accompanied by a completed form in
10 duplicate, captioned “Notice of Cancellation,” which also shall be
11 attached to the agreement or offer to purchase and be easily
12 detachable, and which shall contain the following statement written
13 in the same language, e.g., Spanish, as used in the contract:

14
15 “Notice of Cancellation”

16 /enter date of transaction/
17

18 _____
19 (Date)
20

21 “You may cancel this transaction, without any penalty or
22 obligation, within three business days from the above date.

23 If you cancel, any property traded in, any payments made by
24 you under the contract or sale, and any negotiable instrument
25 executed by you will be returned within 10 days following receipt
26 by the seller of your cancellation notice, and any security interest
27 arising out of the transaction will be canceled.

28 If you cancel, you must make available to the seller at your
29 residence, in substantially as good condition as when received,
30 any goods delivered to you under this contract or sale, or you may,
31 if you wish, comply with the instructions of the seller regarding
32 the return shipment of the goods at the seller’s expense and risk.

33 If you do make the goods available to the seller and the seller
34 does not pick them up within 20 days of the date of your notice of
35 cancellation, you may retain or dispose of the goods without any
36 further obligation. If you fail to make the goods available to the
37 seller, or if you agree to return the goods to the seller and fail to
38 do so, then you remain liable for performance of all obligations
39 under the contract.”
40

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____,

/name of seller/

at _____

/address of seller's place of business/

not later than midnight of _____.

(Date)

I hereby cancel this transaction. _____

(Date)

(Buyer's signature)

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you

1 agree to return the goods to the contractor and fail to do so, then
2 you remain liable for performance of all obligations under the
3 contract.”

4 (B) The “Seven-Day Right to Cancel” notice required by this
5 subdivision shall comply with all of the following:

6 (i) The text of the notice is at least 12-point boldface type.

7 (ii) The notice is in immediate proximity to a space reserved
8 for the owner’s signature.

9 (iii) The owner acknowledges receipt of the notice by signing
10 and dating the notice form in the signature space.

11 (iv) The notice is written in the same language, e.g., Spanish,
12 as that principally used in any oral sales presentation.

13 (v) The notice may be attached to the contract if the contract
14 includes, in at least 12-point boldface type, a checkbox with the
15 following statement: “The law requires that the contractor give
16 you a notice explaining your right to cancel. Initial the checkbox
17 if the contractor has given you a ‘Notice of the Seven-Day Right
18 to Cancel.’ ”

19 (vi) The notice shall be accompanied by a completed form in
20 duplicate, captioned “Notice of Cancellation,” which shall also be
21 attached to the agreement or offer to purchase and be easily
22 detachable, and which shall contain the following statement written
23 in the same language, e.g., Spanish, as used in the contract:
24

25 “Notice of Cancellation”

26 /enter date of transaction/
27

28 _____
29 (Date)
30

31 “You may cancel this transaction, without any penalty or
32 obligation, within seven business days from the above date.

33 If you cancel, any property traded in, any payments made by
34 you under the contract or sale, and any negotiable instrument
35 executed by you will be returned within 10 days following receipt
36 by the seller of your cancellation notice, and any security interest
37 arising out of the transaction will be canceled.

38 If you cancel, you must make available to the seller at your
39 residence, in substantially as good condition as when received,
40 any goods delivered to you under this contract or sale, or you may,

1 if you wish, comply with the instructions of the seller regarding
 2 the return shipment of the goods at the seller's expense and risk.

3 If you do make the goods available to the seller and the seller
 4 does not pick them up within 20 days of the date of your notice of
 5 cancellation, you may retain or dispose of the goods without any
 6 further obligation. If you fail to make the goods available to the
 7 seller, or if you agree to return the goods to the seller and fail to
 8 do so, then you remain liable for performance of all obligations
 9 under the contract.”

10
 11
 12 To cancel this transaction, mail or deliver a signed and dated copy of this
 13 cancellation notice, or any other written notice, or send a telegram
 14 to _____,

15 _____
 /name of seller/

16 at _____
 17 _____
 /address of seller's place of business/

18 not later than midnight of _____.
 19 _____
 (Date)

20 I hereby cancel this transaction. _____
 21 _____
 (Date)

22 _____
 23 _____
 (Buyer's signature)

24
 25 ~~SEC. 77.~~

26 *SEC. 75.* Section 7159.5 of the Business and Professions Code
 27 is amended to read:

28 7159.5. This section applies to all home improvement contracts,
 29 as defined in Section 7151.2, between an owner or tenant and a
 30 contractor, whether a general contractor or a specialty contractor,
 31 who is licensed or subject to be licensed pursuant to this chapter
 32 with regard to the transaction.

33 (a) Failure by the licensee or a person subject to be licensed
 34 under this chapter, or by his or her agent or salesperson, to comply
 35 with the following provisions is cause for discipline:

36 (1) The contract shall be in writing and shall include the agreed
 37 contract amount in dollars and cents. The contract amount shall
 38 include the entire cost of the contract, including profit, labor, and
 39 materials, but excluding finance charges.

1 (2) If there is a separate finance charge between the contractor
2 and the person contracting for home improvement, the finance
3 charge shall be set out separately from the contract amount.

4 (3) If a downpayment will be charged, the downpayment may
5 not exceed one thousand dollars (\$1,000) or 10 percent of the
6 contract amount, whichever is less.

7 (4) If, in addition to a downpayment, the contract provides for
8 payments to be made prior to completion of the work, the contract
9 shall include a schedule of payments in dollars and cents
10 specifically referencing the amount of work or services to be
11 performed and any materials and equipment to be supplied.

12 (5) Except for a downpayment, the contractor may neither
13 request nor accept payment that exceeds the value of the work
14 performed or material delivered.

15 (6) Upon any payment by the person contracting for home
16 improvement, and prior to any further payment being made, the
17 contractor shall, if requested, obtain and furnish to the person a
18 full and unconditional release from any potential lien claimant
19 claim or mechanic's lien authorized pursuant to Section 3110 of
20 the Civil Code for any portion of the work for which payment has
21 been made. The person contracting for home improvement may
22 withhold all further payments until these releases are furnished.

23 (7) If the contract provides for a payment of a salesperson's
24 commission out of the contract price, that payment shall be made
25 on a pro rata basis in proportion to the schedule of payments made
26 to the contractor by the disbursing party in accordance with
27 paragraph (4).

28 (8) A contractor furnishing a performance and payment bond,
29 lien and completion bond, or a bond equivalent or joint control
30 approved by the registrar covering full performance and payment
31 is exempt from paragraphs (3), (4), and (5), and need not include,
32 as part of the contract, the statement regarding the downpayment
33 specified in subparagraph (C) of paragraph (8) of subdivision (d)
34 of Section 7159, the details and statement regarding progress
35 payments specified in paragraph (9) of subdivision (d) of Section
36 7159, or the Mechanics' Lien Warning specified in paragraph (4)
37 of subdivision (e) of Section 7159. A contractor furnishing these
38 bonds, bond equivalents, or a joint control approved by the registrar
39 may accept payment prior to completion. If the contract provides

1 for a contractor to furnish joint control, the contractor shall not
2 have any financial or other interest in the joint control.

3 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)
4 by a licensee or a person subject to be licensed under this chapter,
5 or by his or her agent or salesperson, is a misdemeanor punishable
6 by a fine of not less than one hundred dollars (\$100) nor more than
7 five thousand dollars (\$5,000), or by imprisonment in a county
8 jail not exceeding one year, or by both that fine and imprisonment.

9 (1) An indictment or information against a person who is not
10 licensed but who is required to be licensed under this chapter shall
11 be brought, or a criminal complaint filed, for a violation of this
12 section, in accordance with paragraph (4) of subdivision (d) of
13 Section 802 of the Penal Code, within four years from the date of
14 the contract or, if the contract is not reduced to writing, from the
15 date the buyer makes the first payment to the contractor.

16 (2) An indictment or information against a person who is
17 licensed under this chapter shall be brought, or a criminal complaint
18 filed, for a violation of this section, in accordance with paragraph
19 (2) of subdivision (d) of Section 802 of the Penal Code, within
20 two years from the date of the contract or, if the contract is not
21 reduced to writing, from the date the buyer makes the first payment
22 to the contractor.

23 (3) The limitations on actions in this subdivision shall not apply
24 to any administrative action filed against a licensed contractor.

25 (c) Any person who violates this section as part of a plan or
26 scheme to defraud an owner or tenant of a residential or
27 nonresidential structure, including a mobilehome or manufactured
28 home, in connection with the offer or performance of repairs to
29 the structure for damage caused by a natural disaster, shall be
30 ordered by the court to make full restitution to the victim based
31 on the person's ability to pay, as defined in subdivision (e) of
32 Section 1203.1b of the Penal Code. In addition to full restitution,
33 and imprisonment authorized by this section, the court may impose
34 a fine of not less than five hundred dollars (\$500) nor more than
35 twenty-five thousand dollars (\$25,000), based upon the defendant's
36 ability to pay. This subdivision applies to natural disasters for
37 which a state of emergency is proclaimed by the Governor pursuant
38 to Section 8625 of the Government Code, or for which an
39 emergency or major disaster is declared by the President of the
40 United States.

~~SEC. 78.~~

SEC. 76. Section 7159.14 of the Business and Professions Code is amended to read:

7159.14. (a) This section applies to a service and repair contract as defined in Section 7159.10. A violation of this section by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is cause for discipline.

(1) The contract may not exceed seven hundred fifty dollars (\$750).

(2) The contract shall be in writing and shall state the agreed contract amount, which may be stated as either a fixed contract amount in dollars and cents or, if a time and materials formula is used, as an estimated contract amount in dollars and cents.

(3) The contract amount shall include the entire cost of the contract including profit, labor, and materials, but excluding finance charges.

(4) The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.

(5) The prospective buyer must have initiated contact with the contractor to request work.

(6) The contractor may not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) No payment may be due before the project is completed.

(8) A service and repair contractor may charge only one service charge. For purposes of this chapter, a service charge includes such charges as a service or trip charge, or an inspection fee.

(9) A service and repair contractor charging a service charge must disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, must disclose the amount of the service charge.

(10) The service and repair contractor must offer to the customer any parts that were replaced.

(11) Upon any payment by the buyer, the contractor shall, if requested, obtain and furnish to the buyer a full and unconditional release from any potential lien claimant claim or mechanic's lien authorized pursuant to Section 3110 of the Civil Code for any portion of the work for which payment has been made.

(b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (4) of subdivision (d) of Section 802 of the Penal Code, within four years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

~~SEC. 79.~~

SEC. 77. Section 7303.2 of the Business and Professions Code is amended to read:

7303.2. The board shall conduct the following studies and reviews, and shall report its findings and recommendations to the department and the Joint Committee on Boards, Commissions, and Consumer Protection no later than September 1, 2005:

(a) The board, pursuant to Section 139 and in conjunction with the Office of Professional Examination Services of the department, shall review the 1600 hour training requirement for cosmetologists.

(b) The board, in conjunction with the Office of Professional Examination Services of the department, shall evaluate the equivalency of the national exam.

(c) The board shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.

(d) The board, in coordination with the Department of Industrial Relations, shall review all components of the apprenticeship program, including, but not limited to, the following:

(1) Apprenticeship curriculum requirements.

(2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The board shall pay particular attention to ways to eliminate duplicative regulations.

(e) The board shall review all components of the externship program. In addition to structural changes, the board shall address the following:

(1) Whether the program should be eliminated.

(2) Whether the program should be available to all students, not just cosmetology students attending private schools.

(3) Whether the students should be paid.

(f) The board shall assess the costs and benefits associated with same day licensing. If the board determines that the benefits of same day licensing outweigh the costs, the board shall immediately plan and implement safety measures to protect site staff and undispersed licenses.

(g) The board, in conjunction with the Office of Professional Examination Services of the department, shall assess the validity of aggregate scoring for board applicants.

1 ~~SEC. 80.~~

2 *SEC. 78.* Section 7500.1 of the Business and Professions Code
3 is amended to read:

4 7500.1. The following terms as used in this chapter have the
5 meaning expressed in this section:

6 (a) “Advertisement” means any written or printed
7 communication, including a directory listing, except a free
8 telephone directory listing that does not allow space for a license
9 number.

10 (b) “Assignment” means a written authorization by the legal
11 owner, lienholder, lessor or lessee, or the agent of any of them, to
12 skip trace, locate, or repossess or to collect money payment in lieu
13 of repossession of any collateral, including, but not limited to,
14 collateral registered under the Vehicle Code that is subject to a
15 security agreement that contains a repossession clause.
16 “Assignment” also means a written authorization by an employer
17 to recover any collateral entrusted to an employee or former
18 employee if the possessor is wrongfully in possession of the
19 collateral. A photocopy of an assignment, facsimile copy of an
20 assignment, or electronic assignment shall have the same force
21 and effect as an original written assignment.

22 (c) “Bureau” means the Bureau of Security and Investigative
23 Services.

24 (d) “Chief” means the Chief of the Bureau of Security and
25 Investigative Services.

26 (e) “Collateral” means any specific vehicle, trailer, boat,
27 recreational vehicle, motor home, appliance, or other property that
28 is subject to a security agreement.

29 (f) “Combustibles” means any substance or article that is capable
30 of undergoing combustion or catching fire, or that is flammable,
31 if retained.

32 (g) “Dangerous drugs” means any controlled substances as
33 defined in Chapter 2 (commencing with Section 11053) of Division
34 10 of the Health and Safety Code.

35 (h) “Deadly weapon” means and includes any instrument or
36 weapon of the kind commonly known as a blackjack, slungshot,
37 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or
38 revolver, or any other firearm, any knife having a blade longer
39 than five inches, any razor with an unguarded blade, and any metal
40 pipe or bar used or intended to be used as a club.

1 (i) “Debtor” means any person obligated under a security
2 agreement.

3 (j) “Department” means the Department of Consumer Affairs.

4 (k) “Director” means the Director of Consumer Affairs.

5 (l) “Health hazard” means any personal effects which if retained
6 would produce an unsanitary or unhealthful condition.

7 (m) “Legal owner” means a person holding a security interest
8 in any collateral that is subject to a security agreement, a lien
9 against any collateral, or an interest in any collateral that is subject
10 to a lease agreement.

11 (n) “Licensee” means an individual, partnership, limited liability
12 company, or corporation licensed under this chapter as a
13 repossession agency.

14 (o) “Multiple licensee” means a repossession agency holding
15 more than one repossession license under this chapter, with one
16 fictitious trade style and ownership, conducting repossession
17 business from additional licensed locations other than the location
18 shown on the original license.

19 (p) “Person” includes any individual, partnership, limited
20 liability company, or corporation.

21 (q) “Personal effects” means any property that is not the property
22 of the legal owner.

23 (r) “Private building” means and includes any dwelling,
24 outbuilding, or other enclosed structure.

25 (s) “Qualified certificate holder” or “qualified manager” is a
26 person who possesses a valid qualification certificate in accordance
27 with the provisions of Article 5 (commencing with Section 7504)
28 and is in active control or management of, and who is a director
29 of, the licensee’s place of business.

30 (t) “Registrant” means a person registered under this chapter.

31 (u) “Secured area” means and includes any fenced and locked
32 area.

33 (v) “Security agreement” means an obligation, pledge, mortgage,
34 chattel mortgage, lease agreement, deposit, or lien, given by a
35 debtor as security for payment or performance of his or her debt,
36 by furnishing the creditor with a recourse to be used in case of
37 failure in the principal obligation. “Security agreement” also
38 includes a bailment where an employer-employee relationship
39 exists or existed between the bailor and the bailee.

1 (w) “Services” means any duty or labor to be rendered by one
2 person for another.

3 (x) “Violent act” means any act that results in bodily harm or
4 injury to any party involved.

5 (y) The amendments made to this section during the 2005–06
6 Regular Session shall not be deemed to exempt any person from
7 the provisions of this chapter.

8 ~~SEC. 81.~~

9 *SEC. 79.* Section 7505.5 of the Business and Professions Code
10 is amended to read:

11 7505.5. The person deemed to be actively in charge of an office
12 shall be the holder of a qualification certificate and the certificate,
13 together with the current renewal certificate, shall be prominently
14 displayed below the repossession agency’s license. The person
15 shall be in charge of not more than two licensed locations. The
16 person shall share equally with the licensee the responsibility for
17 the conduct of the business and the personnel of the licensed
18 agency or agencies, if more than one agency is licensed at that
19 location. This section shall not apply to any licensee who notifies
20 the bureau in writing that the licensee is not conducting any
21 business, but wishes to maintain a current license status with the
22 bureau. When the licensee resumes conducting business, the
23 licensee shall so inform the bureau in writing within 30 days.

24 ~~SEC. 82.~~

25 *SEC. 80.* Section 7507.9 of the Business and Professions Code
26 is amended to read:

27 7507.9. Personal effects shall be removed from the collateral,
28 including any personal effect that is mounted but detachable from
29 the collateral by a release mechanism. A complete and accurate
30 inventory of the personal effects shall be made, and the personal
31 effects shall be labeled and stored by the licensee for a minimum
32 of 60 days in a secure manner, except those personal effects
33 removed by or in the presence of the debtor or the party in
34 possession of the collateral at the time of the repossession. If the
35 licensee or the licensee’s agent cannot determine whether the
36 property attached to the collateral is a personal effect or a part of
37 the collateral, then that fact shall be noted on the inventory and
38 the licensee or agent shall not be obligated to remove the item
39 from the collateral, unless the item can be removed without the
40 use of tools, in which case it shall be removed and inventoried.

1 The licensee or the licensee's agent shall notify the debtor that if
2 the debtor takes the position that an item is a personal effect, then
3 the debtor shall contact the legal owner to resolve the issue.

4 (a) The date and time the inventory is made shall be indicated.
5 The permanent records of the licensee shall indicate the name of
6 the employee or registrant who performed the inventory.

7 (b) The following items of personal effects are items determined
8 to present a danger or health hazard when recovered by the licensee
9 and shall be disposed of in the following manner:

10 (1) Deadly weapons and dangerous drugs shall be turned over
11 to any law enforcement agency for retention. These items shall be
12 entered on the inventory and a notation shall be made as to the
13 date and the time and the place the deadly weapon or dangerous
14 drug was turned over to the law enforcement agency, and a receipt
15 from the law enforcement agency shall be maintained in the records
16 of the repossession agency.

17 (2) Combustibles shall be inventoried and noted as "disposed
18 of, dangerous combustible," and the item shall be disposed of in
19 a reasonable and safe manner.

20 (3) Food and other health hazard items shall be inventoried and
21 noted as "disposed of, health hazard," and disposed of in a
22 reasonable and safe manner.

23 (c) Personal effects may be disposed of after being held for at
24 least 60 days. The inventory, and adequate information as to how,
25 when, and to whom the personal effects were disposed of, shall
26 be filed in the permanent records of the licensee.

27 (d) The inventory shall include the name, address, business
28 hours, and telephone number of the repossession agency to contact
29 for recovering the personal effects and an itemization of all
30 personal effects removal and storage charges that will be made by
31 the repossession agency. The inventory shall also include the
32 following statement: "Please be advised that the property listed
33 on this inventory will be disposed of by the repossession agency
34 after being held for 60 days from the date of this notice IF
35 UNCLAIMED."

36 (e) The inventory shall be provided to a debtor not later than
37 48 hours after the recovery of the collateral, except that if:

38 (1) The 48-hour period encompasses a Saturday, Sunday, or
39 postal holiday, the inventory shall be provided no later than 72
40 hours after the recovery of the collateral.

1 (2) The 48-hour period encompasses a Saturday or Sunday and
2 a postal holiday, the inventory shall be provided no later than 96
3 hours after the recovery of the collateral.

4 (3) Inventory resulting from repossession of a yacht, motor
5 home, or travel trailer is such that it shall take at least four hours
6 to inventory, then the inventory shall be provided no later than 96
7 hours after the recovery of the collateral. When the 96-hour period
8 encompasses a Saturday, Sunday, or postal holiday, the inventory
9 shall be provided no later than 120 hours after the recovery of the
10 collateral.

11 (f) Environmental, Olympic, special interest, or other license
12 plates issued pursuant to Article 8 (commencing with Section
13 5000), Article 8.4 (commencing with Section 5060) or Article 8.5
14 (commencing with Section 5100) of Chapter 1 of Division 3 of
15 the Vehicle Code that remain the personal effects of the debtor
16 shall be removed from the collateral and inventoried pursuant to
17 this section. If the plates are not claimed by the debtor within 60
18 days, they shall either (1) be effectively destroyed and the licensee
19 shall, within 30 days thereafter, notify the Department of Motor
20 Vehicles of their effective destruction on a form promulgated by
21 the chief that has been approved as to form by the Director of the
22 Department of Motor Vehicles; or (2) be retained by the licensee
23 indefinitely to be returned to the debtor upon request, in which
24 case the licensee shall not charge more than 60 days' storage on
25 the plates.

26 (g) The notice may be given by regular mail addressed to the
27 last known address of the debtor or by personal service at the option
28 of the repossession agency.

29 (h) With the consent of the licensee, the debtor may waive the
30 preparation and presentation of an inventory if the debtor redeems
31 the personal effects or other personal property not covered by a
32 security interest within the time period for the notices required by
33 this section and signs a statement that he or she has received all
34 the property.

35 (i) If personal effects or other personal property not covered by
36 a security agreement are to be released to someone other than the
37 debtor, the repossession agency may request written authorization
38 to do so from the debtor.

(j) The inventory shall be a confidential document. A licensee shall only disclose the contents of the inventory under the following circumstances:

(1) In response to the order of a court having jurisdiction to issue the order.

(2) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(3) When the debtor has consented in writing to the release and the written consent is signed and dated by the debtor subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

(4) To the debtor.

~~SEC. 83.~~

SEC. 81. Section 7507.115 is added to the Business and Professions Code, to read:

7507.115. A licensee shall not appraise the value of any collateral.

~~SEC. 84.~~

SEC. 82. Section 7507.12 of the Business and Professions Code is amended to read:

7507.12. With regard to collateral subject to registration under the Vehicle Code, a repossession is complete when the reposessor gains entry to the collateral or when the collateral becomes connected to a tow truck or the reposessor's tow vehicle, as those terms are defined in Section 615 of the Vehicle Code. No person other than the legal owner may direct a reposessor to release a vehicle without legal authority to do so.

~~SEC. 85.~~

SEC. 83. Section 7606 of the Business and Professions Code is amended to read:

7606. The bureau may, pursuant to the provisions of the Administrative Procedure Act, adopt and enforce reasonably necessary rules and regulations relating to:

(a) The practice of embalming.

(b) The business of a funeral director.

(c) The sanitary conditions of places where such practice or business is conducted with particular regard to plumbing, sewage, ventilation and equipment.

(d) Specifying conditions for approval of funeral establishments for apprentices and for approval of mortuary science programs.

1 (e) The scope of examinations.

2 (f) Carrying out generally the various provisions of this chapter
3 for the protection of the peace, health, safety, welfare and morals
4 of the public.

5 ~~SEC. 86.~~

6 *SEC. 84.* Section 7616 of the Business and Professions Code
7 is amended to read:

8 7616. (a) A licensed funeral establishment is a place of
9 business conducted in a building or separate portion of a building
10 having a specific street address or location and devoted exclusively
11 to those activities as are incident, convenient, or related to the
12 preparation and arrangements, financial and otherwise, for the
13 funeral, transportation, burial or other disposition of human remains
14 and including, but not limited to, either of the following:

15 (1) A suitable room for the storage of human remains.

16 (2) A preparation room equipped with a sanitary flooring and
17 necessary drainage and ventilation and containing necessary
18 instruments and supplies for the preparation, sanitation, or
19 embalming of human remains for burial or transportation.

20 (b) Licensed funeral establishments under common ownership
21 or by contractual agreement within close geographical proximity
22 of each other shall be deemed to be in compliance with the
23 requirements of paragraph (1) or (2) of subdivision (a) if at least
24 one of the establishments has a room described in those paragraphs.

25 (c) Except as provided in Section 7609, and except accredited
26 mortuary science programs engaged in teaching students the art
27 of embalming, no person shall operate or maintain or hold himself
28 or herself out as operating or maintaining any of the facilities
29 specified in paragraph (2) of subdivision (a), unless he or she is
30 licensed as a funeral director.

31 (d) Nothing in this section shall be construed to require a funeral
32 establishment to conduct its business or financial transactions at
33 the same location as its preparation or storage of human remains.

34 (e) Nothing in this chapter shall be deemed to render unlawful
35 the conduct of any ambulance service from the same premises as
36 those on which a licensed funeral establishment is conducted,
37 including the maintenance in connection with the funeral
38 establishment of garages for the ambulances and living quarters
39 for ambulance drivers.

1 (f) Every funeral establishment holding a funeral director's
2 license on December 31, 1996, shall, upon application and payment
3 of fees for renewal of its funeral director's license, be issued a
4 funeral establishment license.

5 ~~SEC. 87.~~

6 *SEC. 85.* Section 7641 of the Business and Professions Code
7 is amended to read:

8 7641. It is unlawful for any person to embalm a body, or engage
9 in, or hold himself or herself out as engaged in practice as an
10 embalmer, unless he or she is licensed by the bureau. However,
11 this section shall have no effect on students and instructors of
12 embalming in mortuary science programs approved by the bureau.

13 ~~SEC. 88.~~

14 *SEC. 86.* Section 7643 of the Business and Professions Code
15 is amended to read:

16 7643. In order to qualify for a license as an embalmer, the
17 applicant shall comply with all of the following requirements:

18 (a) Be over 18 years of age.

19 (b) Not have committed acts or crimes constituting grounds for
20 denial of licensure under Section 480.

21 (c) Have completed at least two years of apprenticeship under
22 an embalmer licensed and engaged in practice as an embalmer in
23 this state in a funeral establishment which shall have been approved
24 for apprentices by the bureau and while so apprenticed shall have
25 assisted in embalming not fewer than 100 human remains;
26 provided, however, that a person who has been licensed and has
27 practiced as an embalmer for a minimum of three years within the
28 seven years preceding his or her application in any other state or
29 country and whose license has never been suspended or revoked
30 for unethical conduct shall not be required to serve any
31 apprenticeship in this state.

32 (d) Have graduated from a mortuary science program approved
33 by the bureau and accredited by the American Board of Funeral
34 Service Education, or its equivalent, as determined by the bureau,
35 and furnished official transcripts from that program or equivalent.

36 ~~SEC. 89.~~

37 *SEC. 87.* Section 7646 of the Business and Professions Code
38 is amended to read:

39 7646. (a) The bureau shall require the applicant to pass both
40 of the following:

(1) The sciences section of the national examination administered by the International Conference of Funeral Service Examining Boards, or its equivalent, as determined by the bureau.

(2) An examination, administered by the bureau, on the state's laws and the rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

(b) An applicant who has previously passed the sciences section of the national examination described in paragraph (1) of subdivision (a) shall be deemed to be in compliance with that paragraph.

(c) An applicant who has previously failed the examination administered by the bureau prior to January 1, 2010, may, until June 30, 2010, retake that examination. If the applicant passes that examination, he or she shall be deemed to be in compliance with this section.

~~SEC. 90.~~

SEC. 88. Section 7647 of the Business and Professions Code is amended to read:

7647. Examinations shall be administered at times and places determined by the bureau and the International Conference of Funeral Service Examining Boards.

The bureau shall give notice of the time and place of the examination described in paragraph (2) of subdivision (a) of Section 7646.

~~SEC. 91.~~

SEC. 89. Section 7662 of the Business and Professions Code is amended to read:

7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Do one of the following:

(1) Furnish proof showing completion of a high school course.

(2) Furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

(3) Have graduated from a mortuary science program approved by the bureau and accredited by the American Board of Funeral Service Education, or its equivalent, as determined by the bureau, and furnished official transcripts from that program or equivalent.

~~SEC. 92.~~

SEC. 90. Section 7665 of the Business and Professions Code is amended to read:

7665. All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

(a) Shall file a report of apprenticeship as follows:

(1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.

(2) Upon change of supervising embalmer or employer, or both.

(3) Upon completion of apprenticeship.

(4) Upon application for leave of absence for a period in excess of 15 days.

(5) Upon suspending apprenticeship to attend a mortuary science program.

(6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

~~SEC. 93.~~

SEC. 91. Section 7666 of the Business and Professions Code is amended to read:

7666. (a) The term of apprenticeship shall be two years. However, if an apprentice after having served his or her

1 apprenticeship fails to pass the examinations required for an
2 embalmer's license, he or she may continue for one additional
3 term of apprenticeship, which shall be the maximum apprenticeship
4 permitted and provided further that an apprentice may, upon filing
5 an application therefor, be permitted to continue the apprenticeship
6 for a period not to exceed six months, if approved, for any of the
7 following reasons:

8 (1) While awaiting the processing of applications submitted to
9 the bureau.

10 (2) While awaiting notification of grades of examinations
11 required under Section 7646.

12 (3) While awaiting the commencement of a class of a mortuary
13 science program when the apprentice intends to enroll in the
14 program.

15 Applications filed for an extension of apprenticeship shall be
16 filed by the applicant with the bureau not fewer than 15 days prior
17 to the date the applicant requests the extension to commence.

18 (b) Terms of apprenticeship may be served before, after, or
19 divided by the mortuary science program at the option of the
20 apprentice; provided, however, that the term of apprenticeship
21 must be completed, excluding time spent in active military service,
22 within six years from the date of original registration, or from the
23 date an apprentice successfully passes the examinations for an
24 embalmer's license required in Section 7646, whichever first
25 occurs, and provided further that if the term of apprenticeship is
26 not completed within the six-year period, the bureau may require
27 that the applicant serve the additional term of apprenticeship, not
28 to exceed two years.

29 (c) A student attending a mortuary science program may register
30 as an apprentice during the program term but shall receive no credit
31 for apprenticeship on the term required by this code unless he or
32 she is also a full-time employee of a funeral director.

33 (d) An apprentice while serving his or her required term of
34 apprenticeship shall be a full-time employee in the funeral
35 establishment in which he or she is employed.

36 ~~SEC. 94.~~

37 *SEC. 92.* Section 7671 of the Business and Professions Code
38 is amended to read:

39 7671. No person who is a duly registered apprentice or a student
40 at an approved mortuary science program in California at the time

1 of any amendment to this chapter raising the requirements for
2 apprentice embalmers or license as an embalmer; shall be required
3 to comply with the provisions of that amendment.

4 ~~SEC. 95.~~

5 *SEC. 93.* Section 7725.5 of the Business and Professions Code
6 is amended to read:

7 7725.5. A license that is not renewed within five years after
8 its expiration may not be renewed, restored, reissued, or reinstated
9 thereafter. The holder of the expired license may obtain a new
10 license only if the holder pays all of the fees, and meets all of the
11 requirements, other than requirements relating to education, set
12 forth in this chapter for obtaining an original license, except that
13 the bureau may issue a new license to the holder without
14 examination if the holder establishes to the bureau's satisfaction
15 that, with due regard for the public interest, the holder is qualified
16 to engage in the activity in which the holder again seeks to be
17 licensed. The bureau may, by appropriate regulation, provide for
18 the waiver or refund of all or any part of the application fee in
19 those cases in which a license is issued without examination under
20 this section.

21 The provisions of this section do not apply to certificates of
22 apprenticeship.

23 ~~SEC. 96.~~

24 *SEC. 94.* Section 7729 of the Business and Professions Code
25 is amended to read:

26 7729. The amount of the fees prescribed by this chapter shall
27 be fixed according to the following schedule with the minimum
28 amount specified being the amount fixed on January 1, 1988.

29 (a) The application fee for a funeral director's license shall be
30 not less than one hundred dollars (\$100) and not more than two
31 hundred dollars (\$200).

32 (b) The application fee for change of location of a funeral
33 establishment's license shall be not less than one hundred fifty
34 dollars (\$150) and not more than two hundred fifty dollars (\$250).

35 (c) The application fee for permission to assign a funeral
36 establishment's license shall be not less than two hundred dollars
37 (\$200) and not more than three hundred dollars (\$300).

38 (d) The license renewal fee payable by a licensed funeral director
39 shall be not less than one hundred dollars (\$100) and not more
40 than two hundred dollars (\$200). The fee for a delinquent renewal

1 of a funeral director's license shall be 150 percent of the timely
2 renewal fee.

3 (e) The application fee for an embalmer's license and the
4 examination on the state's laws required under paragraph (2) of
5 subdivision (a) of Section 7646 for the license shall be not less
6 than one hundred dollars (\$100) and not more than one hundred
7 fifty dollars (\$150).

8 (f) The renewal fee payable by a licensed embalmer shall be
9 not less than seventy-five dollars (\$75) and not more than one
10 hundred twenty-five dollars (\$125). The fee for a delinquent
11 renewal of an embalmer's license shall be 150 percent of the timely
12 renewal fee.

13 (g) The application fee for a certificate of registration as an
14 apprentice embalmer shall be not less than thirty dollars (\$30) and
15 not more than sixty dollars (\$60).

16 (h) The fee for an application by a funeral establishment for
17 approval to train apprentice embalmers and for renewal of that
18 approval shall be not less than fifty dollars (\$50) and not more
19 than one hundred dollars (\$100).

20 (i) The application fee for a funeral director's examination shall
21 be not less than seventy-five dollars (\$75) and not more than one
22 hundred dollars (\$100).

23 (j) The fee for a timely filing of an individual report or a
24 combined report on preneed trust funds shall be not less than one
25 hundred dollars (\$100) and not more than two hundred dollars
26 (\$200). The fee for a late filing of any report on preneed trust funds
27 shall be 150 percent of the applicable timely fee.

28 (k) The application fee for permission to change the name
29 appearing on a funeral establishment's license shall be not less
30 than one hundred dollars (\$100) and not more than two hundred
31 dollars (\$200), and for permission to change the name on any other
32 license or certificate, not less than twenty dollars (\$20) and not
33 more than forty dollars (\$40).

34 (l) The application fee for a duplicate funeral director's license,
35 a duplicate funeral establishment's license, a duplicate embalmer's
36 license, or a duplicate certificate of registration as an apprentice
37 embalmer, shall be not less than twenty dollars (\$20) and not more
38 than forty dollars (\$40).

1 (m) The fee for filing a report of a change of corporate officers,
2 managers, or preneed trust fund trustees shall be not less than
3 twenty-five dollars (\$25) and not more than fifty dollars (\$50).

4 (n) The application fee for a funeral establishment license shall
5 be not less than three hundred dollars (\$300) and not more than
6 four hundred dollars (\$400).

7 (o) The license renewal fee for a licensed funeral establishment
8 shall be not less than three hundred dollars (\$300) nor more than
9 four hundred dollars (\$400).

10 ~~SEC. 97.~~

11 *SEC. 95.* Section 9884.2 of the Business and Professions Code
12 is amended to read:

13 9884.2. Upon receipt of the form properly filled out and receipt
14 of the required fee, the director shall issue the registration and send
15 a proof of issuance to the automotive repair dealer. The director
16 shall by regulation prescribe conditions that he or she determines
17 are necessary to ~~insure~~ ensure future compliance with this chapter,
18 upon which a person, whose registration has previously been
19 revoked or has previously been denied or who has committed acts
20 prohibited by Section 9884.7 while an automotive repair dealer or
21 mechanic or while an employee, partner, officer or member of an
22 automotive repair dealer, may have his or her registration issued.

23 ~~SEC. 98.~~

24 *SEC. 96.* Section 9884.7 of the Business and Professions Code
25 is amended to read:

26 9884.7. (a) The director, where the automotive repair dealer
27 cannot show there was a bona fide error, may deny, suspend,
28 revoke, or place on probation the registration of an automotive
29 repair dealer for any of the following acts or omissions related to
30 the conduct of the business of the automotive repair dealer, which
31 are done by the automotive repair dealer or any automotive
32 technician, employee, partner, officer, or member of the automotive
33 repair dealer.

34 (1) Making or authorizing in any manner or by any means
35 whatever any statement written or oral which is untrue or
36 misleading, and which is known, or which by the exercise of
37 reasonable care should be known, to be untrue or misleading.

38 (2) Causing or allowing a customer to sign any work order that
39 does not state the repairs requested by the customer or the
40 automobile's odometer reading at the time of repair.

1 (3) Failing or refusing to give to a customer a copy of any
2 document requiring his or her signature, as soon as the customer
3 signs the document.

4 (4) Any other conduct that constitutes fraud.

5 (5) Conduct constituting gross negligence.

6 (6) Failure in any material respect to comply with the provisions
7 of this chapter or regulations adopted pursuant to it.

8 (7) Any willful departure from or disregard of accepted trade
9 standards for good and workmanlike repair in any material respect,
10 which is prejudicial to another without consent of the owner or his
11 or her duly authorized representative.

12 (8) Making false promises of a character likely to influence,
13 persuade, or induce a customer to authorize the repair, service, or
14 maintenance of automobiles.

15 (9) Having repair work done by someone other than the dealer
16 or his or her employees without the knowledge or consent of the
17 customer unless the dealer can demonstrate that the customer could
18 not reasonably have been notified.

19 ~~(10) Conviction of a crime substantially related to the~~
20 ~~qualifications, functions, or duties of an automotive repair dealer.~~
21 ~~A conviction within the meaning of this section means a plea or~~
22 ~~verdict of guilty or a conviction following a plea of nolo~~
23 ~~contendere. Any action that the director is permitted to take~~
24 ~~following the establishment of a conviction may be taken when~~
25 ~~the time for appeal has elapsed, or the judgment of conviction has~~
26 ~~been affirmed on appeal, or when an order granting probation is~~
27 ~~made suspending the imposition of sentence, irrespective of a~~
28 ~~subsequent order under the provisions of Section 1203.4 of the~~

29 *(10) Conviction of a violation of Section 551 of the Penal Code.*

30 Upon denying a registration, the director shall notify the
31 applicant thereof, in writing, by personal service or mail addressed
32 to the address of the applicant set forth in the application, and the
33 applicant shall be given a hearing under Section 9884.12 if, within
34 30 days thereafter, he or she files with the bureau a written request
35 for hearing, otherwise the denial is deemed affirmed.

36 (b) Except as provided for in subdivision (c), if an automotive
37 repair dealer operates more than one place of business in this state,
38 the director pursuant to subdivision (a) shall only suspend, revoke,
39 or place on probation the registration of the specific place of
40 business which has violated any of the provisions of this chapter.

1 This violation, or action by the director, shall not affect in any
2 manner the right of the automotive repair dealer to operate his or
3 her other places of business.

4 (c) Notwithstanding subdivision (b), the director may suspend,
5 revoke, or place on probation the registration for all places of
6 business operated in this state by an automotive repair dealer upon
7 a finding that the automotive repair dealer has, or is, engaged in a
8 course of repeated and willful violations of this chapter, or
9 regulations adopted pursuant to it.

10 ~~SEC. 99.~~

11 *SEC. 97.* Section 9884.12 of the Business and Professions Code
12 is amended to read:

13 9884.12. All proceedings to deny, suspend, revoke, or place
14 on probation a registration shall be conducted pursuant to Chapter
15 5 (commencing with Section 11500), ~~Part 1, Division 3, of Part 1~~
16 *of Division 3 of Title 2 of the Government Code.*

17 ~~SEC. 100.~~

18 *SEC. 98.* Section 9889.3 of the Business and Professions Code
19 is amended to read:

20 9889.3. The director may suspend, revoke, or take other
21 disciplinary action against a license as provided in this article if
22 the licensee or any partner, officer, or director thereof:

23 (a) Violates any section of the Business and Professions Code
24 that relates to his or her licensed activities.

25 (b) Is convicted of any crime substantially related to the
26 qualifications, functions, or duties of the licenseholder in question.

27 (c) Violates any of the regulations promulgated by the director
28 pursuant to this chapter.

29 (d) Commits any act involving dishonesty, fraud, or deceit
30 whereby another is injured.

31 (e) Has misrepresented a material fact in obtaining a license.

32 (f) Aids or abets an unlicensed person to evade the provisions
33 of this chapter.

34 (g) Fails to make and keep records showing his or her
35 transactions as a licensee, or fails to have the records available for
36 inspection by the director or his or her duly authorized
37 representative for a period of not less than three years after
38 completion of any transaction to which the records refer, or refuses
39 to comply with a written request of the director to make the record
40 available for inspection.

1 (h) Violates or attempts to violate the provisions of this chapter
2 relating to the particular activity for which he or she is licensed.

3 (i) Is convicted of a violation of Section 551 of the Penal Code.

4 ~~SEC. 101.~~

5 *SEC. 99.* Section 10146 of the Business and Professions Code
6 is amended to read:

7 10146. Any real estate broker who contracts for or collects an
8 advance fee from any other person, hereinafter referred to as the
9 “principal,” shall deposit any such amount or amounts, when
10 collected in a trust account with a bank or other recognized
11 depository. Such funds are trust funds and not the funds of the
12 agent. Amounts may be withdrawn therefrom for the benefit of
13 the agent only when actually expended for the benefit of the
14 principal or five days after the verified accounts mentioned
15 hereinafter have been mailed to the principal. Upon request of the
16 commissioner, a broker shall furnish to the commissioner an
17 authorization for examination of financial records of the trust
18 account in accordance with the procedures set forth in Section
19 7473 of the Government Code.

20 The commissioner may issue such rules and regulations as he
21 or she deems necessary to regulate the method of accounting, and
22 to accomplish the purpose of the provisions of this code relating
23 to advance fees including, but not limited to, establishing forms
24 for and determining information to be included in such accountings.
25 Each principal shall be furnished a verified copy of such
26 accountings at the end of each calendar quarter and when the
27 contract has been completely performed by the licensee. The
28 commissioner shall be furnished a verified copy of any account
29 or all accounts on his or her demand therefor.

30 Where advance fees actually paid by or on behalf of any principal
31 are not handled in accordance with the preceding paragraph, it
32 shall be presumed that the agent has violated Sections 506 and
33 506a of the Penal Code. The principal may recover treble damages
34 for amounts so misapplied and shall be entitled to reasonable
35 attorney’s fees in any action brought to recover the same.

36 ~~SEC. 102.~~

37 *SEC. 100.* Section 44014.2 of the Health and Safety Code is
38 amended to read:

39 44014.2. (a) The department shall develop a program for the
40 voluntary certification of licensed smog check stations, or the

1 department may accept a smog check station certification program
2 proposed by accredited industry representatives. The certification
3 program, which may be called a “gold shield” program, shall be
4 for the purpose of providing consumers, whose vehicles fail an
5 emissions test at a test-only facility, an option of services at a single
6 location to prevent the necessity for additional trips back to the
7 test-only facility for vehicle certification.

8 (b) As soon as is practicable, but not later than January 1, 2004,
9 the department shall adopt regulations that apply to all enhanced
10 areas of the state, including those areas subject to the enhanced
11 program pursuant to Section 44003.5, that permit both of the
12 following:

13 (1) Any vehicle that fails a required smog test at a test-only
14 facility may be repaired, retested, and certified at a facility licensed
15 pursuant to Section 44014, and certified pursuant to subdivision
16 (a).

17 (2) Any vehicle that is identified as a gross polluter may be
18 repaired, retested, and certified at a facility licensed pursuant to
19 Section 44014, and certified pursuant to subdivision (a).

20 (c) Smog check stations that seek voluntary certification under
21 this section shall enter into an agreement with the department to
22 provide repair services pursuant to Section 44062.1.

23 (d) An agreement made pursuant to this section shall not be
24 deemed to be a contract subject to the requirements of Part 2
25 (commencing with Section 10100) of Division 2 of the Public
26 Contract Code.

27 ~~SEC. 103.~~

28 *SEC. 101.* Section 44017.3 of the Health and Safety Code is
29 amended to read:

30 44017.3. (a) The department shall provide a licensed smog
31 check station with a sign informing customers about options when
32 their vehicle fails a biennial smog check inspection, including, but
33 not limited to, the option for qualified consumers to retire vehicles,
34 receive repair assistance, or obtain repair cost waivers. The sign
35 shall include the department’s means of contact, including, but not
36 limited to, its telephone number and Internet Web site. This sign
37 shall be posted conspicuously in an area frequented by customers.
38 The sign shall be required in all licensed smog check stations.

39 (b) In stations where licensed smog check technician repairs
40 are not performed, the station shall have posted conspicuously in

1 an area frequented by customers a statement that repair technicians
2 are not available and repairs are not performed.

3 ~~SEC. 104.~~

4 *SEC. 102.* Section 44072.1 of the Health and Safety Code is
5 amended to read:

6 44072.1. The director may deny a license if the applicant, or
7 any partner, officer, or director thereof, does any of the following:

8 (a) Fails to meet the qualifications established by the bureau
9 pursuant to Articles 2 (commencing with Section 44010) and 3
10 (commencing with Section 44030) and the regulations adopted for
11 the issuance of the license applied for.

12 (b) Was previously the holder of a license issued under this
13 chapter, which license has been revoked and never reissued or
14 which license was suspended and the terms of the suspension have
15 not been fulfilled.

16 (c) Has committed any act that, if committed by any licensee,
17 would be grounds for the suspension or revocation of a license
18 issued pursuant to this chapter.

19 (d) Has committed any act involving dishonesty, fraud, or deceit
20 whereby another is injured or whereby the applicant has benefited.

21 (e) Has acted in the capacity of a licensed person or firm under
22 this chapter without having a license therefor.

23 (f) Has entered a plea of guilty or nolo contendere to, or been
24 found guilty of, or been convicted of a crime substantially related
25 to the qualifications, functions, or duties of the licenseholder in
26 question, and the time for appeal has elapsed or the judgment of
27 conviction has been affirmed on appeal, irrespective of an order
28 granting probation following the conviction, suspending the
29 imposition of sentence, or of a subsequent order under Section
30 1203.4 of the Penal Code allowing the person to withdraw a plea
31 of guilty and to enter a plea of not guilty, or setting aside the plea
32 or verdict of guilty, or dismissing the accusation or information.

33 ~~SEC. 105.~~

34 *SEC. 103.* Section 44072.2 of the Health and Safety Code is
35 amended to read:

36 44072.2. The director may suspend, revoke, or take other
37 disciplinary action against a license as provided in this article if
38 the licensee, or any partner, officer, or director thereof, does any
39 of the following:

1 (a) Violates any section of this chapter and the regulations
2 adopted pursuant to it, which related to the licensed activities.

3 (b) Is convicted of any crime substantially related to the
4 qualifications, functions, or duties of the licenseholder in question.

5 (c) Violates any of the regulations adopted by the director
6 pursuant to this chapter.

7 (d) Commits any act involving dishonesty, fraud, or deceit
8 whereby another is injured.

9 (e) Has misrepresented a material fact in obtaining a license.

10 (f) Aids or abets unlicensed persons to evade the provisions of
11 this chapter.

12 (g) Fails to make and keep records showing his or her
13 transactions as a licensee, or fails to have those records available
14 for inspection by the director or his or her duly authorized
15 representative for a period of not less than three years after
16 completion of any transaction to which the records refer, or refuses
17 to comply with a written request of the director to make the records
18 available for inspection.

19 (h) Violates or attempts to violate the provisions of this chapter
20 relating to the particular activity for which he or she is licensed.

21 ~~SEC. 106.~~

22 *SEC. 104.* Section 44095 of the Health and Safety Code is
23 amended to read:

24 44095. (a) The department shall administer the program in
25 accordance with regulations adopted by the department.

26 (b) (1) Nothing in this article shall be construed as superseding
27 or precluding any similar program that is administered by a district,
28 any other public agency, or any other person.

29 (2) The state board shall develop a methodology for, and shall
30 undertake, a uniform data analysis of the program operated
31 pursuant to this article and any similar programs operated in this
32 state for the purpose of providing an accounting of the emission
33 reductions that are achieved by all such programs.

34 (c) The department may directly operate the program or may
35 provide for the program's operation pursuant to an agreement. The
36 department may enter into an agreement with local agencies,
37 community colleges, air quality management districts, or private
38 entities to perform all or any portion of the program.

1 ~~SEC. 107.~~

2 *SEC. 105.* Section 123105 of the Health and Safety Code is
3 amended to read:

4 123105. As used in this chapter:

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

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

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

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

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

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

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

20 (7) A psychologist licensed pursuant to Chapter 6.6
21 (commencing with Section 2900) of Division 2 of the Business
22 and Professions Code.

23 (8) An optometrist licensed pursuant to Chapter 7 (commencing
24 with Section 3000) of Division 2 of the Business and Professions
25 Code.

26 (9) A chiropractor licensed pursuant to the Chiropractic Initiative
27 Act.

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

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

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

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

39 (b) “Mental health records” means patient records, or discrete
40 portions thereof, specifically relating to evaluation or treatment of

1 a mental disorder. “Mental health records” includes, but is not
2 limited to, all alcohol and drug abuse records.

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

5 (d) “Patient records” means records in any form or medium
6 maintained by, or in the custody or control of, a health care
7 provider relating to the health history, diagnosis, or condition of
8 a patient, or relating to treatment provided or proposed to be
9 provided to the patient. “Patient records” includes only records
10 pertaining to the patient requesting the records or whose
11 representative requests the records. “Patient records” does not
12 include information given in confidence to a health care provider
13 by a person other than another health care provider or the patient,
14 and that material may be removed from any records prior to
15 inspection or copying under Section 123110 or 123115. “Patient
16 records” does not include information contained in aggregate form,
17 such as indices, registers, or logs.

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

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

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

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

26 (4) The beneficiary as defined in Section 24 of the Probate Code
27 or personal representative as defined in Section 58 of the Probate
28 Code, of a deceased patient.

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

32 ~~SEC. 108.~~

33 *SEC. 106.* Section 28 of the Vehicle Code is amended to read:

34 28. (a) Whenever possession is taken of any vehicle by or on
35 behalf of any legal owner thereof under the terms of a security
36 agreement or lease agreement, the person taking possession shall
37 notify, within one hour after taking possession of the vehicle, and
38 by the most expeditious means available, the city police department
39 where the taking of possession occurred, if within an incorporated
40 city, or the sheriff’s department of the county where the taking of

1 possession occurred, if outside an incorporated city, or the police
2 department of a campus of the University of California or the
3 California State University, if the taking of possession occurred
4 on that campus, and shall within one business day forward a written
5 notice to the city police or sheriff's department.

6 (b) If possession is taken of more than one vehicle, the
7 possession of each vehicle shall be considered and reported as a
8 separate event.

9 (c) Any person failing to notify the city police department,
10 sheriff's department, or campus police department as required by
11 this section is guilty of an infraction, and shall be fined a minimum
12 of three hundred dollars (\$300), and up to five hundred dollars
13 (\$500). The district attorney, city attorney, or city prosecutor shall
14 promptly notify the Bureau of Security and Investigative Services
15 of any conviction resulting from a violation of this section.

16 ~~SEC. 109.~~

17 *SEC. 107.* Section 5201 of the Vehicle Code is amended to
18 read:

19 5201. License plates shall at all times be securely fastened to
20 the vehicle for which they are issued so as to prevent the plates
21 from swinging, shall be mounted in a position so as to be clearly
22 visible, and shall be maintained in a condition so as to be clearly
23 legible. The rear license plate shall be mounted not less than 12
24 inches nor more than 60 inches from the ground, and the front
25 license plate shall be mounted not more than 60 inches from the
26 ground, except as follows:

27 (a) The rear license plate on a tow truck or reposessor's tow
28 vehicle may be mounted on the left-hand side of the mast assembly
29 at the rear of the cab of the vehicle, not less than 12 inches nor
30 more than 90 inches from the ground.

31 (b) The rear license plate on a tank vehicle hauling hazardous
32 waste, as defined in Section 25117 of the Health and Safety Code,
33 or asphalt material may be mounted not less than 12 inches nor
34 more than 90 inches from the ground.

35 (c) The rear license plate on a truck tractor may be mounted at
36 the rear of the cab of the vehicle, but not less than 12 inches nor
37 more than 90 inches from the ground.

38 (d) The rear license plate of a vehicle designed by the
39 manufacturer for the collection and transportation of garbage,
40 rubbish, or refuse that is used regularly for the collection and

1 transportation of that material by any person or governmental entity
2 employed to collect, transport, and dispose of garbage, rubbish,
3 or refuse may be mounted not less than 12 inches nor more than
4 90 inches from the ground.

5 (e) The rear license plate on a two-axle livestock trailer may be
6 mounted 12 inches or more, but not more than 90 inches, from the
7 ground.

8 (f) A covering shall not be used on license plates except as
9 follows:

10 (1) The installation of a cover over a lawfully parked vehicle
11 to protect it from the weather and the elements does not constitute
12 a violation of this subdivision. Any peace officer or other regularly
13 salaried employee of a public agency designated to enforce laws,
14 including local ordinances, relating to the parking of vehicles may
15 temporarily remove so much of the cover as is necessary to inspect
16 any license plate, tab, or indicia of registration on a vehicle.

17 (2) The installation of a license plate security cover is not a
18 violation of this subdivision if the device does not obstruct or
19 impair the recognition of the license plate information, including,
20 but not limited to, the issuing state, license plate number, and
21 registration tabs, and the cover is limited to the area directly over
22 the top of the registration tabs. No portion of a license plate security
23 cover shall rest over the license plate number.

24 (g) A casing, shield, frame, border, product, or other device that
25 obstructs or impairs the reading or recognition of a license plate
26 by an electronic device operated by state or local law enforcement,
27 an electronic device operated in connection with a toll road,
28 high-occupancy toll lane, toll bridge, or other toll facility, or a
29 remote emission sensing device, as specified in Sections 44081
30 and 44081.6 of the Health and Safety Code, shall not be installed
31 on, or affixed to, a vehicle.

32 (h) (1) It is the intent of the Legislature that an accommodation
33 be made to persons with disabilities and to those persons who
34 regularly transport persons with disabilities, to allow the removal
35 and relocation of wheelchair lifts and wheelchair carriers without
36 the necessity of removing and reattaching the vehicle's rear license
37 plate. Therefore, it is not a violation of this section if the reading
38 or recognition of a rear license plate is obstructed or impaired by
39 a wheelchair lift or wheelchair carrier and all of the following
40 requirements are met:

1 (A) The owner of the vehicle has been issued a special
2 identification license plate pursuant to Section 5007, or the person
3 using the wheelchair that is carried on the vehicle has been issued
4 a distinguishing placard under Section 22511.55.

5 (B) (i) The operator of the vehicle displays a decal, designed
6 and issued by the department, that contains the license plate number
7 assigned to the vehicle transporting the wheelchair.

8 (ii) The decal is displayed on the rear window of the vehicle,
9 in a location determined by the department, in consultation with
10 the Department of the California Highway Patrol, so as to be clearly
11 visible to law enforcement.

12 (2) Notwithstanding any other provision of law, if a decal is
13 displayed pursuant to this subdivision, the requirements of this
14 code that require the illumination of the license plate and the
15 license plate number do not apply.

16 (3) The department shall adopt regulations governing the
17 procedures for accepting and approving applications for decals,
18 and issuing decals, authorized by this subdivision.

19 (4) This subdivision does not apply to a front license plate.

20 ~~SEC. 110.~~

21 *SEC. 108.* Section 24603 of the Vehicle Code is amended to
22 read:

23 24603. Every motor vehicle that is not in combination with
24 any other vehicle and every vehicle at the end of a combination
25 of vehicles shall at all times be equipped with stoplamps mounted
26 on the rear as follows:

27 (a) Every such vehicle shall be equipped with one or more
28 stoplamps.

29 (b) Every such vehicle, other than a motorcycle, manufactured
30 and first registered on or after January 1, 1958, shall be equipped
31 with two stoplamps, except that trailers and semitrailers
32 manufactured after July 23, 1973, which are less than 30 inches
33 wide, may be equipped with one stoplamp which shall be mounted
34 at or near the vertical centerline of the trailer. If such vehicle is
35 equipped with two stoplamps, they shall be mounted as specified
36 in subdivision (d).

37 (c) Except as provided in subdivision (h), stoplamps on vehicles
38 manufactured on or after January 1, 1969, shall be mounted not
39 lower than 15 inches nor higher than 72 inches, except that a tow
40 truck or a reposessor's tow vehicle, in addition to being equipped

1 with the required stoplamps, may also be equipped with two
2 stoplamps which may be mounted not lower than 15 inches nor
3 higher than the maximum allowable vehicle height and as far
4 forward as the rearmost portion of the driver's seat in the rearmost
5 position.

6 (d) Where two stoplamps are required, at least one shall be
7 mounted at the left and one at the right side, respectively, at the
8 same level.

9 (e) Stoplamps on vehicles manufactured on or after January 1,
10 1979, shall emit a red light. Stoplamps on vehicles manufactured
11 before January 1, 1979, shall emit a red or yellow light. All
12 stoplamps shall be plainly visible and understandable from a
13 distance of 300 feet to the rear both during normal sunlight and at
14 nighttime, except that stoplamps on a vehicle of a size required to
15 be equipped with clearance lamps shall be visible from a distance
16 of 500 feet during those times.

17 (f) Stoplamps shall be activated upon application of the service
18 (foot) brake and the hand control head for air, vacuum, or electric
19 brakes. In addition, all stoplamps may be activated by a mechanical
20 device designed to function only upon sudden release of the
21 accelerator while the vehicle is in motion. Stoplamps on vehicles
22 equipped with a manual transmission may be manually activated
23 by a mechanical device when the vehicle is downshifted if the
24 device is automatically rendered inoperative while the vehicle is
25 accelerating.

26 (g) Any vehicle may be equipped with supplemental stoplamps
27 mounted to the rear of the rearmost portion of the driver's seat in
28 its rearmost position in addition to the lamps required to be
29 mounted on the rear of the vehicle. Supplemental stoplamps
30 installed after January 1, 1979, shall be red in color and mounted
31 not lower than 15 inches above the roadway. The supplemental
32 stoplamp on that side of a vehicle toward which a turn will be
33 made may flash as part of the supplemental turn signal lamp.

34 A supplemental stoplamp may be mounted inside the rear
35 window of a vehicle, if it is mounted at the centerline of the vehicle
36 and is constructed and mounted so as to prevent any light, other
37 than a monitorial indicator emitted from the device, either direct
38 or reflected, from being visible to the driver.

39 (h) Any supplemental stoplamp installed after January 1, 1987,
40 shall comply with Federal Motor Vehicle Safety Standard No. 108

1 (49 C.F.R. 571.108). Any vehicle equipped with a stoplamp that
2 complies with the federal motor vehicle safety standards applicable
3 to that make and model vehicle shall conform to that applicable
4 safety standard unless modified to comply with the federal motor
5 vehicle safety standard designated in this subdivision.

6 ~~SEC. 111.~~

7 *SEC. 109.* 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. 110.* Section 42 of this bill incorporates amendments to
17 Section 4160 of the Business and Professions Code proposed by
18 both this bill and AB 1071. It shall only become operative if (1)
19 both bills are enacted and become effective on or before January
20 1, 2010, (2) each bill amends Section 4160 of the Business and
21 Professions Code, and (3) this bill is enacted after AB 1071, in
22 which case Section 41 of this bill shall not become operative.

23 ~~SEC. 112.~~

24 *SEC. 111.* No reimbursement is required by this act pursuant
25 to Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.