

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

March 11, 2010

An act to amend Sections 2065, 2096, 2102, 2103, 2177, 2184, 2397, 2570.19, 3025.1, 3046, 3057.5, 3147, 3147.6, 3147.7, 4017, 4028, 4037, 4052.3, 4059, 4072, 4101, 4119, 4127.1, 4169, 4181, 4191, 4196, 4425, 4426, 4980.40.5, 4980.43, 4980.80, 4982.25, 4984.8, 4989.54, 4990.02, 4990.12, 4990.18, 4990.22, 4990.30, 4990.38, 4992.36, 4996.17, 4996.23, 4999.46, 4999.58, and 4999.90 of, to add Section 4200.1 to, to add and repeal Sections 4999.57 and 4999.59 of, to repeal Sections 4980.07, 4982.2, and 4984.6 of, and to repeal Article 3 (commencing with Section 4994) of Chapter 14 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1489, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and for the licensure and regulation of podiatrists by the California Board of Podiatric Medicine within the Medical Board of California. Existing law exempts a licensee of either of those boards from liability for civil damages for acts or omissions by the licensee in rendering specified emergency care and for injury or death caused in an emergency situation occurring in the licensee's office or a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure, as specified. Existing law prohibits construing

these provisions to authorize a podiatrist to act beyond certain scope of practice limitations.

This bill would delete that prohibition.

Existing law requires an applicant for a physician's and surgeon's certificate whose professional instruction was acquired in a country other than the United States or Canada to provide evidence satisfactory to the board of, among other things, satisfactory completion of at least one year of specified postgraduate training.

This bill would require the applicant to instead complete at least 2 years of that postgraduate training.

Existing law requires an applicant for a physician's and surgeon's certificate to obtain a passing score on the written examination designated by the board and makes passing scores on a written examination valid for 10 years from the month of the examination for purposes of qualification for a license. Existing law authorizes the board to extend this period of validity for good cause or for time spent in a postgraduate training program.

This bill would limit this 10-year period of validity to passing scores obtained on Step 3 of the United States Medical Licensing Examination and would also authorize the board to extend that period for applicants who hold a valid, unlimited license as a physician and surgeon in another state or a Canadian province and have actively practiced medicine in that state or province.

(2) Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. Existing law authorizes the renewal of an expired license within 3 years after its expiration if the licensee files an application for renewal and pays all accrued and unpaid renewal fees and the delinquency fee prescribed by the board.

This bill would also require the licensee to submit proof of completion of the required hours of continuing education for the last 2 years.

Existing law authorizes the restoration of a license that is not renewed within 3 years after its expiration if the holder of the expired license, among other requirements, passes the clinical portion of the regular examination of applicants, or other clinical examination approved by the board, and pays a restoration fee equal to the renewal fee in effect on the last regular renewal date for licenses.

This bill would instead require the holder of the expired license to take the National Board of Examiners in Optometry's Clinical Skills

examination, or other clinical examination approved by the board, and to also pay any delinquency fees prescribed by the board.

Existing law alternatively authorizes the restoration of a license that is not renewed within 3 years after its expiration if the person provides proof that he or she holds an active license from another state, files an application for renewal, and pays the accrued and unpaid renewal fees and the delinquency fee prescribed by the board.

This bill would also require the person to submit proof of completion of the required hours of continuing education for the last 2 years and take and satisfactorily pass the board's jurisprudence examination. The bill would also require that the person not have committed specified crimes or acts constituting grounds for licensure denial.

(3) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and requires an applicant for a license to pass a national licensure examination and the board's jurisprudence examination. Existing law prohibits boards in the Department of Consumer Affairs from restricting an applicant who failed a licensure examination from taking the examination again, except as specified.

This bill would authorize an applicant for a pharmacist license to take the licensure examination and the jurisprudence examination 4 times each. The bill would also authorize the applicant to take those examinations 4 additional times each if additional pharmacy coursework is completed, as specified.

(4) Existing law provides for the licensure and regulation of marriage and family therapists, licensed clinical social workers, educational psychologists, and professional clinical counselors by the Board of Behavioral Sciences. Existing law authorizes a licensed marriage and family therapist, licensed clinical social worker, or licensed educational psychologist whose license has been revoked, suspended, or placed on probation to petition the board for reinstatement or modification of the penalty, as specified. Existing law also authorizes the board to deny an application or suspend or revoke those licenses due to the revocation, suspension, or restriction by the board of a license to practice as a clinical social worker, marriage and family therapist, or educational psychologist.

This bill would make those provisions apply with respect to licensed professional clinical counseling, as specified.

Existing law requires an applicant applying for a marriage and family therapist license to complete a minimum of 3,000 hours of experience

during a period of at least 104 weeks. Existing law requires that this experience consist of at least 500 hours of experience in diagnosing and treating couples, families, and children, and requires that an applicant be credited with 2 hours of experience for each hour of therapy provided for the first 150 hours of treating couples and families in conjoint therapy.

This bill would instead require that an applicant receive that 2-hour credit for up to 150 hours of treating couples and families in conjoint therapy.

Existing law requires an applicant for a professional clinical counselor license to complete a minimum of 3,000 hours of clinical mental health experience under the supervision of an approved supervisor and prohibits a supervisor from supervising more than 2 interns.

This bill would prohibit the board from crediting an applicant for experience obtained under the supervision of a spouse or relative by blood or marriage, or a person with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision. The bill would also delete the provision prohibiting a supervisor from supervising more than 2 interns.

Existing law requires an intern to receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting and authorizes an intern working in a governmental entity, a school, college, or university, or a nonprofit and charitable institution to obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing.

This bill would delete that 30-hour limit and would require an intern to receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy, as defined, is performed in each setting in which experience is obtained.

Existing law imposes specified requirements with respect to persons who apply for a professional clinical counselor license between January 1, 2011, and December 31, 2013, inclusive. With respect to those applicants, existing law authorizes the board to accept experience gained outside of California if it is substantially equivalent to that required by the Licensed Professional Clinical Counselor Act and if the applicant has gained a minimum of 250 hours of supervised clinical experience in direct counseling in California while registered as an intern with the board.

This bill would eliminate that 250-hour requirement with respect to persons with a counseling license in another jurisdiction, as specified, who have held that license for at least 2 years immediately prior to applying with the board.

Existing law authorizes the board to refuse to issue or suspend or revoke a professional clinical counselor license or intern registration if the licensee or registrant has been guilty of unprofessional conduct, as specified.

This bill would specify that unprofessional conduct includes (1) engaging in conduct that subverts a licensing examination, (2) revocation, suspension, or restriction by the board of a license to practice as a clinical social worker, educational psychologist, or marriage and family therapist, and (3) conduct in the supervision of an associate clinical social worker that violates the profession’s governing professional clinical counseling or regulations of the board.

The bill would make other technical, nonsubstantive changes in various provisions governing the healing arts and would delete certain obsolete and duplicative language.

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

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

1 SECTION 1. Section 2065 of the Business and Professions
2 Code is amended to read:
3 2065. Unless otherwise provided by law, no postgraduate
4 trainee, intern, resident, postdoctoral fellow, or instructor may
5 engage in the practice of medicine, or receive compensation
6 therefor, or offer to engage in the practice of medicine unless he
7 or she holds a valid, unrevoked, and unsuspended physician’s and
8 surgeon’s certificate issued by the board. However, a graduate of
9 an approved medical school, who is registered with the ~~Division~~
10 ~~of Licensing~~ *board* and who is enrolled in a postgraduate training
11 program approved by the ~~division~~ *board*, may engage in the
12 practice of medicine whenever and wherever required as a part of
13 the program under the following conditions:
14 (a) A graduate enrolled in an approved first-year postgraduate
15 training program may so engage in the practice of medicine for a
16 period not to exceed one year whenever and wherever required as

1 a part of the training program, and may receive compensation for
2 that practice.

3 (b) A graduate who has completed the first year of postgraduate
4 training may, in an approved residency or fellowship, engage in
5 the practice of medicine whenever and wherever required as part
6 of that residency or fellowship, and may receive compensation for
7 that practice. The resident or fellow shall qualify for, take, and
8 pass the next succeeding written examination for licensure ~~given~~
9 ~~by the division~~, or shall qualify for and receive a physician's and
10 surgeon's certificate by one of the other methods specified in this
11 chapter. If the resident or fellow fails to receive a license to practice
12 medicine under this chapter within one year from the
13 commencement of the residency or fellowship or if the ~~division~~
14 *board* denies his or her application for licensure, all privileges and
15 exemptions under this section shall automatically cease.

16 SEC. 2. Section 2096 of the Business and Professions Code is
17 amended to read:

18 2096. (a) In addition to other requirements of this chapter,
19 before a physician's and surgeon's license may be issued, each
20 applicant, including an applicant applying pursuant to Article 5
21 (commencing with Section 2100), *except as provided in subdivision*
22 *(b)*, shall show by evidence satisfactory to the board that he or she
23 has satisfactorily completed at least one year of postgraduate
24 ~~training, which includes at training.~~

25 (b) *An applicant applying pursuant to Section 2102 shall show*
26 *by evidence satisfactory to the board that he or she has*
27 *satisfactorily completed at least two years of postgraduate training.*

28 (c) *The postgraduate training required by this section shall*
29 *include at least four months of general medicine; and shall be*
30 *obtained in a postgraduate training program approved by the*
31 *Accreditation Council for Graduate Medical Education (ACGME)*
32 *or the Royal College of Physicians and Surgeons of Canada*
33 *(RCPSC).*

34 ~~The~~

35 (d) *The amendments made to this section at the 1987 portion*
36 *of the 1987–88 session of the Legislature shall not apply to*
37 *applicants who completed their one year of postgraduate training*
38 *on or before July 1, 1990.*

39 SEC. 3. Section 2102 of the Business and Professions Code is
40 amended to read:

1 2102. ~~Any~~An applicant whose professional instruction was
2 acquired in a country other than the United States or Canada shall
3 provide evidence satisfactory to the board of compliance with the
4 following requirements to be issued a physician's and surgeon's
5 certificate:

6 (a) Completion in a medical school or schools of a resident
7 course of professional instruction equivalent to that required by
8 Section 2089 and issuance to the applicant of a document
9 acceptable to the board that shows final and successful completion
10 of the course. However, nothing in this section shall be construed
11 to require the board to evaluate for equivalency any coursework
12 obtained at a medical school disapproved by the board pursuant
13 to this section.

14 (b) Certification by the Educational Commission for Foreign
15 Medical Graduates, or its equivalent, as determined by the board.
16 This subdivision shall apply to all applicants who are subject to
17 this section and who have not taken and passed the written
18 examination specified in subdivision (d) prior to June 1, 1986.

19 (c) Satisfactory completion of the postgraduate training required
20 under *subdivision (b) of* Section 2096. An applicant shall be
21 required to have substantially completed the professional
22 instruction required in subdivision (a) and shall be required to
23 make application to the board and have passed steps 1 and 2 of
24 the written examination relating to biomedical and clinical sciences
25 prior to commencing any postgraduate training in this state. In its
26 discretion, the board may authorize an applicant who is deficient
27 in any education or clinical instruction required by Sections 2089
28 and 2089.5 to make up any deficiencies as a part of his or her
29 postgraduate training program, but that remedial training shall be
30 in addition to the postgraduate training required for licensure.

31 (d) ~~Pass~~*Passage of* the written examination as provided under
32 Article 9 (commencing with Section 2170). An applicant shall be
33 required to meet the requirements specified in subdivision (b) prior
34 to being admitted to the written examination required by this
35 subdivision.

36 ~~Nothing~~

37 (e) *Nothing* in this section prohibits the board from disapproving
38 ~~any~~ a foreign medical school or from denying an application if, in
39 the opinion of the board, the professional instruction provided by
40 the medical school or the instruction received by the applicant is

1 not equivalent to that required in Article 4 (commencing with
2 Section 2080).

3 SEC. 4. Section 2103 of the Business and Professions Code is
4 amended to read:

5 2103. An applicant who is a citizen of the United States shall
6 be eligible for a physician’s and surgeon’s certificate if he or she
7 has completed the following requirements:

8 ~~(a) Official transcripts or other official evidence satisfactory to~~
9 ~~the Division of Licensing of compliance with Section 2088.~~

10 ~~(b) Official~~
11 *(a) Submitted official* evidence satisfactory to the ~~division board~~
12 of completion of a resident course or professional instruction
13 equivalent to that required in Section 2089 in a medical school
14 located outside the United States or Canada. However, nothing in
15 this section shall be construed to require the ~~division board~~ to
16 evaluate for equivalency any coursework obtained at a medical
17 school disapproved by the ~~division board~~ pursuant to Article 4
18 (commencing with Section 2080).

19 ~~(c) Official~~
20 *(b) Submitted official* evidence satisfactory to the ~~division board~~
21 of completion of all formal requirements of the medical school for
22 graduation, except the applicant shall not be required to have
23 completed an internship or social service or be admitted or licensed
24 to practice medicine in the country in which the professional
25 instruction was completed.

26 ~~(d)~~
27 *(c)* Attained a score satisfactory to an approved medical school
28 on a qualifying examination acceptable to the ~~division board~~.

29 ~~(e) Successful completion of~~
30 *(d) Successfully completed* one academic year of supervised
31 clinical training in a program approved by the ~~division board~~
32 pursuant to Section 2104. The ~~division board~~ shall also recognize
33 as compliance with this subdivision the successful completion of
34 a one-year supervised clinical medical internship operated by a
35 medical school pursuant to Chapter 85 of the Statutes of 1972 and
36 as amended by Chapter 888 of the Statutes of 1973 as the
37 equivalent of the year of supervised clinical training required by
38 this section.

39 (1) Training received in the academic year of supervised clinical
40 training approved pursuant to Section 2104 shall be considered as

1 part of the total academic curriculum for purposes of meeting the
2 requirements of Sections 2089 and 2089.5.

3 (2) An applicant who has passed the basic science and English
4 language examinations required for certification by the Educational
5 Commission for Foreign Medical Graduates may present evidence
6 of those passing scores along with a certificate of completion of
7 one academic year of supervised clinical training in a program
8 approved by the ~~division~~ *board* pursuant to Section 2104 in
9 satisfaction of the formal certification requirements of subdivision
10 (b) of Section 2102.

11 ~~(f) Satisfactory completion of~~

12 ~~(e) Satisfactorily completed~~ the postgraduate training required
13 under Section 2096.

14 ~~(g)~~

15 ~~(f)~~ Passed the written examination required for certification as
16 a physician and surgeon ~~in~~ *under* this chapter.

17 SEC. 5. Section 2177 of the Business and Professions Code is
18 amended to read:

19 2177. (a) A passing score is required for an entire examination
20 or for each part of an examination, as established by resolution of
21 the ~~Division of Licensing~~ *board*.

22 (b) Applicants may elect to take the written examinations
23 conducted or accepted by the ~~division~~ *board* in separate parts.

24 (c) (1) An applicant shall have obtained a passing score on ~~Part~~
25 ~~III Step 3~~ of the United States Medical Licensing Examination
26 within not more than four attempts in order to be eligible for a
27 physician's and surgeon's certificate.

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

33 SEC. 6. Section 2184 of the Business and Professions Code is
34 amended to read:

35 2184. (a) Each applicant shall obtain on the written
36 examination a passing score, established by the ~~division~~ *board*
37 pursuant to Section 2177.

38 (b) (1) Passing scores on ~~a written examination~~ *Step 3 of the*
39 *United States Medical Licensing Examination* shall be valid for a

1 period of 10 years from the month of the examination for purposes
2 of qualification for licensure in California.

3 ~~This~~

4 (2) *The period of validity provided for in paragraph (1) may*
5 *be extended by the ~~division for good cause and for board for any~~*
6 *of the following:*

7 (A) *For good cause.*

8 (B) *For time spent in a postgraduate training program, including,*
9 *but not limited to, residency training, fellowship training, remedial*
10 *or refresher training, or other training that is intended to maintain*
11 *or improve medical skills.*

12 (C) *For an applicant who holds a valid, unlimited license as a*
13 *physician and surgeon in another state or a Canadian province*
14 *and has actively practiced medicine in that state or province.*

15 ~~Upon~~

16 (3) *Upon expiration of the 10-year period plus any extension*
17 *granted by the ~~division board under paragraph (2), the applicant~~*
18 *shall pass the Special Purpose Examination of the Federation of*
19 *State Medical Boards or a clinical competency written examination*
20 *determined by the ~~division board~~ to be equivalent.*

21 ~~This subdivision applies to all passing scores achieved in a~~
22 ~~written examination for a physician's and surgeon's certificate~~
23 ~~conducted by the division.~~

24 SEC. 7. Section 2397 of the Business and Professions Code is
25 amended to read:

26 2397. (a) A licensee shall not be liable for civil damages for
27 injury or death caused in an emergency situation occurring in the
28 licensee's office or in a hospital on account of a failure to inform
29 a patient of the possible consequences of a medical procedure
30 where the failure to inform is caused by any of the following:

31 (1) The patient was unconscious.

32 (2) The medical procedure was undertaken without the consent
33 of the patient because the licensee reasonably believed that a
34 medical procedure should be undertaken immediately and that
35 there was insufficient time to fully inform the patient.

36 (3) A medical procedure was performed on a person legally
37 incapable of giving consent, and the licensee reasonably believed
38 that a medical procedure should be undertaken immediately and
39 that there was insufficient time to obtain the informed consent of
40 a person authorized to give such consent for the patient.

1 (b) This section is applicable only to actions for damages for
2 injuries or death arising because of a licensee’s failure to inform,
3 and not to actions for damages arising because of a licensee’s
4 negligence in rendering or failing to render treatment.

5 (c) As used in this section:

6 (1) “Hospital” means a licensed general acute care hospital as
7 defined in subdivision (a) of Section 1250 of the Health and Safety
8 Code.

9 (2) “Emergency situation occurring in the licensee’s office”
10 means a situation occurring in an office, other than a hospital, used
11 by a licensee for the examination or treatment of patients, requiring
12 immediate services for alleviation of severe pain, or immediate
13 diagnosis and treatment of unforeseeable medical conditions,
14 which, if not immediately diagnosed and treated, would lead to
15 serious disability or death.

16 (3) “Emergency situation occurring in a hospital” means a
17 situation occurring in a hospital, whether or not it occurs in an
18 emergency room, requiring immediate services for alleviation of
19 severe pain, or immediate diagnosis and treatment of unforeseeable
20 medical conditions, which, if not immediately diagnosed and
21 treated, would lead to serious disability or death.

22 ~~(d) Nothing in this article shall be construed to authorize practice
23 by a podiatrist beyond that set forth in Section 2473.~~

24 SEC. 8. Section 2570.19 of the Business and Professions Code
25 is amended to read:

26 2570.19. (a) There is hereby created a California Board of
27 Occupational Therapy, hereafter referred to as the board. The board
28 shall enforce and administer this chapter.

29 (b) The members of the board shall consist of the following:

30 (1) Three occupational therapists who shall have practiced
31 occupational therapy for five years.

32 (2) One occupational therapy assistant who shall have assisted
33 in the practice of occupational therapy for five years.

34 (3) Three public members who shall not be licentiates of the
35 board or of any board referred to in Section 1000 or 3600.

36 (c) The Governor shall appoint the three occupational therapists
37 and one occupational therapy assistant to be members of the board.
38 The Governor, the Senate ~~Rules~~ Committee *on Rules*, and the
39 Speaker of the Assembly shall each appoint a public member. Not
40 more than one member of the board shall be appointed from the

1 full-time faculty of any university, college, or other educational
2 institution.

3 (d) All members shall be residents of California at the time of
4 their appointment. The occupational therapist and occupational
5 therapy assistant members shall have been engaged in rendering
6 occupational therapy services to the public, teaching, or research
7 in occupational therapy for at least five years preceding their
8 appointments.

9 (e) The public members may not be or have ever been
10 occupational therapists or occupational therapy assistants or in
11 training to become occupational therapists or occupational therapy
12 assistants. The public members may not be related to, or have a
13 household member who is, an occupational therapist or an
14 occupational therapy assistant, and may not have had, within two
15 years of the appointment, a substantial financial interest in a person
16 regulated by the board.

17 (f) The Governor shall appoint two board members for a term
18 of one year, two board members for a term of two years, and one
19 board member for a term of three years. Appointments made
20 thereafter shall be for four-year terms, but no person shall be
21 appointed to serve more than two consecutive terms. Terms shall
22 begin on the first day of the calendar year and end on the last day
23 of the calendar year or until successors are appointed, except for
24 the first appointed members who shall serve through the last
25 calendar day of the year in which they are appointed, before
26 commencing the terms prescribed by this section. Vacancies shall
27 be filled by appointment for the unexpired term. The board shall
28 annually elect one of its members as president.

29 (g) The board shall meet and hold at least one regular meeting
30 annually in the Cities of Sacramento, Los Angeles, and San
31 Francisco. The board may convene from time to time until its
32 business is concluded. Special meetings of the board may be held
33 at any time and place designated by the board.

34 (h) Notice of each meeting of the board shall be given in
35 accordance with the Bagley-Keene Open Meeting Act (Article 9
36 commencing with Section 11120) of Chapter 1 of Part 1 of
37 Division 3 of Title 2 of the Government Code).

38 (i) Members of the board shall receive no compensation for
39 their services, but shall be entitled to reasonable travel and other

1 expenses incurred in the execution of their powers and duties in
2 accordance with Section 103.

3 (j) The appointing power shall have the power to remove any
4 member of the board from office for neglect of any duty imposed
5 by state law, for incompetency, or for unprofessional or
6 dishonorable conduct.

7 ~~(k) A loan is hereby authorized from the General Fund to the
8 Occupational Therapy Fund on or after July 1, 2000, in an amount
9 of up to one million dollars (\$1,000,000) to fund operating,
10 personnel, and other startup costs of the board. Six hundred ten
11 thousand dollars (\$610,000) of this loan amount is hereby
12 appropriated to the board to use in the 2000-01 fiscal year for the
13 purposes described in this subdivision. In subsequent years, funds
14 from the Occupational Therapy Fund shall be available to the board
15 upon appropriation by the Legislature in the annual Budget Act.
16 The loan shall be repaid to the General Fund over a period of up
17 to five years, and the amount paid shall also include interest at the
18 rate accruing to moneys in the Pooled Money Investment Account.
19 The loan amount and repayment period shall be minimized to the
20 extent possible based upon actual board financing requirements
21 as determined by the Department of Finance.~~

22 ~~(l)~~

23 (k) This section shall become inoperative on July 1, 2013, and,
24 as of January 1, 2014, is repealed, unless a later enacted statute
25 that is enacted before January 1, 2014, deletes or extends the dates
26 on which it becomes inoperative and is repealed. The repeal of
27 this section renders the board subject to the review required by
28 Division 1.2 (commencing with Section 473).

29 SEC. 9. Section 3025.1 of the Business and Professions Code
30 is amended to read:

31 3025.1. The board may adopt rules and regulations that are, in
32 its judgment, reasonable and necessary to ensure that optometrists
33 have the knowledge to adequately protect the public health and
34 safety by establishing educational requirements for admission to
35 the ~~examination~~ *examinations* for licensure.

36 SEC. 10. Section 3046 of the Business and Professions Code
37 is amended to read:

38 3046. In order to obtain a license to practice optometry in
39 California, an applicant shall have graduated from an accredited
40 school of optometry, passed the required ~~examination~~ *examinations*

1 for licensure, and not have met any of the grounds for denial
 2 established in Section 480. The proceedings under this section
 3 shall be in accordance with Chapter 5 (commencing with Section
 4 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

5 SEC. 11. Section 3057.5 of the Business and Professions Code
 6 is amended to read:

7 3057.5. ~~(a)~~ Notwithstanding any other provision of this chapter,
 8 the board shall permit a person who meets all of the following
 9 requirements to take the ~~examination~~ *examinations* for a certificate
 10 of registration as an optometrist:

- 11 ~~(1)~~
- 12 (a) Is over the age of 18 years.
- 13 ~~(2)~~
- 14 (b) Is not subject to denial of a certificate under Section 480.
- 15 ~~(3)~~
- 16 (c) Has a degree as a doctor of optometry issued by a university
 17 located outside of the United States.

18 ~~(b) This section shall become operative on January 1, 1996.~~

19 SEC. 12. Section 3147 of the Business and Professions Code
 20 is amended to read:

21 3147. Except as otherwise provided by Section 114, an expired
 22 license may be renewed at any time within three years after its
 23 expiration ~~on by filing of an application for renewal on a form~~
 24 ~~prescribed by the board, and payment of paying~~ all accrued and
 25 unpaid renewal fees, *paying any delinquency fees prescribed by*
 26 *the board, and submitting proof of completion of the required*
 27 *number of hours of continuing education for the last two years,*
 28 *as prescribed by the board pursuant to Section 3159.* ~~If an expired~~
 29 ~~license is renewed, the licenseholder shall pay the delinquency fee~~
 30 ~~prescribed by the board.~~ Renewal under this section shall be
 31 effective on the date on which ~~the application is filed, on the date~~
 32 ~~on which the accrued renewal fees are paid, or on the date on which~~
 33 ~~the delinquency fee, if any, is paid, whichever last occurs~~ *all of*
 34 *those requirements are satisfied.* If so renewed, the license shall
 35 continue as provided in ~~Section~~ *Sections* 3146 and 3147.5.

36 SEC. 13. Section 3147.6 of the Business and Professions Code
 37 is amended to read:

38 3147.6. Except as otherwise provided by Section 114, a license
 39 that is not renewed within three years after its expiration may be
 40 restored thereafter, if no fact, circumstance, or condition exists

1 that, if the license were restored, would justify its revocation or
2 suspension, provided all of the following conditions are met:

3 (a) The holder of the expired license is not subject to denial of
4 a license under Section 480.

5 (b) The holder of the expired license applies in writing for its
6 restoration on a form prescribed by the board.

7 ~~(e) He or she~~

8 (c) *The holder of the expired license pays the fee or fees as*
9 *would be required of him or her if he or she were then applying*
10 *for a license for the first time and had not previously taken the*
11 *examination for a license.*

12 ~~(d) He or she takes and satisfactorily passes the clinical portion~~
13 ~~of the regular examination of applicants, or other clinical~~
14 ~~examination approved by the board, and takes and satisfactorily~~
15 ~~passes the California law and regulations examination.~~

16 (d) *The holder of the expired license satisfactorily passes both*
17 *of the following examinations:*

18 (1) *The National Board of Examiners in Optometry's Clinical*
19 *Skills examination or other clinical examination approved by the*
20 *board.*

21 (2) *The board's jurisprudence examination.*

22 (e) ~~After having taken and satisfactorily passed the clinical~~
23 ~~portion of the regular examination of applicants, or other clinical~~
24 ~~examination approved by the board, he or she taking and~~
25 ~~satisfactorily passing the examinations identified in subdivision~~
26 ~~(d), the holder of the expired license pays a restoration fee equal~~
27 ~~to the sum of the license renewal fee in effect on the last regular~~
28 ~~renewal date for licenses and any delinquency fees prescribed by~~
29 ~~the board.~~

30 SEC. 14. Section 3147.7 of the Business and Professions Code
31 is amended to read:

32 3147.7. The provisions of Section 3147.6 shall not apply to a
33 person holding a license that has not been renewed within three
34 years of expiration, if the person provides satisfactory proof that
35 he or she holds an active license from another state. ~~In this event,~~
36 ~~the person may renew his or her license in the manner provided~~
37 ~~for under Section 3147. and meets all of the following conditions:~~

38 (a) *Is not subject to denial of a license under Section 480.*

39 (b) *Applies in writing for restoration of the license on a form*
40 *prescribed by the board.*

1 (c) Pays all accrued and unpaid renewal fees and any
2 delinquency fees prescribed by the board.

3 (d) Submits proof of completion of the required number of hours
4 of continuing education for the last two years.

5 (e) Takes and satisfactorily passes the board's jurisprudence
6 examination.

7 SEC. 15. Section 4017 of the Business and Professions Code
8 is amended to read:

9 4017. "Authorized officers of the law" means inspectors of the
10 California State Board of Pharmacy, inspectors of the Food and
11 Drug Branch of the State Department of *Public Health Services*,
12 and investigators of the department's Division of Investigation or
13 peace officers engaged in official investigations.

14 SEC. 16. Section 4028 of the Business and Professions Code
15 is amended to read:

16 4028. "Licensed hospital" means an institution, place, building,
17 or agency that maintains and operates organized facilities for one
18 or more persons for the diagnosis, care, and treatment of human
19 illnesses to which persons may be admitted for overnight stay, and
20 includes any institution classified under regulations issued by the
21 State Department of *Public Health Services* as a general or
22 specialized hospital, as a maternity hospital, or as a tuberculosis
23 hospital, but does not include a sanitarium, rest home, a nursing
24 or convalescent home, a maternity home, or an institution for
25 treating alcoholics.

26 SEC. 17. Section 4037 of the Business and Professions Code
27 is amended to read:

28 4037. (a) "Pharmacy" means an area, place, or premises
29 licensed by the board in which the profession of pharmacy is
30 practiced and where prescriptions are compounded. "Pharmacy"
31 includes, but is not limited to, any area, place, or premises
32 described in a license issued by the board wherein controlled
33 substances, dangerous drugs, or dangerous devices are stored,
34 possessed, prepared, manufactured, derived, compounded, or
35 repackaged, and from which the controlled substances, dangerous
36 drugs, or dangerous devices are furnished, sold, or dispensed at
37 retail.

38 (b) "Pharmacy" shall not include any area in a facility licensed
39 by the State Department of *Public Health Services* where floor
40 supplies, ward supplies, operating room supplies, or emergency

1 room supplies of dangerous drugs or dangerous devices are stored
2 or possessed solely for treatment of patients registered for treatment
3 in the facility or for treatment of patients receiving emergency care
4 in the facility.

5 SEC. 18. Section 4052.3 of the Business and Professions Code
6 is amended to read:

7 4052.3. (a) Notwithstanding any other provision of law, a
8 pharmacist may furnish emergency contraception drug therapy in
9 accordance with either of the following:

10 (1) Standardized procedures or protocols developed by the
11 pharmacist and an authorized prescriber who is acting within his
12 or her scope of practice.

13 (2) Standardized procedures or protocols developed and
14 approved by both the board and the Medical Board of California
15 in consultation with the American College of Obstetricians and
16 Gynecologists, the California Pharmacist Association, and other
17 appropriate entities. Both the board and the Medical Board of
18 California shall have authority to ensure compliance with this
19 clause, and both boards are specifically charged with the
20 enforcement of this provision with respect to their respective
21 licensees. Nothing in this clause shall be construed to expand the
22 authority of a pharmacist to prescribe any prescription medication.

23 (b) Prior to performing a procedure authorized under this
24 paragraph, a pharmacist shall complete a training program on
25 emergency contraception that consists of at least one hour of
26 approved continuing education on emergency contraception drug
27 therapy.

28 (c) A pharmacist, pharmacist's employer, or pharmacist's agent
29 may not directly charge a patient a separate consultation fee for
30 emergency contraception drug therapy services initiated pursuant
31 to this paragraph, but may charge an administrative fee not to
32 exceed ten dollars (\$10) above the retail cost of the drug. Upon an
33 oral, telephonic, electronic, or written request from a patient or
34 customer, a pharmacist or pharmacist's employee shall disclose
35 the total retail price that a consumer would pay for emergency
36 contraception drug therapy. As used in this subparagraph, total
37 retail price includes providing the consumer with specific
38 information regarding the price of the emergency contraception
39 drugs and the price of the administrative fee charged. This
40 limitation is not intended to interfere with other contractually

1 agreed-upon terms between a pharmacist, a pharmacist's employer,
2 or a pharmacist's agent, and a health care service plan or insurer.
3 Patients who are insured or covered and receive a pharmacy benefit
4 that covers the cost of emergency contraception shall not be
5 required to pay an administrative fee. These patients shall be
6 required to pay copayments pursuant to the terms and conditions
7 of their coverage. The provisions of this subparagraph shall cease
8 to be operative for dedicated emergency contraception drugs when
9 these drugs are reclassified as over-the-counter products by the
10 federal Food and Drug Administration.

11 (d) A pharmacist may not require a patient to provide
12 individually identifiable medical information that is not specified
13 in Section 1707.1 of Title 16 of the California Code of Regulations
14 before initiating emergency contraception drug therapy pursuant
15 to this section.

16 (e) For each emergency contraception drug therapy initiated
17 pursuant to this section, the pharmacist shall provide the recipient
18 of the emergency contraception drugs with a standardized factsheet
19 that includes, but is not limited to, the indications for use of the
20 drug, the appropriate method for using the drug, the need for
21 medical followup, and other appropriate information. The board
22 shall develop this form in consultation with the State Department
23 of *Public Health Services*, the American College of Obstetricians
24 and Gynecologists, the California Pharmacists Association, and
25 other health care organizations. The provisions of this section do
26 not preclude the use of existing publications developed by
27 nationally recognized medical organizations.

28 SEC. 19. Section 4059 of the Business and Professions Code
29 is amended to read:

30 4059. (a) A person may not furnish any dangerous drug, except
31 upon the prescription of a physician, dentist, podiatrist, optometrist,
32 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
33 person may not furnish any dangerous device, except upon the
34 prescription of a physician, dentist, podiatrist, optometrist,
35 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

36 (b) This section does not apply to the furnishing of any
37 dangerous drug or dangerous device by a manufacturer, wholesaler,
38 or pharmacy to each other or to a physician, dentist, podiatrist,
39 optometrist, veterinarian, or naturopathic doctor pursuant to Section
40 3640.7, or to a laboratory under sales and purchase records that

1 correctly give the date, the names and addresses of the supplier
2 and the buyer, the drug or device, and its quantity. This section
3 does not apply to the furnishing of any dangerous device by a
4 manufacturer, wholesaler, or pharmacy to a physical therapist
5 acting within the scope of his or her license under sales and
6 purchase records that correctly provide the date the device is
7 provided, the names and addresses of the supplier and the buyer,
8 a description of the device, and the quantity supplied.

9 (c) A pharmacist, or a person exempted pursuant to Section
10 4054, may distribute dangerous drugs and dangerous devices
11 directly to dialysis patients pursuant to regulations adopted by the
12 board. The board shall adopt any regulations as are necessary to
13 ensure the safe distribution of these drugs and devices to dialysis
14 patients without interruption thereof. A person who violates a
15 regulation adopted pursuant to this subdivision shall be liable upon
16 order of the board to surrender his or her personal license. These
17 penalties shall be in addition to penalties that may be imposed
18 pursuant to Section 4301. If the board finds any dialysis drugs or
19 devices distributed pursuant to this subdivision to be ineffective
20 or unsafe for the intended use, the board may institute immediate
21 recall of any or all of the drugs or devices distributed to individual
22 patients.

23 (d) Home dialysis patients who receive any drugs or devices
24 pursuant to subdivision (c) shall have completed a full course of
25 home training given by a dialysis center licensed by the State
26 Department of *Public Health Services*. The physician prescribing
27 the dialysis products shall submit proof satisfactory to the
28 manufacturer or wholesaler that the patient has completed the
29 program.

30 (e) A pharmacist may furnish a dangerous drug authorized for
31 use pursuant to Section 2620.3 to a physical therapist. A record
32 containing the date, name and address of the buyer, and name and
33 quantity of the drug shall be maintained. This subdivision shall
34 not be construed to authorize the furnishing of a controlled
35 substance.

36 (f) A pharmacist may furnish electroneuromyographic needle
37 electrodes or hypodermic needles used for the purpose of placing
38 wire electrodes for kinesiological electromyographic testing to
39 physical therapists who are certified by the Physical Therapy

1 ~~Examining Committee~~ *Board* of California to perform tissue
2 penetration in accordance with Section 2620.5.

3 (g) Nothing in this section shall be construed as permitting a
4 licensed physical therapist to dispense or furnish a dangerous
5 device without a prescription of a physician, dentist, podiatrist,
6 optometrist, or veterinarian.

7 (h) A veterinary food-animal drug retailer shall dispense, furnish,
8 transfer, or sell veterinary food-animal drugs only to another
9 veterinary food-animal drug retailer, a pharmacy, a veterinarian,
10 or to a veterinarian's client pursuant to a prescription from the
11 veterinarian for food-producing animals.

12 SEC. 20. Section 4072 of the Business and Professions Code
13 is amended to read:

14 4072. (a) Notwithstanding any other provision of law, a
15 pharmacist, registered nurse, licensed vocational nurse, licensed
16 psychiatric technician, or other healing arts licentiate, if so
17 authorized by administrative regulation, who is employed by or
18 serves as a consultant for a licensed skilled nursing, intermediate
19 care, or other health care facility, may orally or electronically
20 transmit to the furnisher a prescription lawfully ordered by a person
21 authorized to prescribe drugs or devices pursuant to Sections 4040
22 and 4070. The furnisher shall take appropriate steps to determine
23 that the person who transmits the prescription is authorized to do
24 so and shall record the name of the person who transmits the order.
25 This section shall not apply to orders for Schedule II controlled
26 substances.

27 (b) In enacting this section, the Legislature recognizes and
28 affirms the role of the *State* Department of *Public Health Services*
29 in regulating drug order processing requirements for licensed health
30 care facilities as set forth in Title 22 of the California Code of
31 Regulations as they may be amended from time to time.

32 SEC. 21. Section 4101 of the Business and Professions Code
33 is amended to read:

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

1 (b) A designated representative or a pharmacist may take charge
2 of, and act as, the designated representative-in-charge of a
3 wholesaler or ~~veterinary-food-drug-animal~~ *food-animal drug*
4 retailer upon application by the wholesaler or ~~veterinary-food~~
5 ~~drug-animal~~ *food-animal drug* retailer and approval by the board.
6 Any designated representative-in-charge who ceases to act as the
7 designated representative-in-charge at that entity shall notify the
8 board in writing within 30 days of the date of that change in status.

9 SEC. 22. Section 4119 of the Business and Professions Code
10 is amended to read:

11 4119. (a) Notwithstanding any other provision of law, a
12 pharmacy may furnish a dangerous drug or dangerous device to a
13 licensed health care facility for storage in a secured emergency
14 pharmaceutical supplies container maintained within the facility
15 in accordance with facility regulations of the State Department of
16 ~~Public Health Services~~ set forth in Title 22 of the California Code
17 of Regulations and the requirements set forth in Section 1261.5 of
18 the Health and Safety Code. These emergency supplies shall be
19 approved by the facility's patient care policy committee or
20 pharmaceutical service committee and shall be readily available
21 to each nursing station. Section 1261.5 of the Health and Safety
22 Code limits the number of oral dosage form or suppository form
23 drugs in these emergency supplies to 24.

24 (b) Notwithstanding any other provision of law, a pharmacy
25 may furnish a dangerous drug or a dangerous device to an approved
26 service provider within an emergency medical services system for
27 storage in a secured emergency pharmaceutical supplies container,
28 in accordance with the policies and procedures of the local
29 emergency medical services agency, if all of the following are
30 met:

31 (1) The dangerous drug or dangerous device is furnished
32 exclusively for use in conjunction with services provided in an
33 ambulance, or other approved emergency medical services service
34 provider, that provides prehospital emergency medical services.

35 (2) The requested dangerous drug or dangerous device is within
36 the licensed or certified emergency medical technician's scope of
37 practice as established by the Emergency Medical Services
38 Authority and set forth in Title 22 of the California Code of
39 Regulations.

1 (3) The approved service provider within an emergency medical
2 services system provides a written request that specifies the name
3 and quantity of dangerous drugs or dangerous devices.

4 (4) The approved emergency medical services provider
5 administers dangerous drugs and dangerous devices in accordance
6 with the policies and procedures of the local emergency medical
7 services agency.

8 (5) The approved emergency medical services provider
9 documents, stores, and restocks dangerous drugs and dangerous
10 devices in accordance with the policies and procedures of the local
11 emergency medical services agency.

12 Records of each request by, and dangerous drugs or dangerous
13 devices furnished to, an approved service provider within an
14 emergency medical services system, shall be maintained by both
15 the approved service provider and the dispensing pharmacy for a
16 period of at least three years.

17 The furnishing of controlled substances to an approved
18 emergency medical services provider shall be in accordance with
19 the California Uniform Controlled Substances Act.

20 SEC. 23. Section 4127.1 of the Business and Professions Code
21 is amended to read:

22 4127.1. (a) A pharmacy shall not compound injectable sterile
23 drug products in this state unless the pharmacy has obtained a
24 license from the board pursuant to this section. The license shall
25 be renewed annually and is not transferable.

26 (b) A license to compound injectable sterile drug products may
27 only be issued for a location that is licensed as a pharmacy.
28 Furthermore, the license to compound injectable sterile drug
29 products may only be issued to the owner of the pharmacy license
30 at that location. A license to compound injectable sterile drug
31 products may not be issued until the location is inspected by the
32 board and found in compliance with this article and regulations
33 adopted by the board.

34 (c) A license to compound injectable sterile drug products may
35 not be renewed until the location has been inspected by the board
36 and found to be in compliance with this article and regulations
37 adopted by the board.

38 (d) Pharmacies operated by entities that are licensed by either
39 the board or the State Department of *Public Health Services* and
40 that have current accreditation from the Joint Commission on

1 Accreditation of Healthcare Organizations, or other private
2 accreditation agencies approved by the board, are exempt from
3 the requirement to obtain a license pursuant to this section.

4 (e) The reconstitution of a sterile powder shall not require a
5 license pursuant to this section if both of the following are met:

6 (1) The sterile powder was obtained from a manufacturer.

7 (2) The drug is reconstituted for administration to patients by
8 a health care professional licensed to administer drugs by injection
9 pursuant to this division.

10 ~~(f) This section shall become effective on the earlier of July 1,~~
11 ~~2003, or the effective date of regulations adopted by the board~~
12 ~~pursuant to Section 4127.~~

13 SEC. 24. Section 4169 of the Business and Professions Code
14 is amended to read:

15 4169. (a) A person or entity may not do any of the following:

16 (1) Purchase, trade, sell, or transfer dangerous drugs or
17 dangerous devices at wholesale with a person or entity that is not
18 licensed with the board as a wholesaler or pharmacy.

19 (2) Purchase, trade, sell, or transfer dangerous drugs that the
20 person knew or reasonably should have known were adulterated,
21 as set forth in Article 2 (commencing with Section 111250) of
22 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

23 (3) Purchase, trade, sell, or transfer dangerous drugs that the
24 person knew or reasonably should have known were misbranded,
25 as defined in Section 111335 of the Health and Safety Code.

26 (4) Purchase, trade, sell, or transfer dangerous drugs or
27 dangerous devices after the beyond use date on the label.

28 (5) Fail to maintain records of the acquisition or disposition of
29 dangerous drugs or dangerous devices for at least three years.

30 (b) Notwithstanding any other provision of law, a violation of
31 this section or of subdivision (c) or (d) of Section 4163 may subject
32 the person or entity that has committed the violation to a fine not
33 to exceed the amount specified in Section 125.9 for each
34 occurrence, pursuant to a citation issued by the board.

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

1 (d) This section shall not apply to a pharmaceutical manufacturer
2 licensed by the Food and Drug Administration or by the State
3 Department of *Public Health Services*.

4 ~~(e) This section shall become operative on January 1, 2008.~~

5 SEC. 25. Section 4181 of the Business and Professions Code
6 is amended to read:

7 4181. (a) Prior to the issuance of a clinic license authorized
8 under Section 4180, the clinic shall comply with all applicable
9 laws and regulations of the State Department of *Public Health*
10 ~~*Services*~~ relating to the drug distribution service to ensure that
11 inventories, security procedures, training, protocol development,
12 recordkeeping, packaging, labeling, dispensing, and patient
13 consultation occur in a manner that is consistent with the promotion
14 and protection of the health and safety of the public. The policies
15 and procedures to implement the laws and regulations shall be
16 developed and approved by the consulting pharmacist, the
17 professional director, and the clinic administrator.

18 (b) The dispensing of drugs in a clinic shall be performed only
19 by a physician, a pharmacist, or other person lawfully authorized
20 to dispense drugs, and only in compliance with all applicable laws
21 and regulations.

22 SEC. 26. Section 4191 of the Business and Professions Code
23 is amended to read:

24 4191. (a) Prior to the issuance of a clinic license authorized
25 under this article, the clinic shall comply with all applicable laws
26 and regulations of the State Department of *Public Health Services*
27 and the board relating to drug distribution to ensure that
28 inventories, security procedures, training, protocol development,
29 recordkeeping, packaging, labeling, dispensing, and patient
30 consultation are carried out in a manner that is consistent with the
31 promotion and protection of the health and safety of the public.
32 The policies and procedures to implement the laws and regulations
33 shall be developed and approved by the consulting pharmacist, the
34 professional director, and the clinic administrator.

35 (b) The dispensing of drugs in a clinic that has received a license
36 under this article shall be performed only by a physician, a
37 pharmacist, or other person lawfully authorized to dispense drugs,
38 and only in compliance with all applicable laws and regulations.

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

1 4196. (a) No person shall conduct a veterinary food-animal
2 drug retailer in the State of California unless he or she has obtained
3 a license from the board. A license shall be required for each
4 veterinary food-animal drug retailer owned or operated by a
5 specific person. A separate license shall be required for each of
6 the premises of any person operating a veterinary food-animal
7 drug retailer in more than one location. The license shall be
8 renewed annually and shall not be transferable.

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

14 (c) No person other than a pharmacist, an intern pharmacist, a
15 designated representative, an authorized officer of the law, or a
16 person authorized to prescribe, shall be permitted in that area,
17 place, or premises described in the permit issued by the board
18 pursuant to Section 4041, wherein veterinary food-animal drugs
19 are stored, possessed, or repacked. A pharmacist or designated
20 representative shall be responsible for any individual who enters
21 the veterinary food-animal drug retailer for the purpose of
22 performing clerical, inventory control, housekeeping, delivery,
23 maintenance, or similar functions relating to the veterinary
24 food-animal drug retailer.

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

1 (e) Every veterinary food-animal drug retailer shall notify the
2 board in writing, on a form designed by the board, within 30 days
3 of the date when a designated representative-in-charge who ceases
4 to act as the designated ~~representative~~ *representative-in-charge*,
5 *and shall on the same form propose another designated*
6 *representative* or pharmacist to take over as the designated
7 representative-in-charge. The proposed replacement designated
8 representative-in-charge shall be subject to approval by the board.
9 If disapproved, the veterinary food-animal drug retailer shall
10 propose another replacement within 15 days of the date of
11 disapproval, and shall continue to name proposed replacements
12 until a designated representative-in-charge is approved by the
13 board.

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

18 SEC. 28. Section 4200.1 is added to the Business and
19 Professions Code, to read:

20 4200.1. (a) Notwithstanding Section 135, an applicant may
21 take the North American Pharmacist Licensure Examination four
22 times, and may take the California Practice Standards and
23 Jurisprudence Examination for Pharmacists four times.

24 (b) Notwithstanding Section 135, an applicant may take the
25 North American Pharmacist Licensure Examination and the
26 California Practice Standards and Jurisprudence Examination for
27 Pharmacists four additional times each if he or she successfully
28 completes, at a minimum, 16 additional semester units of education
29 in pharmacy as approved by the board.

30 (c) The applicant shall comply with the requirements of Section
31 4200 for each application for reexamination made pursuant to
32 subdivision (b).

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

37 (e) For purposes of this section, the board shall treat each failing
38 score on the pharmacist licensure examination administered by
39 the board prior to January 1, 2004, as a failing score on both the
40 North American Pharmacist Licensure Examination and the

1 California Practice Standards and Jurisprudence Examination for
2 Pharmacists.

3 SEC. 29. Section 4425 of the Business and Professions Code
4 is amended to read:

5 4425. (a) As a condition for the participation of a pharmacy
6 in the Medi-Cal program pursuant to Chapter 7 (commencing with
7 Section 14000) of Division 9 of the Welfare and Institutions Code,
8 the pharmacy, upon presentation of a valid prescription for the
9 patient and the patient's Medicare card, shall charge Medicare
10 beneficiaries a price that does not exceed the Medi-Cal
11 reimbursement rate for prescription medicines, and an amount, as
12 set by the State Department of Health *Care* Services to cover
13 electronic transmission charges. However, Medicare beneficiaries
14 shall not be allowed to use the Medi-Cal reimbursement rate for
15 over-the-counter medications or compounded prescriptions.

16 (b) The State Department of Health *Care* Services shall provide
17 a mechanism to calculate and transmit the price to the pharmacy,
18 but shall not apply the Medi-Cal drug utilization review process
19 for purposes of this section.

20 (c) The State Department of Health *Care* Services shall monitor
21 pharmacy participation with the requirements of subdivision (a).

22 (d) The State Department of Health *Care* Services shall conduct
23 an outreach program to inform Medicare beneficiaries of their
24 right to participate in the program described in subdivision (a),
25 including, but not limited to, the following:

26 (1) Including on its Internet Web site the Medi-Cal
27 reimbursement rate for, at minimum, 200 of the most commonly
28 prescribed medicines and updating this information monthly.

29 (2) Providing a sign to participating pharmacies that the
30 pharmacies shall prominently display at the point of service and
31 at the point of sale, reminding the Medicare beneficiaries to ask
32 that the charge for their prescription be the same amount as the
33 Medi-Cal reimbursement rate and providing the department's
34 telephone number, e-mail address, and Internet Web site address
35 to access information about the program.

36 (e) If prescription drugs are added to the scope of benefits
37 available under the federal Medicare program, the Senate Office
38 of Research shall report that fact to the appropriate committees of
39 the Legislature. It is the intent of the Legislature to evaluate the

1 need to continue the implementation of this article under those
2 circumstances.

3 (f) This section shall not apply to a prescription that is covered
4 by insurance.

5 SEC. 30. Section 4426 of the Business and Professions Code
6 is amended to read:

7 4426. The State Department of Health *Care* Services shall
8 conduct a study of the adequacy of Medi-Cal pharmacy
9 reimbursement rates including the cost of providing prescription
10 drugs and services.

11 SEC. 31. Section 4980.07 of the Business and Professions
12 Code is repealed.

13 ~~4980.07. The board shall administer the provisions of this~~
14 ~~chapter.~~

15 SEC. 32. Section 4980.40.5 of the Business and Professions
16 Code is amended to read:

17 4980.40.5. (a) A doctor's or master's degree in marriage,
18 family, and child counseling, marital and family therapy,
19 psychology, clinical psychology, counseling psychology, or
20 counseling with an emphasis in either marriage, family, and child
21 counseling, or marriage and family therapy, obtained from a school,
22 college, or university approved by the Bureau for Private
23 Postsecondary and Vocational Education as of June 30, 2007, shall
24 be considered by the board to meet the requirements necessary for
25 licensure as a marriage and family therapist and for registration
26 as a marriage and family therapist intern provided that the degree
27 is conferred on or before July 1, 2010.

28 (b) As an alternative to meeting the qualifications specified in
29 subdivision (a) of Section 4980.40, the board shall accept as
30 equivalent degrees those doctor's or master's degrees that otherwise
31 meet the requirements of this chapter and are conferred by
32 educational institutions accredited by any of the following
33 associations:

34 ~~(1) Northwest Association of Secondary and Higher Schools~~
35 ~~*Commission on Colleges and Universities.*~~

36 (2) Middle States Association of Colleges and Secondary
37 Schools.

38 (3) New England Association of Schools and Colleges.

39 (4) North Central Association of Colleges and Secondary
40 Schools.

1 (5) Southern Association of Colleges and Schools.

2 ~~(e) If legislation enacted in the 2007-08 Regular Session~~
3 ~~reestablishes the Private Postsecondary and Vocational Education~~
4 ~~Reform Act of 1989 (Chapter 7 (commencing with Section 94700)~~
5 ~~of Part 59 of Division 10 of Title 3 of the Education Code) or a~~
6 ~~successor act and the Bureau for Private Postsecondary and~~
7 ~~Vocational Education or a successor agency, this section shall~~
8 ~~become inoperative on the date that legislation becomes operative.~~
9 ~~The board shall post notice on its Internet Web site if the conditions~~
10 ~~described in this subdivision have been satisfied.~~

11 SEC. 33. Section 4980.43 of the Business and Professions
12 Code is amended to read:

13 4980.43. (a) Prior to applying for licensure examinations, each
14 applicant shall complete experience that shall comply with the
15 following:

16 (1) A minimum of 3,000 hours completed during a period of at
17 least 104 weeks.

18 (2) Not more than 40 hours in any seven consecutive days.

19 (3) Not less than 1,700 hours of supervised experience
20 completed subsequent to the granting of the qualifying master's
21 or doctor's degree.

22 (4) Not more than 1,300 hours of supervised experience obtained
23 prior to completing a master's or doctor's degree.

24 The applicant shall not be credited with more than 750 hours of
25 counseling and direct supervisor contact prior to completing the
26 master's or doctor's degree.

27 (5) No hours of experience may be gained prior to completing
28 either 12 semester units or 18 quarter units of graduate instruction
29 and becoming a trainee except for personal psychotherapy.

30 (6) No hours of experience gained more than six years prior to
31 the date the application for examination eligibility was filed, except
32 that up to 500 hours of clinical experience gained in the supervised
33 practicum required by subdivision (c) of Section 4980.37 and
34 subparagraph (B) of paragraph (1) of subdivision (d) of Section
35 4980.36 shall be exempt from this six-year requirement.

36 (7) Not more than a combined total of 1,250 hours of experience
37 in the following:

38 (A) Direct supervisor contact.

39 (B) Professional enrichment activities. For purposes of this
40 chapter, "professional enrichment activities" include the following:

1 (i) Workshops, seminars, training sessions, or conferences
2 directly related to marriage and family therapy attended by the
3 applicant that are approved by the applicant's supervisor. An
4 applicant shall have no more than 250 hours of verified attendance
5 at these workshops, seminars, training sessions, or conferences.

6 (ii) Participation by the applicant in personal psychotherapy,
7 which includes group, marital or conjoint, family, or individual
8 psychotherapy by an appropriately licensed professional. An
9 applicant shall have no more than 100 hours of participation in
10 personal psychotherapy. The applicant shall be credited with three
11 hours of experience for each hour of personal psychotherapy.

12 (C) Client centered advocacy.

13 (8) Not more than 500 hours of experience providing group
14 therapy or group counseling.

15 (9) Not more than 250 hours of experience administering and
16 evaluating psychological tests, writing clinical reports, writing
17 progress notes, or writing process notes.

18 (10) Not less than 500 total hours of experience in diagnosing
19 and treating couples, families, and children. For ~~the first~~ *up to* 150
20 hours of treating couples and families in conjoint therapy, the
21 applicant shall be credited with two hours of experience for each
22 hour of therapy provided.

23 (11) Not more than 375 hours of experience providing personal
24 psychotherapy, crisis counseling, or other counseling services via
25 telemedicine in accordance with Section 2290.5.

26 (b) All applicants, trainees, and registrants shall be at all times
27 under the supervision of a supervisor who shall be responsible for
28 ensuring that the extent, kind, and quality of counseling performed
29 is consistent with the training and experience of the person being
30 supervised, and who shall be responsible to the board for
31 compliance with all laws, rules, and regulations governing the
32 practice of marriage and family therapy. Supervised experience
33 shall be gained by interns and trainees either as an employee or as
34 a volunteer. The requirements of this chapter regarding gaining
35 hours of experience and supervision are applicable equally to
36 employees and volunteers. Experience shall not be gained by
37 interns or trainees as an independent contractor.

38 (1) If employed, an intern shall provide the board with copies
39 of the corresponding W-2 tax forms for each year of experience
40 claimed upon application for licensure.

1 (2) If volunteering, an intern shall provide the board with a letter
2 from his or her employer verifying the intern’s employment as a
3 volunteer upon application for licensure.

4 (c) Supervision shall include at least one hour of direct
5 supervisor contact in each week for which experience is credited
6 in each work setting, as specified:

7 (1) A trainee shall receive an average of at least one hour of
8 direct supervisor contact for every five hours of client contact in
9 each setting.

10 (2) An individual supervised after being granted a qualifying
11 degree shall receive at least one additional hour of direct supervisor
12 contact for every week in which more than 10 hours of client
13 contact is gained in each setting. No more than five hours of
14 supervision, whether individual or group, shall be credited during
15 any single week.

16 (3) For purposes of this section, “one hour of direct supervisor
17 contact” means one hour per week of face-to-face contact on an
18 individual basis or two hours per week of face-to-face contact in
19 a group.

20 (4) Direct supervisor contact shall occur within the same week
21 as the hours claimed.

22 (5) Direct supervisor contact provided in a group shall be
23 provided in a group of not more than eight supervisees and in
24 segments lasting no less than one continuous hour.

25 (6) Notwithstanding paragraph (3), an intern working in a
26 governmental entity, a school, a college, or a university, or an
27 institution that is both nonprofit and charitable may obtain the
28 required weekly direct supervisor contact via two-way, real-time
29 videoconferencing. The supervisor shall be responsible for ensuring
30 that client confidentiality is upheld.

31 (7) All experience gained by a trainee shall be monitored by the
32 supervisor as specified by regulation.

33 (d) (1) A trainee may be credited with supervised experience
34 completed in any setting that meets all of the following:

35 (A) Lawfully and regularly provides mental health counseling
36 or psychotherapy.

37 (B) Provides oversight to ensure that the trainee’s work at the
38 setting meets the experience and supervision requirements set forth
39 in this chapter and is within the scope of practice for the profession
40 as defined in Section 4980.02.

1 (C) Is not a private practice owned by a licensed marriage and
2 family therapist, a licensed psychologist, a licensed clinical social
3 worker, a licensed physician and surgeon, or a professional
4 corporation of any of those licensed professions.

5 (2) Experience may be gained by the trainee solely as part of
6 the position for which the trainee volunteers or is employed.

7 (e) (1) An intern may be credited with supervised experience
8 completed in any setting that meets both of the following:

9 (A) Lawfully and regularly provides mental health counseling
10 or psychotherapy.

11 (B) Provides oversight to ensure that the intern's work at the
12 setting meets the experience and supervision requirements set forth
13 in this chapter and is within the scope of practice for the profession
14 as defined in Section 4980.02.

15 (2) An applicant shall not be employed or volunteer in a private
16 practice, as defined in subparagraph (C) of paragraph (1) of
17 subdivision (d), until registered as an intern.

18 (3) While an intern may be either a paid employee or a
19 volunteer, employers are encouraged to provide fair remuneration
20 to interns.

21 (4) Except for periods of time during a supervisor's vacation or
22 sick leave, an intern who is employed or volunteering in private
23 practice shall be under the direct supervision of a licensee that has
24 satisfied the requirements of subdivision (g) of Section 4980.03.
25 The supervising licensee shall either be employed by and practice
26 at the same site as the intern's employer, or shall be an owner or
27 shareholder of the private practice. Alternative supervision may
28 be arranged during a supervisor's vacation or sick leave if the
29 supervision meets the requirements of this section.

30 (5) Experience may be gained by the intern solely as part of the
31 position for which the intern volunteers or is employed.

32 (f) Except as provided in subdivision (g), all persons shall
33 register with the board as an intern in order to be credited for
34 postdegree hours of supervised experience gained toward licensure.

35 (g) Except when employed in a private practice setting, all
36 postdegree hours of experience shall be credited toward licensure
37 so long as the applicant applies for the intern registration within
38 90 days of the granting of the qualifying master's or doctor's
39 degree and is thereafter granted the intern registration by the board.

1 (h) Trainees, interns, and applicants shall not receive any
2 remuneration from patients or clients, and shall only be paid by
3 their employers.

4 (i) Trainees, interns, and applicants shall only perform services
5 at the place where their employers regularly conduct business,
6 which may include performing services at other locations, so long
7 as the services are performed under the direction and control of
8 their employer and supervisor, and in compliance with the laws
9 and regulations pertaining to supervision. Trainees and interns
10 shall have no proprietary interest in their employers' businesses
11 and shall not lease or rent space, pay for furnishings, equipment
12 or supplies, or in any other way pay for the obligations of their
13 employers.

14 (j) Trainees, interns, or applicants who provide volunteered
15 services or other services, and who receive no more than a total,
16 from all work settings, of five hundred dollars (\$500) per month
17 as reimbursement for expenses actually incurred by those trainees,
18 interns, or applicants for services rendered in any lawful work
19 setting other than a private practice shall be considered an
20 employee and not an independent contractor. The board may audit
21 applicants who receive reimbursement for expenses, and the
22 applicants shall have the burden of demonstrating that the payments
23 received were for reimbursement of expenses actually incurred.

24 (k) Each educational institution preparing applicants for
25 licensure pursuant to this chapter shall consider requiring, and
26 shall encourage, its students to undergo individual, marital or
27 conjoint, family, or group counseling or psychotherapy, as
28 appropriate. Each supervisor shall consider, advise, and encourage
29 his or her interns and trainees regarding the advisability of
30 undertaking individual, marital or conjoint, family, or group
31 counseling or psychotherapy, as appropriate. Insofar as it is deemed
32 appropriate and is desired by the applicant, the educational
33 institution and supervisors are encouraged to assist the applicant
34 in locating that counseling or psychotherapy at a reasonable cost.

35 SEC. 34. Section 4980.80 of the Business and Professions
36 Code is amended to read:

37 4980.80. (a) This section applies to persons who apply for
38 licensure between January 1, 2010, and December 31, 2013,
39 inclusive.

1 (b) The board may issue a license to a person who, at the time
2 of application, ~~has held for at least two years~~ holds a valid license
3 issued by a board of marriage counselor examiners, marriage
4 therapist examiners, or corresponding authority of any state, if the
5 *all of the following requirements are satisfied:*
6 (1) *The person has held that license for at least two years*
7 *immediately preceding the date of application.*
8 (2) *The education and supervised experience requirements are*
9 *substantially the equivalent of this ~~chapter, the~~ chapter.*
10 (3) *The person complies with Section 4980.76, if ~~applicable,~~*
11 *and the applicable.*
12 (4) *The person successfully completes the board administered*
13 *licensing examinations as specified by subdivision (d) of Section*
14 *4980.40 and pays the fees specified. ~~Issuance of the license is~~*
15 *further conditioned upon the person's completion*
16 (5) *The person completes all of the following coursework or*
17 *training:*
18 ~~(1) (A) An~~
19 (A) (i) *An applicant who completed a two semester or three*
20 *quarter unit course in law and professional ethics for marriage and*
21 *family therapists that included areas of study as specified in Section*
22 *4980.41 as part of his or her qualifying degree shall complete an*
23 *18-hour course in California law and professional ethics that*
24 *includes, but is not limited to, the following subjects: advertising,*
25 *scope of practice, scope of competence, treatment of minors,*
26 *confidentiality, dangerous patients, psychotherapist-patient*
27 *privilege, recordkeeping, patient access to records, requirements*
28 *of the Health Insurance Portability and Accountability Act of 1996,*
29 *dual relationships, child abuse, elder and dependent adult abuse,*
30 *online therapy, insurance reimbursement, civil liability, disciplinary*
31 *actions and unprofessional conduct, ethics complaints and ethical*
32 *standards, termination of therapy, standards of care, relevant family*
33 *law, and therapist disclosures to patients.*
34 ~~(B)~~
35 (ii) *An applicant who has not completed a two semester or three*
36 *quarter unit course in law and professional ethics for marriage and*
37 *family therapists that included areas of study as specified in Section*
38 *4980.41 as part of his or her qualifying degree, shall complete a*
39 *two semester or three quarter unit course in California law and*

1 professional ethics that includes, at minimum, the areas of study
2 specified in Section 4980.41.

3 ~~(2)~~

4 (B) A minimum of seven contact hours of training or coursework
5 in child abuse assessment and reporting as specified in Section 28
6 and any regulations promulgated thereunder.

7 ~~(3)~~

8 (C) A minimum of 10 contact hours of training or coursework
9 in human sexuality as specified in Section 25 and any regulations
10 promulgated thereunder.

11 ~~(4)~~

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

15 ~~(5) (A)~~

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

20 ~~(B)~~

21 (ii) A minimum of 15 contact hours of coursework or training
22 in spousal or partner abuse assessment, detection, and intervention
23 strategies.

24 ~~(6)~~

25 (F) A minimum of a two semester or three quarter unit survey
26 course in psychological testing. This course may be taken either
27 in fulfillment of other requirements for licensure or in a separate
28 course.

29 ~~(7)~~

30 (G) A minimum of a two semester or three quarter unit survey
31 course in psychopharmacology. This course may be taken either
32 in fulfillment of other requirements for licensure or in a separate
33 course.

34 ~~(8)~~

35 (H) With respect to human sexuality, alcoholism and other
36 chemical substance dependency, spousal or partner abuse
37 assessment, detection, and intervention, psychological testing, and
38 psychopharmacology, the board may accept training or coursework
39 acquired out of state.

1 (c) This section shall remain in effect only until January 1, 2014,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 35. Section 4982.2 of the Business and Professions Code
5 is repealed.

6 ~~4982.2.—(a) A licensed marriage and family therapist, marriage
7 and family therapist intern, licensed clinical social worker,
8 associate clinical social worker, or licensed educational
9 psychologist whose license or registration has been revoked or
10 suspended or who has been placed on probation may petition the
11 board for reinstatement or modification of the penalty, including
12 modification or termination of probation, after a period not less
13 than the following minimum periods has elapsed from the effective
14 date of the decision ordering the disciplinary action, or if the order
15 of the board, or any portion of it, is stayed by the board itself, or
16 by the superior court, from the date the disciplinary action is
17 actually implemented in its entirety:~~

18 ~~(1) At least three years for reinstatement of a license or
19 registration that was revoked for unprofessional conduct, except
20 that the board may, in its sole discretion at the time of adoption,
21 specify in its order that a petition for reinstatement may be filed
22 after two years.~~

23 ~~(2) At least two years for early termination of any probation
24 period of three years, or more.~~

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

28 ~~(b) The petition may be heard by the board itself, or the board
29 may assign the petition to an administrative law judge pursuant to
30 Section 11512 of the Government Code. The board shall give
31 notice to the Attorney General of the filing of the petition. The
32 petitioner and the Attorney General shall be given timely notice
33 by letter of the time and place of the hearing on the petition, and
34 an opportunity to present both oral and documentary evidence and
35 argument to the board. The petitioner shall at all times have the
36 burden of production and proof to establish by clear and convincing
37 evidence that he or she is entitled to the relief sought in the petition.
38 The board, when it is hearing the petition itself, or an administrative
39 law judge sitting for the board, may consider all activities of the
40 petitioner since the disciplinary action was taken, the offense for~~

1 which the petitioner was disciplined, the petitioner's activities
2 during the time his or her license was in good standing, and the
3 petitioner's rehabilitative efforts, general reputation for truth, and
4 professional ability.

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

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

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

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

23 (g) The petitioner shall pay a fingerprinting fee and provide a
24 current set of his or her fingerprints to the board. The petitioner
25 shall execute a form authorizing release to the board or its designee,
26 of all information concerning the petitioner's current physical and
27 mental condition. Information provided to the board pursuant to
28 the release shall be confidential and shall not be subject to
29 discovery or subpoena in any other proceeding, and shall not be
30 admissible in any action, other than before the board, to determine
31 the petitioner's fitness to practice as required by Section 822.

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

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

1 (j) ~~The petitioner may request that the board schedule the hearing~~
2 ~~on the petition for a board meeting at a specific city where the~~
3 ~~board regularly meets.~~

4 (k) ~~No petition shall be considered while the petitioner is under~~
5 ~~sentence for any criminal offense, including any period during~~
6 ~~which the petitioner is on court-imposed probation or parole, or~~
7 ~~the petitioner is required to register pursuant to Section 290 of the~~
8 ~~Penal Code. No petition shall be considered while there is an~~
9 ~~accusation or petition to revoke probation pending against the~~
10 ~~petitioner.~~

11 (l) ~~Except in those cases where the petitioner has been~~
12 ~~disciplined for violation of Section 822, the board may in its~~
13 ~~discretion deny without hearing or argument any petition that is~~
14 ~~filed pursuant to this section within a period of two years from the~~
15 ~~effective date of a prior decision following a hearing under this~~
16 ~~section.~~

17 SEC. 36. Section 4982.25 of the Business and Professions
18 Code is amended to read:

19 4982.25. The board may deny ~~any~~ *an* application, or may
20 suspend or revoke ~~any~~ *a* license or registration issued under this
21 chapter, for any of the following:

22 (a) Denial of licensure, revocation, suspension, restriction, or
23 any other disciplinary action imposed by another state or territory
24 or possession of the United States, or by any other governmental
25 agency, on a license, certificate, or registration to practice marriage
26 and family therapy, or any other healing art, shall constitute
27 unprofessional conduct. A certified copy of the disciplinary action
28 decision or judgment shall be conclusive evidence of that action.

29 (b) Revocation, suspension, or restriction by the board of a
30 license, certificate, or registration to practice as a clinical social
31 worker, *professional clinical counselor*, or educational psychologist
32 shall also constitute grounds for disciplinary action for
33 unprofessional conduct against the licensee or registrant under this
34 chapter.

35 SEC. 37. Section 4984.6 of the Business and Professions Code
36 is repealed.

37 ~~4984.6. (a) The Behavioral Sciences Fund shall be used for~~
38 ~~the purposes of carrying out and enforcing the provisions of this~~
39 ~~chapter.~~

1 ~~(b) The board shall keep any records as will reasonably ensure~~
2 ~~that funds expended in the administration of each licensing or~~
3 ~~registration category shall bear a reasonable relation to the revenue~~
4 ~~derived from each category, and shall so notify the department no~~
5 ~~later than May 31 of each year.~~

6 ~~(e) Surpluses, if any, may be used in such a way so as to bear~~
7 ~~a reasonable relation to the revenue derived from each category,~~
8 ~~and may include, but not be limited to, expenditures for education~~
9 ~~and research related to each of the licensing or registration~~
10 ~~categories.~~

11 SEC. 38. Section 4984.8 of the Business and Professions Code
12 is amended to read:

13 4984.8. (a) A licensee may apply to the board to request that
14 his or her license be placed on inactive status.

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

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

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

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

28 (2) A licensee requesting to restore his or her license to active
29 status, whose license will expire less than one year from the date
30 of the request, shall complete 18 hours of continuing education as
31 specified in Section 4980.54.

32 (3) A licensee requesting to restore his or her license to active
33 status, whose license will expire more than one year ~~form~~ *from*
34 the date of the request, shall complete 36 hours of continuing
35 education as specified in Section 4980.54.

36 SEC. 39. Section 4989.54 of the Business and Professions
37 Code is amended to read:

38 4989.54. The board may deny a license or may suspend or
39 revoke the license of a licensee if he or she has been guilty of

1 unprofessional conduct. Unprofessional conduct includes, but is
2 not limited to, the following:

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

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

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

11 (3) A plea or verdict of guilty or a conviction following a plea
12 of nolo contendere made to a charge substantially related to the
13 qualifications, functions, or duties of a licensee under this chapter
14 shall be deemed to be a conviction within the meaning of this
15 section.

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

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

29 (c) Administering to himself or herself a controlled substance
30 or using any of the dangerous drugs specified in Section 4022 or
31 an alcoholic beverage to the extent, or in a manner, as to be
32 dangerous or injurious to himself or herself or to any other person
33 or to the public or to the extent that the use impairs his or her ability
34 to safely perform the functions authorized by the license. The board
35 shall deny an application for a license or revoke the license of any
36 person, other than one who is licensed as a physician and surgeon,
37 who uses or offers to use drugs in the course of performing
38 educational psychology.

39 (d) Failure to comply with the consent provisions in Section
40 2290.5.

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

3 (f) Violating, attempting to violate, or conspiring to violate any
4 of the provisions of this chapter or any regulation adopted by the
5 board.

6 (g) Commission of any dishonest, corrupt, or fraudulent act
7 substantially related to the qualifications, functions, or duties of a
8 licensee.

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

16 (i) Revocation, suspension, or restriction by the board of a
17 license, certificate, or registration to practice as a clinical social
18 worker, *professional clinical counselor*, or marriage and family
19 therapist.

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

23 (k) Gross negligence or incompetence in the practice of
24 educational psychology.

25 (l) Misrepresentation as to the type or status of a license held
26 by the licensee or otherwise misrepresenting or permitting
27 misrepresentation of his or her education, professional
28 qualifications, or professional affiliations to any person or entity.

29 (m) Intentionally or recklessly causing physical or emotional
30 harm to any client.

31 (n) Engaging in sexual relations with a client or a former client
32 within two years following termination of professional services,
33 soliciting sexual relations with a client, or committing an act of
34 sexual abuse or sexual misconduct with a client or committing an
35 act punishable as a sexually related crime, if that act or solicitation
36 is substantially related to the qualifications, functions, or duties of
37 a licensed educational psychologist.

38 (o) Prior to the commencement of treatment, failing to disclose
39 to the client or prospective client the fee to be charged for the

1 professional services or the basis upon which that fee will be
2 computed.

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

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

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

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

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

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

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

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

36 (y) (1) Engaging in an act described in Section 261, 286, 288a,
37 or 289 of the Penal Code with a minor or an act described in
38 Section 288 or 288.5 of the Penal Code regardless of whether the
39 act occurred prior to or after the time the registration or license
40 was issued by the board. An act described in this subdivision

1 occurring prior to the effective date of this subdivision shall
2 constitute unprofessional conduct and shall subject the licensee to
3 refusal, suspension, or revocation of a license under this section.

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

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

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

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

22 SEC. 40. Section 4990.02 of the Business and Professions
23 Code is amended to read:

24 4990.02. “Board,” as used in this chapter, Chapter 13
25 (commencing with Section 4980), Chapter 13.5 (commencing with
26 Section 4989.10), ~~and~~ Chapter 14 (commencing with Section
27 4991), *and Chapter 16 (commencing with Section 4999.10)* means
28 the Board of Behavioral Sciences.

29 SEC. 41. Section 4990.12 of the Business and Professions
30 Code is amended to read:

31 4990.12. The duty of administering and enforcing this chapter,
32 Chapter 13 (commencing with Section 4980), Chapter 13.5
33 (commencing with Section 4989.10), ~~and~~ Chapter 14 (commencing
34 with Section 4991), *and Chapter 16 (commencing with Section*
35 *4999.10)* is vested in the board and the executive officer subject
36 to, and under the direction of, the board. In the performance of
37 this duty, the board and the executive officer have all the powers
38 and are subject to all the responsibilities vested in, and imposed
39 upon, the head of a department by Chapter 2 (commencing with

1 Section 11150) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 SEC. 42. Section 4990.18 of the Business and Professions
4 Code is amended to read:

5 4990.18. It is the intent of the Legislature that the board employ
6 its resources for each and all of the following functions:

7 (a) The licensure of marriage and family therapists, clinical
8 social workers, *professional clinical counselors*, and educational
9 psychologists.

10 (b) The development and administration of licensure
11 examinations and examination procedures consistent with
12 prevailing standards for the validation and use of licensing and
13 certification tests. Examinations shall measure knowledge and
14 abilities demonstrably important to the safe, effective practice of
15 the profession.

16 (c) Enforcement of laws designed to protect the public from
17 incompetent, unethical, or unprofessional practitioners.

18 (d) Consumer education.

19 SEC. 43. Section 4990.22 of the Business and Professions
20 Code is amended to read:

21 4990.22. (a) The Behavioral Sciences Fund shall be used for
22 the purposes of carrying out and enforcing the provisions of this
23 chapter *and the chapters listed in Section 4990.12. All moneys in*
24 *the fund shall be expended by the board for the purposes of the*
25 *programs under its jurisdiction.*

26 (b) The board shall keep records that reasonably ensure that
27 funds expended in the administration of each licensure or
28 registration category shall bear a reasonable relation to the revenue
29 derived from each category and report to the department no later
30 than May 31 of each year on those expenditures.

31 (c) Surpluses, if any, may be used by the board in a manner that
32 bears a reasonable relation to the revenue derived from each
33 licensure or registration category and may include, but not be
34 limited to, expenditures for education and research related to each
35 of the licensing or registration categories.

36 SEC. 44. Section 4990.30 of the Business and Professions
37 Code is amended to read:

38 4990.30. (a) A licensed marriage and family therapist, marriage
39 and family therapist intern, licensed clinical social worker,
40 associate clinical social worker, *licensed professional clinical*

1 *counselor, professional clinical counselor intern*, or licensed
2 educational psychologist whose license or registration has been
3 revoked, suspended, or placed on probation, may petition the board
4 for reinstatement or modification of the penalty, including
5 modification or termination of probation. The petition shall be on
6 a form provided by the board and shall state any facts and
7 information as may be required by the board including, but not
8 limited to, proof of compliance with the terms and conditions of
9 the underlying disciplinary order. The petition shall be verified by
10 the petitioner who shall file an original and sufficient copies of
11 the petition, together with any supporting documents, for the
12 members of the board, the administrative law judge, and the
13 Attorney General.

14 (b) The licensee or registrant may file the petition on or after
15 the expiration of the following timeframes, each of which
16 commences on the effective date of the decision ordering the
17 disciplinary action or, if the order of the board, or any portion of
18 it, is stayed by the board itself or by the superior court, from the
19 date the disciplinary action is actually implemented in its entirety:

20 (1) Three years for reinstatement of a license or registration that
21 was revoked for unprofessional conduct, except that the board
22 may, in its sole discretion, specify in its revocation order that a
23 petition for reinstatement may be filed after two years.

24 (2) Two years for early termination of any probation period of
25 three years or more.

26 (3) One year for modification of a condition, reinstatement of
27 a license or registration revoked for mental or physical illness, or
28 termination of probation of less than three years.

29 (c) The petition may be heard by the board itself or the board
30 may assign the petition to an administrative law judge pursuant to
31 Section 11512 of the Government Code.

32 (d) The petitioner may request that the board schedule the
33 hearing on the petition for a board meeting at a specific city where
34 the board regularly meets.

35 (e) The petitioner and the Attorney General shall be given timely
36 notice by letter of the time and place of the hearing on the petition
37 and an opportunity to present both oral and documentary evidence
38 and argument to the board or the administrative law judge.

1 (f) The petitioner shall at all times have the burden of production
2 and proof to establish by clear and convincing evidence that he or
3 she is entitled to the relief sought in the petition.

4 (g) The board, when it is hearing the petition itself, or an
5 administrative law judge sitting for the board, may consider all
6 activities of the petitioner since the disciplinary action was taken,
7 the offense for which the petitioner was disciplined, the petitioner's
8 activities during the time his or her license or registration was in
9 good standing, and the petitioner's rehabilitative efforts, general
10 reputation for truth, and professional ability.

11 (h) The hearing may be continued from time to time as the board
12 or the administrative law judge deems appropriate but in no case
13 may the hearing on the petition be delayed more than 180 days
14 from its filing without the consent of the petitioner.

15 (i) The board itself, or the administrative law judge if one is
16 designated by the board, shall hear the petition and shall prepare
17 a written decision setting forth the reasons supporting the decision.
18 In a decision granting a petition reinstating a license or modifying
19 a penalty, the board itself, or the administrative law judge, may
20 impose any terms and conditions that the agency deems reasonably
21 appropriate, including those set forth in Sections 823 and 4990.40.
22 If a petition is heard by an administrative law judge sitting alone,
23 the administrative law judge shall prepare a proposed decision and
24 submit it to the board. The board may take action with respect to
25 the proposed decision and petition as it deems appropriate.

26 (j) The petitioner shall pay a fingerprinting fee and provide a
27 current set of his or her fingerprints to the board. The petitioner
28 shall execute a form authorizing release to the board or its designee,
29 of all information concerning the petitioner's current physical and
30 mental condition. Information provided to the board pursuant to
31 the release shall be confidential and shall not be subject to
32 discovery or subpoena in any other proceeding, and shall not be
33 admissible in any action, other than before the board, to determine
34 the petitioner's fitness to practice as required by Section 822.

35 (k) The board may delegate to its executive officer authority to
36 order investigation of the contents of the petition.

37 (l) No petition shall be considered while the petitioner is under
38 sentence for any criminal offense, including any period during
39 which the petitioner is on court-imposed probation or parole or
40 the petitioner is required to register pursuant to Section 290 of the

1 Penal Code. No petition shall be considered while there is an
2 accusation or petition to revoke probation pending against the
3 petitioner.

4 (m) Except in those cases where the petitioner has been
5 disciplined for violation of Section 822, the board may in its
6 discretion deny without hearing or argument any petition that is
7 filed pursuant to this section within a period of two years from the
8 effective date of a prior decision following a hearing under this
9 section.

10 SEC. 45. Section 4990.38 of the Business and Professions
11 Code is amended to read:

12 4990.38. The board may deny an application or may suspend
13 or revoke a license or registration issued under the chapters it
14 administers and enforces for any disciplinary action imposed by
15 another state or territory or possession of the United States, or by
16 a governmental agency on a license, certificate or registration to
17 practice marriage and family therapy, clinical social work,
18 educational psychology, *professional clinical counseling*, or any
19 other healing art. The disciplinary action, which may include denial
20 of licensure or revocation or suspension of the license or imposition
21 of restrictions on it, constitutes unprofessional conduct. A certified
22 copy of the disciplinary action decision or judgment shall be
23 conclusive evidence of that action.

24 SEC. 46. Section 4992.36 of the Business and Professions
25 Code is amended to read:

26 4992.36. The board may deny ~~any~~ *an* application, or may
27 suspend or revoke ~~any~~ *a* license or registration issued under this
28 chapter, for any of the following:

29 (a) Denial of licensure, revocation, suspension, restriction, or
30 any other disciplinary action imposed by another state or territory
31 of the United States, or by any other governmental agency, on a
32 license, certificate, or registration to practice clinical social work
33 or any other healing art shall constitute grounds for disciplinary
34 action for unprofessional conduct. A certified copy of the
35 disciplinary action decision or judgment shall be conclusive
36 evidence of that action.

37 (b) Revocation, suspension, or restriction by the board of a
38 license, certificate, or registration to practice marriage and family
39 therapy, *professional clinical counseling*, or educational
40 psychology against a licensee or registrant shall also constitute

1 grounds for disciplinary action for unprofessional conduct under
2 this chapter.

3 SEC. 47. Article 3 (commencing with Section 4994) of Chapter
4 14 of Division 2 of the Business and Professions Code is repealed.

5 SEC. 48. Section 4996.17 of the Business and Professions
6 Code is amended to read:

7 4996.17. (a) Experience gained outside of California shall be
8 accepted toward the licensure requirements if it is substantially
9 the equivalent of the requirements of this chapter.

10 (b) The board may issue a license to any person who, at the time
11 of application, holds a valid active clinical social work license
12 issued by a board of clinical social work examiners or
13 corresponding authority of any state, if the person passes the board
14 administered licensing examinations as specified in Section 4996.1
15 and pays the required fees. Issuance of the license is conditioned
16 upon all of the following:

17 (1) The applicant has supervised experience that is substantially
18 the equivalent of that required by this chapter. If the applicant has
19 less than 3,200 hours of qualifying supervised experience, time
20 actively licensed as a clinical social worker shall be accepted at a
21 rate of 100 hours per month up to a maximum of 1,200 hours.

22 (2) Completion of the following coursework or training in or
23 out of this state:

24 (A) A minimum of seven contact hours of training or coursework
25 in child abuse assessment and reporting as specified in Section 28,
26 and any regulations promulgated thereunder.

27 (B) A minimum of 10 contact hours of training or coursework
28 in human sexuality as specified in Section 25, and any regulations
29 promulgated thereunder.

30 (C) A minimum of 15 contact hours of training or coursework
31 in alcoholism and other chemical substance dependency, as
32 specified by regulation.

33 (D) A minimum of 15 contact hours of coursework or training
34 in spousal or partner abuse assessment, detection, and intervention
35 strategies.

36 (3) The applicant's license is not suspended, revoked, restricted,
37 sanctioned, or voluntarily surrendered in any state.

38 (4) The applicant is not currently under investigation in any
39 other state, and has not been charged with an offense for any act
40 substantially related to the practice of social work by any public

1 agency, entered into any consent agreement or been subject to an
2 administrative decision that contains conditions placed by an
3 agency upon an applicant’s professional conduct or practice,
4 including any voluntary surrender of license, or been the subject
5 of an adverse judgment resulting from the practice of social work
6 that the board determines constitutes evidence of a pattern of
7 incompetence or negligence.

8 (5) The applicant shall provide a certification from each state
9 where he or she holds a license pertaining to licensure, disciplinary
10 action, and complaints pending.

11 (6) The applicant is not subject to denial of licensure under
12 Section 480, 4992.3, 4992.35, or 4992.36.

13 (c) The board may issue a license to any person who, at the time
14 of application, ~~has held~~ *holds* a valid, active clinical social work
15 license ~~for a minimum of four years~~, issued by a board of clinical
16 social work examiners or a corresponding authority of any state,
17 *if the person has held that license for at least four years*
18 *immediately preceding the date of application*, the person passes
19 the board administered licensing examinations as specified in
20 Section 4996.1, and *the person* pays the required fees. Issuance of
21 the license is conditioned upon all of the following:

22 (1) Completion of the following coursework or training in or
23 out of state:

24 (A) A minimum of seven contact hours of training or coursework
25 in child abuse assessment and reporting as specified in Section 28,
26 and any regulations promulgated thereunder.

27 (B) A minimum of 10 contact hours of training or coursework
28 in human sexuality as specified in Section 25, and any regulations
29 promulgated thereunder.

30 (C) A minimum of 15 contact hours of training or coursework
31 in alcoholism and other chemical substance dependency, as
32 specified by regulation.

33 (D) A minimum of 15 contact hours of coursework or training
34 in spousal or partner abuse assessment, detection, and intervention
35 strategies.

36 (2) The applicant has been licensed as a clinical social worker
37 continuously for a minimum of four years prior to the date of
38 application.

39 (3) The applicant’s license is not suspended, revoked, restricted,
40 sanctioned, or voluntarily surrendered in any state.

1 (4) The applicant is not currently under investigation in any
2 other state, and has not been charged with an offense for any act
3 substantially related to the practice of social work by any public
4 agency, entered into any consent agreement or been subject to an
5 administrative decision that contains conditions placed by an
6 agency upon an applicant's professional conduct or practice,
7 including any voluntary surrender of license, or been the subject
8 of an adverse judgment resulting from the practice of social work
9 that the board determines constitutes evidence of a pattern of
10 incompetence or negligence.

11 (5) The applicant provides a certification from each state where
12 he or she holds a license pertaining to licensure, disciplinary action,
13 and complaints pending.

14 (6) The applicant is not subject to denial of licensure under
15 Section 480, 4992.3, 4992.35, or 4992.36.

16 SEC. 49. Section 4996.23 of the Business and Professions
17 Code is amended to read:

18 4996.23. The experience required by subdivision (c) of Section
19 4996.2 shall meet the following criteria:

20 (a) All persons registered with the board on and after January
21 1, 2002, shall have at least 3,200 hours of post-master's degree
22 supervised experience providing clinical social work services as
23 permitted by Section 4996.9. At least 1,700 hours shall be gained
24 under the supervision of a licensed clinical social worker. The
25 remaining required supervised experience may be gained under
26 the supervision of a licensed mental health professional acceptable
27 to the board as defined by a regulation adopted by the board. This
28 experience shall consist of the following:

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

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

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

38 (4) A minimum of two years of supervised experience is required
39 to be obtained over a period of not less than 104 weeks and shall

1 have been gained within the six years immediately preceding the
2 date on which the application for licensure was filed.

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

5 (b) “Supervision” means responsibility for, and control of, the
6 quality of clinical social work services being provided.
7 Consultation or peer discussion shall not be considered to be
8 supervision.

9 (c) (1) Prior to the commencement of supervision, a supervisor
10 shall comply with all requirements enumerated in Section 1870 of
11 Title 16 of the California Code of Regulations and shall sign under
12 penalty of perjury the “Responsibility Statement for Supervisors
13 of an Associate Clinical Social Worker” form.

14 (2) Supervised experience shall include at least one hour of
15 direct supervisor contact for a minimum of 104 weeks. For
16 purposes of this subdivision, “one hour of direct supervisor contact”
17 means one hour per week of face-to-face contact on an individual
18 basis or two hours of face-to-face contact in a group conducted
19 within the same week as the hours claimed.

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

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

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

35 (6)

36 (5) Of the 104 weeks of required supervision, 52 weeks shall
37 be individual supervision, and of the 52 weeks of required
38 individual supervision, not less than 13 weeks shall be supervised
39 by a licensed clinical social worker.

40 (7)

1 (6) Notwithstanding paragraph (2), an associate clinical social
2 worker working for a governmental entity, school, college, or
3 university, or an institution that is both a nonprofit and charitable
4 institution, may obtain the required weekly direct supervisor
5 contact via live two-way videoconferencing. The supervisor shall
6 be responsible for ensuring that client confidentiality is preserved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 SEC. 50. Section 4999.46 of the Business and Professions
17 Code is amended to read:

18 4999.46. (a) To qualify for licensure, applicants shall complete
19 clinical mental health experience under the general supervision of
20 an approved supervisor as defined in Section 4999.12.

21 (b) The experience shall include a minimum of 3,000 postdegree
22 hours of supervised clinical mental health experience related to
23 the practice of professional clinical counseling, performed over a
24 period of not less than two years (104 weeks) which shall include:

25 (1) Not more than 40 hours in any seven consecutive days.

26 (2) Not less than 1,750 hours of direct counseling with
27 individuals or groups in a clinical mental health counseling setting
28 using a variety of psychotherapeutic techniques and recognized
29 counseling interventions within the scope of practice of licensed
30 professional clinical counselors.

31 (3) Not more than 500 hours of experience providing group
32 therapy or group counseling.

33 (4) Not more than 250 hours of experience providing counseling
34 or crisis counseling on the telephone.

35 (5) Not less than 150 hours of clinical experience in a hospital
36 or community mental health setting.

37 (6) Not more than a combined total of 1,250 hours of experience
38 in the following related activities:

39 (A) Direct supervisor contact.

40 (B) Client centered advocacy.

1 (C) Not more than 250 hours of experience administering tests
2 and evaluating psychological tests of clients, writing clinical
3 reports, writing progress notes, or writing process notes.

4 (D) Not more than 250 hours of verified attendance at
5 workshops, training sessions, or conferences directly related to
6 professional clinical counseling that are approved by the applicant's
7 supervisor.

8 (c) No hours of clinical mental health experience may be gained
9 more than six years prior to the date the application for examination
10 eligibility was filed.

11 (d) An applicant shall register with the board as an intern in
12 order to be credited for postdegree hours of experience toward
13 licensure. Postdegree hours of experience shall be credited toward
14 licensure, provided that the applicant applies for intern registration
15 within 90 days of the granting of the qualifying degree and is
16 registered as an intern by the board.

17 (e) All applicants and interns shall be at all times under the
18 supervision of a supervisor who shall be responsible for ensuring
19 that the extent, kind, and quality of counseling performed is
20 consistent with the training and experience of the person being
21 supervised, and who shall be responsible to the board for
22 compliance with all laws, rules, and regulations governing the
23 practice of professional clinical counseling. ~~At no time shall a
24 supervisor supervise more than two interns.~~

25 (f) *Experience obtained under the supervision of a spouse or
26 relative by blood or marriage shall not be credited toward the
27 required hours of supervised experience. Experience obtained
28 under the supervision of a supervisor with whom the applicant has
29 had or currently has a personal, professional, or business
30 relationship that undermines the authority or effectiveness of the
31 supervision shall not be credited toward the required hours of
32 supervised experience.*

33 (f)

34 (g) Supervision shall include at least one hour of direct
35 supervisor contact in each week for which experience is credited
36 in each work setting.

37 (1) No more than five hours of supervision, whether individual
38 or group, shall be credited during any single week.

1 ~~(2) An intern shall receive an average of at least one hour of~~
2 ~~direct supervisor contact for every 10 hours of client contact in~~
3 ~~each setting.~~

4 (2) *An intern shall receive at least one additional hour of direct*
5 *supervisor contact for every week in which more than 10 hours of*
6 *face-to-face psychotherapy is performed in each setting in which*
7 *experience is gained.*

8 (3) For purposes of this section, “one hour of direct supervisor
9 contact” means one hour of face-to-face contact on an individual
10 basis or two hours of face-to-face contact in a group of not more
11 than eight persons in segments lasting no less than one continuous
12 hour.

13 (4) ~~An~~ *Notwithstanding paragraph (3), an intern working in a*
14 *governmental entity, a school, a college, or a university, or an*
15 *institution that is both nonprofit and charitable, may obtain up to*
16 ~~30 hours~~ *of the required weekly direct supervisor contact via*
17 *two-way, real-time videoconferencing. The supervisor shall be*
18 *responsible for ensuring that client confidentiality is upheld.*

19 SEC. 51. Section 4999.57 is added to the Business and
20 Professions Code, to read:

21 4999.57. (a) This section applies to a person who applies for
22 examination eligibility or registration between January 1, 2011,
23 and December 31, 2013, inclusive, who does not hold a license
24 described in subdivision (a) of Section 4999.58.

25 (b) Experience gained outside of California shall be accepted
26 toward the licensure requirements if it is substantially equivalent
27 to that required by this chapter, if the applicant complies with
28 Section 4999.40, if applicable, and if the applicant has gained a
29 minimum of 250 hours of supervised experience in direct
30 counseling within California while registered as an intern with the
31 board.

32 (c) Education gained while residing outside of California shall
33 be accepted toward the licensure requirements if it is substantially
34 equivalent to the education requirements of this chapter, if the
35 applicant has completed the training or coursework required under
36 subdivision (e) of Section 4999.32, and if the applicant completes,
37 in addition to the course described in subparagraph (I) of paragraph
38 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
39 California law and professional ethics that includes, but is not
40 limited to, instruction in advertising, scope of practice, scope of

1 competence, treatment of minors, confidentiality, dangerous clients,
2 psychotherapist-client privilege, recordkeeping, client access to
3 records, the Health Insurance Portability and Accountability Act,
4 dual relationships, child abuse, elder and dependent adult abuse,
5 online therapy, insurance reimbursement, civil liability, disciplinary
6 actions and unprofessional conduct, ethics complaints and ethical
7 standards, termination of therapy, standards of care, relevant family
8 law, and therapist disclosures to clients.

9 (d) For purposes of this section, the board may, in its discretion,
10 accept education as substantially equivalent if the applicant's
11 education meets the requirements of Section 4999.32. If the
12 applicant's degree does not contain the content or the overall units
13 required by Section 4999.32, the board may, in its discretion, accept
14 the applicant's education as substantially equivalent if the following
15 criteria are satisfied:

16 (1) The applicant's degree contains the required number of
17 practicum units under paragraph (3) of subdivision (c) of Section
18 4999.32.

19 (2) The applicant remediates his or her specific deficiency by
20 completing the course content and units required by Section
21 4999.32.

22 (3) The applicant's degree otherwise complies with this section.

23 (e) This section shall become inoperative on January 1, 2014,
24 and as of that date is repealed, unless a later enacted statute, which
25 is enacted before January 1, 2014, deletes or extends that date.

26 SEC. 52. Section 4999.58 of the Business and Professions
27 Code is amended to read:

28 4999.58. (a) This section applies to ~~persons who apply a~~
29 *person who applies* for examination eligibility between January
30 1, 2011, and December 31, 2013, ~~inclusive~~. *inclusive, who meets*
31 *both of the following requirements:*

32 (1) *At the time of application, holds a valid license as a*
33 *professional clinical counselor; or other counseling license that*
34 *allows the applicant to independently provide clinical mental*
35 *health services, in another jurisdiction of the United States.*

36 (2) *Has held the license described in paragraph (1) for at least*
37 *two years immediately preceding the date of application.*

38 (b) The board may issue a license to a person ~~who, at the time~~
39 ~~of application, has held for at least two years, a valid license as a~~
40 ~~professional clinical counselor, or other counseling license that~~

1 allows the applicant to independently provide clinical mental health
2 services, in another jurisdiction of the United States, if the
3 described in subdivision (a) if all of the following requirements
4 are satisfied:

5 (1) The education and supervised experience requirements of
6 the other jurisdiction are substantially the equivalent of this
7 chapter, as described in subdivision (e) and in Section 4999.46.

8 (2) The person complies with subdivision (b) of Section 4999.40,
9 if applicable, the applicable.

10 (3) The person successfully completes the examinations required
11 by the board pursuant to paragraph (3) of subdivision (a) of Section
12 4999.50, and the 4999.50.

13 (4) The person pays the required fees.

14 (c) Experience gained outside of California shall be accepted
15 toward the licensure requirements if it is substantially equivalent
16 to that required by this chapter and if the applicant has gained a
17 minimum of 250 hours of supervised clinical experience in direct
18 counseling within California while registered as an intern with the
19 board. The board shall consider hours of experience obtained in
20 another state during the six-year period immediately preceding the
21 applicant's initial licensure by that state as a licensed professional
22 clinical counselor.

23 (d) Education gained while residing outside of California shall
24 be accepted toward the licensure requirements if it is substantially
25 equivalent to the education requirements of this chapter, if the
26 applicant has completed the training or coursework required under
27 subdivision (e) of Section 4999.32, and if the applicant completes,
28 in addition to the course described in subparagraph (I) of paragraph
29 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
30 California law and professional ethics that includes, but is not
31 limited to, instruction in advertising, scope of practice, scope of
32 competence, treatment of minors, confidentiality, dangerous clients,
33 psychotherapist-client privilege, recordkeeping, client access to
34 records, the Health Insurance Portability and Accountability Act,
35 dual relationships, child abuse, elder and dependent adult abuse,
36 online therapy, insurance reimbursement, civil liability, disciplinary
37 actions and unprofessional conduct, ethics complaints and ethical
38 standards, termination of therapy, standards of care, relevant family
39 law, and therapist disclosures to clients.

1 (e) For purposes of this section, the board may, in its discretion,
2 accept education as substantially equivalent if the applicant's
3 education meets the requirements of Section 4999.32. If the
4 applicant's degree does not contain the content or the overall units
5 required by Section 4999.32, the board may, in its discretion, accept
6 the applicant's education as substantially equivalent if the following
7 criteria are satisfied:

8 (1) The applicant's degree contains the required number of
9 practicum units under paragraph (3) of subdivision (c) of Section
10 4999.32.

11 (2) The applicant remediates his or her specific deficiency by
12 completing the course content and units required by Section
13 4999.32.

14 (3) The applicant's degree otherwise complies with this section.

15 (f) This section shall become inoperative on January 1, 2014,
16 and as of that date is repealed, unless a later enacted statute, which
17 is enacted before January 1, 2014, deletes or extends that date.

18 SEC. 53. Section 4999.59 is added to the Business and
19 Professions Code, to read:

20 4999.59. (a) This section applies to a person who applies for
21 examination eligibility or registration between January 1, 2011,
22 and December 31, 2013, inclusive, who meets both of the following
23 requirements:

24 (1) At the time of application, holds a valid license described
25 in paragraph (1) of subdivision (a) of Section 4999.58.

26 (2) Has held the license described in paragraph (1) for less than
27 two years immediately preceding the date of application.

28 (b) Experience gained outside of California shall be accepted
29 toward the licensure requirements if it is substantially equivalent
30 to that required by this chapter, if the applicant complies with
31 Section 4999.40, if applicable, and if the applicant has gained a
32 minimum of 250 hours of supervised experience in direct
33 counseling within California while registered as an intern with the
34 board. The board shall consider hours of experience obtained in
35 another state during the six-year period immediately preceding the
36 applicant's initial licensure in that state as a professional clinical
37 counselor.

38 (c) Education gained while residing outside of California shall
39 be accepted toward the licensure requirements if it is substantially
40 equivalent to the education requirements of this chapter, if the

1 applicant has completed the training or coursework required under
2 subdivision (e) of Section 4999.32, and if the applicant completes,
3 in addition to the course described in subparagraph (I) of paragraph
4 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
5 California law and professional ethics that includes, but is not
6 limited to, instruction in advertising, scope of practice, scope of
7 competence, treatment of minors, confidentiality, dangerous clients,
8 psychotherapist-client privilege, recordkeeping, client access to
9 records, the Health Insurance Portability and Accountability Act,
10 dual relationships, child abuse, elder and dependent adult abuse,
11 online therapy, insurance reimbursement, civil liability, disciplinary
12 actions and unprofessional conduct, ethics complaints and ethical
13 standards, termination of therapy, standards of care, relevant family
14 law, and therapist disclosures to clients.

15 (d) For purposes of this section, the board may, in its discretion,
16 accept education as substantially equivalent if the applicant's
17 education meets the requirements of Section 4999.32. If the
18 applicant's degree does not contain the content or the overall units
19 required by Section 4999.32, the board may, in its discretion, accept
20 the applicant's education as substantially equivalent if the following
21 criteria are satisfied:

22 (1) The applicant's degree contains the required number of
23 practicum units under paragraph (3) of subdivision (c) of Section
24 4999.32.

25 (2) The applicant remediates his or her specific deficiency by
26 completing the course content and units required by Section
27 4999.32.

28 (3) The applicant's degree otherwise complies with this section.

29 (e) This section shall become inoperative on January 1, 2014,
30 and as of that date is repealed, unless a later enacted statute, which
31 is enacted before January 1, 2014, deletes or extends that date.

32 SEC. 54. Section 4999.90 of the Business and Professions
33 Code is amended to read:

34 4999.90. The board may refuse to issue any registration or
35 license, or may suspend or revoke the registration or license of
36 any intern or licensed professional clinical counselor, if the
37 applicant, licensee, or registrant has been guilty of unprofessional
38 conduct. Unprofessional conduct includes, but is not limited to,
39 the following:

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

22 (b) Securing a license or registration by fraud, deceit, or
23 misrepresentation on any application for licensure or registration
24 submitted to the board, whether engaged in by an applicant for a
25 license or registration, or by a licensee in support of any application
26 for licensure or registration.

27 (c) Administering to himself or herself any controlled substance
28 or using any of the dangerous drugs specified in Section 4022, or
29 any alcoholic beverage to the extent, or in a manner, as to be
30 dangerous or injurious to the person applying for a registration or
31 license or holding a registration or license under this chapter, or
32 to any other person, or to the public, or, to the extent that the use
33 impairs the ability of the person applying for or holding a
34 registration or license to conduct with safety to the public the
35 practice authorized by the registration or license, or the conviction
36 of more than one misdemeanor or any felony involving the use,
37 consumption, or self-administration of any of the substances
38 referred to in this subdivision, or any combination thereof. The
39 board shall deny an application for a registration or license or
40 revoke the license or registration of any person, other than one

1 who is licensed as a physician and surgeon, who uses or offers to
2 use drugs in the course of performing licensed professional clinical
3 counseling services.

4 (d) Gross negligence or incompetence in the performance of
5 licensed professional clinical counseling services.

6 (e) Violating, attempting to violate, or conspiring to violate any
7 of the provisions of this chapter or any regulation adopted by the
8 board.

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

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

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

20 (i) Intentionally or recklessly causing physical or emotional
21 harm to any client.

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

25 (k) Engaging in sexual relations with a client, or a former client
26 within two years following termination of therapy, soliciting sexual
27 relations with a client, or committing an act of sexual abuse, or
28 sexual misconduct with a client, or committing an act punishable
29 as a sexually related crime, if that act or solicitation is substantially
30 related to the qualifications, functions, or duties of a licensed
31 professional clinical counselor.

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

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

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

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

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

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

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

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

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

36 (u) The violation of any statute or regulation of the standards
37 of the profession, and the nature of the services being rendered,
38 governing the gaining and supervision of experience required by
39 this chapter.

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

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

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

9 (y) Repeated acts of negligence.

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

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

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

29 *(ab) Revocation, suspension, or restriction by the board of a*
30 *license, certificate, or registration to practice as a clinical social*
31 *worker, educational psychologist, or marriage and family therapist.*