

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1489**

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**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

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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 2026, 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 amended, 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 2026 of the Business and Professions  
2     Code is repealed.  
3     2026. ~~The California Research Bureau (CRB) of the California  
4     State Library shall study the role of public disclosure in the public  
5     protection mandate of the board. The ensuing CRB report shall  
6     include, but not be limited to, considering whether the public is  
7     adequately informed about physician misconduct by the current  
8     laws and regulations providing for disclosure. The study shall  
9     present policy options for improving public access. The board shall  
10    work cooperatively with the CRB, providing cost-free access and  
11    reproduction assistance to the board’s records while protecting the  
12    identity and privacy of all persons involved in any complaint. The  
13    provision of confidential data, information, and case files by the  
14    board to the CRB shall not constitute a waiver of any exemption  
15    from disclosure or discovery or of any confidentiality protection~~

1 or privilege otherwise provided by law that is applicable to the  
2 data, information, or case files. Data will be presented in aggregate  
3 categories. This study shall be commenced as soon as possible and  
4 a report to the Legislature completed no later than July 1, 2008.

5 ~~SECTION 1.~~

6 *SEC. 2.* Section 2065 of the Business and Professions Code is  
7 amended to read:

8 2065. Unless otherwise provided by law, no postgraduate  
9 trainee, intern, resident, postdoctoral fellow, or instructor may  
10 engage in the practice of medicine, or receive compensation  
11 therefor, or offer to engage in the practice of medicine unless he  
12 or she holds a valid, unrevoked, and unsuspended physician's and  
13 surgeon's certificate issued by the board. However, a graduate of  
14 an approved medical school, who is registered with the board and  
15 who is enrolled in a postgraduate training program approved by  
16 the board, may engage in the practice of medicine whenever and  
17 wherever required as a part of the program under the following  
18 conditions:

19 (a) A graduate enrolled in an approved first-year postgraduate  
20 training program may so engage in the practice of medicine for a  
21 period not to exceed one year whenever and wherever required as  
22 a part of the training program, and may receive compensation for  
23 that practice.

24 (b) A graduate who has completed the first year of postgraduate  
25 training may, in an approved residency or fellowship, engage in  
26 the practice of medicine whenever and wherever required as part  
27 of that residency or fellowship, and may receive compensation for  
28 that practice. The resident or fellow shall qualify for, take, and  
29 pass the next succeeding written examination for licensure, or shall  
30 qualify for and receive a physician's and surgeon's certificate by  
31 one of the other methods specified in this chapter. If the resident  
32 or fellow fails to receive a license to practice medicine under this  
33 chapter within one year from the commencement of the residency  
34 or fellowship or if the board denies his or her application for  
35 licensure, all privileges and exemptions under this section shall  
36 automatically cease.

37 ~~SEC. 2.~~

38 *SEC. 3.* Section 2096 of the Business and Professions Code is  
39 amended to read:

1 2096. (a) In addition to other requirements of this chapter,  
2 before a physician's and surgeon's license may be issued, each  
3 applicant, including an applicant applying pursuant to Article 5  
4 (commencing with Section 2100), except as provided in subdivision  
5 (b), shall show by evidence satisfactory to the board that he or she  
6 has satisfactorily completed at least one year of postgraduate  
7 training.

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

11 (c) The postgraduate training required by this section shall  
12 include at least four months of general medicine and shall be  
13 obtained in a postgraduate training program approved by the  
14 Accreditation Council for Graduate Medical Education (ACGME)  
15 or the Royal College of Physicians and Surgeons of Canada  
16 (RCPSC).

17 (d) The amendments made to this section at the 1987 portion  
18 of the 1987-88 session of the Legislature shall not apply to  
19 applicants who completed their one year of postgraduate training  
20 on or before July 1, 1990.

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 2102 of the Business and Professions Code is  
23 amended to read:

24 2102. An applicant whose professional instruction was acquired  
25 in a country other than the United States or Canada shall provide  
26 evidence satisfactory to the board of compliance with the following  
27 requirements to be issued a physician's and surgeon's certificate:

28 (a) Completion in a medical school or schools of a resident  
29 course of professional instruction equivalent to that required by  
30 Section 2089 and issuance to the applicant of a document  
31 acceptable to the board that shows final and successful completion  
32 of the course. However, nothing in this section shall be construed  
33 to require the board to evaluate for equivalency any coursework  
34 obtained at a medical school disapproved by the board pursuant  
35 to this section.

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

1 (c) Satisfactory completion of the postgraduate training required  
2 under subdivision (b) of Section 2096. An applicant shall be  
3 required to have substantially completed the professional  
4 instruction required in subdivision (a) and shall be required to  
5 make application to the board and have passed steps 1 and 2 of  
6 the written examination relating to biomedical and clinical sciences  
7 prior to commencing any postgraduate training in this state. In its  
8 discretion, the board may authorize an applicant who is deficient  
9 in any education or clinical instruction required by Sections 2089  
10 and 2089.5 to make up any deficiencies as a part of his or her  
11 postgraduate training program, but that remedial training shall be  
12 in addition to the postgraduate training required for licensure.

13 (d) Passage of the written examination as provided under Article  
14 9 (commencing with Section 2170). An applicant shall be required  
15 to meet the requirements specified in subdivision (b) prior to being  
16 admitted to the written examination required by this subdivision.

17 (e) Nothing in this section prohibits the board from disapproving  
18 a foreign medical school or from denying an application if, in the  
19 opinion of the board, the professional instruction provided by the  
20 medical school or the instruction received by the applicant is not  
21 equivalent to that required in Article 4 (commencing with Section  
22 2080).

23 ~~SEC. 4.~~

24 *SEC. 5.* Section 2103 of the Business and Professions Code is  
25 amended to read:

26 2103. An applicant who is a citizen of the United States shall  
27 be eligible for a physician's and surgeon's certificate if he or she  
28 has completed the following requirements:

29 (a) Submitted official evidence satisfactory to the board of  
30 completion of a resident course or professional instruction  
31 equivalent to that required in Section 2089 in a medical school  
32 located outside the United States or Canada. However, nothing in  
33 this section shall be construed to require the board to evaluate for  
34 equivalency any coursework obtained at a medical school  
35 disapproved by the board pursuant to Article 4 (commencing with  
36 Section 2080).

37 (b) Submitted official evidence satisfactory to the board of  
38 completion of all formal requirements of the medical school for  
39 graduation, except the applicant shall not be required to have  
40 completed an internship or social service or be admitted or licensed



1 to practice medicine in the country in which the professional  
2 instruction was completed.

3 (c) Attained a score satisfactory to an approved medical school  
4 on a qualifying examination acceptable to the board.

5 (d) Successfully completed one academic year of supervised  
6 clinical training in a program approved by the board pursuant to  
7 Section 2104. The board shall also recognize as compliance with  
8 this subdivision the successful completion of a one-year supervised  
9 clinical medical internship operated by a medical school pursuant  
10 to Chapter 85 of the Statutes of 1972 and as amended by Chapter  
11 888 of the Statutes of 1973 as the equivalent of the year of  
12 supervised clinical training required by this section.

13 (1) Training received in the academic year of supervised clinical  
14 training approved pursuant to Section 2104 shall be considered as  
15 part of the total academic curriculum for purposes of meeting the  
16 requirements of Sections 2089 and 2089.5.

17 (2) An applicant who has passed the basic science and English  
18 language examinations required for certification by the Educational  
19 Commission for Foreign Medical Graduates may present evidence  
20 of those passing scores along with a certificate of completion of  
21 one academic year of supervised clinical training in a program  
22 approved by the board pursuant to Section 2104 in satisfaction of  
23 the formal certification requirements of subdivision (b) of Section  
24 2102.

25 (e) Satisfactorily completed the postgraduate training required  
26 under Section 2096.

27 (f) Passed the written examination required for certification as  
28 a physician and surgeon under this chapter.

29 ~~SEC. 5.~~

30 *SEC. 6.* Section 2177 of the Business and Professions Code is  
31 amended to read:

32 2177. (a) A passing score is required for an entire examination  
33 or for each part of an examination, as established by resolution of  
34 the board.

35 (b) Applicants may elect to take the written examinations  
36 conducted or accepted by the board in separate parts.

37 (c) (1) An applicant shall have obtained a passing score on Step  
38 3 of the United States Medical Licensing Examination within not  
39 more than four attempts in order to be eligible for a physician's  
40 and surgeon's certificate.

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

6 ~~SEC. 6.~~

7 *SEC. 7.* Section 2184 of the Business and Professions Code is  
8 amended to read:

9 2184. (a) Each applicant shall obtain on the written  
10 examination a passing score, established by the board pursuant to  
11 Section 2177.

12 (b) (1) Passing scores on Step 3 of the United States Medical  
13 Licensing Examination shall be valid for a period of 10 years from  
14 the month of the examination for purposes of qualification for  
15 licensure in California.

16 (2) The period of validity provided for in paragraph (1) may be  
17 extended by the board for any of the following:

- 18 (A) For good cause.
- 19 (B) For time spent in a postgraduate training program, including,  
20 but not limited to, residency training, fellowship training, remedial  
21 or refresher training, or other training that is intended to maintain  
22 or improve medical skills.
- 23 (C) For an applicant who holds a valid, unlimited license as a  
24 physician and surgeon in another state or a Canadian province and  
25 has actively practiced medicine in that state or province.

26 (3) Upon expiration of the 10-year period plus any extension  
27 granted by the board under paragraph (2), the applicant shall pass  
28 the Special Purpose Examination of the Federation of State Medical  
29 Boards or a clinical competency written examination determined  
30 by the board to be equivalent.

31 ~~SEC. 7.~~ Section 2397 of the Business and Professions Code is  
32 amended to read:

33 ~~2397. (a) A licensee shall not be liable for civil damages for~~  
34 ~~injury or death caused in an emergency situation occurring in the~~  
35 ~~licensee’s office or in a hospital on account of a failure to inform~~  
36 ~~a patient of the possible consequences of a medical procedure~~  
37 ~~where the failure to inform is caused by any of the following:~~

- 38 ~~(1) The patient was unconscious.~~
- 39 ~~(2) The medical procedure was undertaken without the consent~~  
40 ~~of the patient because the licensee reasonably believed that a~~

1 ~~medical procedure should be undertaken immediately and that~~  
2 ~~there was insufficient time to fully inform the patient.~~

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

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

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

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

16 ~~(2) "Emergency situation occurring in the licensee's office"~~  
17 ~~means a situation occurring in an office, other than a hospital, used~~  
18 ~~by a licensee for the examination or treatment of patients, requiring~~  
19 ~~immediate services for alleviation of severe pain, or immediate~~  
20 ~~diagnosis and treatment of unforeseeable medical conditions,~~  
21 ~~which, if not immediately diagnosed and treated, would lead to~~  
22 ~~serious disability or death.~~

23 ~~(3) "Emergency situation occurring in a hospital" means a~~  
24 ~~situation occurring in a hospital, whether or not it occurs in an~~  
25 ~~emergency room, requiring immediate services for alleviation of~~  
26 ~~severe pain, or immediate diagnosis and treatment of unforeseeable~~  
27 ~~medical conditions, which, if not immediately diagnosed and~~  
28 ~~treated, would lead to serious disability or death.~~

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

31 2570.19. (a) There is hereby created a California Board of  
32 Occupational Therapy, hereafter referred to as the board. The board  
33 shall enforce and administer this chapter.

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

35 (1) Three occupational therapists who shall have practiced  
36 occupational therapy for five years.

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

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

1 (c) The Governor shall appoint the three occupational therapists  
2 and one occupational therapy assistant to be members of the board.  
3 The Governor, the Senate Committee on Rules, and the Speaker  
4 of the Assembly shall each appoint a public member. Not more  
5 than one member of the board shall be appointed from the full-time  
6 faculty of any university, college, or other educational institution.

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

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

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

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

38 (h) Notice of each meeting of the board shall be given in  
39 accordance with the Bagley-Keene Open Meeting Act (Article 9

1 (commencing with Section 11120) of Chapter 1 of Part 1 of  
2 Division 3 of Title 2 of the Government Code).

3 (i) Members of the board shall receive no compensation for  
4 their services, but shall be entitled to reasonable travel and other  
5 expenses incurred in the execution of their powers and duties in  
6 accordance with Section 103.

7 (j) The appointing power shall have the power to remove any  
8 member of the board from office for neglect of any duty imposed  
9 by state law, for incompetency, or for unprofessional or  
10 dishonorable conduct.

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

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

19 3025.1. The board may adopt rules and regulations that are, in  
20 its judgment, reasonable and necessary to ensure that optometrists  
21 have the knowledge to adequately protect the public health and  
22 safety by establishing educational requirements for admission to  
23 the examinations for licensure.

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

26 3046. In order to obtain a license to practice optometry in  
27 California, an applicant shall have graduated from an accredited  
28 school of optometry, passed the required examinations for  
29 licensure, and not have met any of the grounds for denial  
30 established in Section 480. The proceedings under this section  
31 shall be in accordance with Chapter 5 (commencing with Section  
32 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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

35 3057.5. Notwithstanding any other provision of this chapter,  
36 the board shall permit a person who meets all of the following  
37 requirements to take the examinations for a certificate of  
38 registration as an optometrist:

39 (a) Is over the age of 18 years.

40 (b) Is not subject to denial of a certificate under Section 480.

1 (c) Has a degree as a doctor of optometry issued by a university  
2 located outside of the United States.

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

5 3147. Except as otherwise provided by Section 114, an expired  
6 license may be renewed at any time within three years after its  
7 expiration by filing an application for renewal on a form prescribed  
8 by the board, paying all accrued and unpaid renewal fees, paying  
9 any delinquency fees prescribed by the board, and submitting proof  
10 of completion of the required number of hours of continuing  
11 education for the last two years, as prescribed by the board pursuant  
12 to Section 3159. Renewal under this section shall be effective on  
13 the date on which all of those requirements are satisfied. If so  
14 renewed, the license shall continue as provided in Sections 3146  
15 and 3147.5.

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

18 3147.6. Except as otherwise provided by Section 114, a license  
19 that is not renewed within three years after its expiration may be  
20 restored thereafter, if no fact, circumstance, or condition exists  
21 that, if the license were restored, would justify its revocation or  
22 suspension, provided all of the following conditions are met:

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

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

27 (c) The holder of the expired license pays the fee or fees as  
28 would be required of him or her if he or she were then applying  
29 for a license for the first time.

30 (d) The holder of the expired license satisfactorily passes both  
31 of the following examinations:

32 (1) The National Board of Examiners in Optometry’s Clinical  
33 Skills examination or other clinical examination approved by the  
34 board.

35 (2) The board’s jurisprudence examination.

36 (e) After taking and satisfactorily passing the examinations  
37 identified in subdivision (d), the holder of the expired license pays  
38 a restoration fee equal to the sum of the license renewal fee in  
39 effect on the last regular renewal date for licenses and any  
40 delinquency fees prescribed by the board.

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

3 3147.7. The provisions of Section 3147.6 shall not apply to a  
4 person holding a license that has not been renewed within three  
5 years of expiration, if the person provides satisfactory proof that  
6 he or she holds an active license from another state and meets all  
7 of the following conditions:

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

9 (b) Applies in writing for restoration of the license on a form  
10 prescribed by the board.

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

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

15 (e) Takes and satisfactorily passes the board's jurisprudence  
16 examination.

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

19 4017. "Authorized officers of the law" means inspectors of the  
20 California State Board of Pharmacy, inspectors of the Food and  
21 Drug Branch of the State Department of Public Health, and  
22 investigators of the department's Division of Investigation or peace  
23 officers engaged in official investigations.

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

26 4028. "Licensed hospital" means an institution, place, building,  
27 or agency that maintains and operates organized facilities for one  
28 or more persons for the diagnosis, care, and treatment of human  
29 illnesses to which persons may be admitted for overnight stay, and  
30 includes any institution classified under regulations issued by the  
31 State Department of Public Health as a general or specialized  
32 hospital, as a maternity hospital, or as a tuberculosis hospital, but  
33 does not include a sanitarium, rest home, a nursing or convalescent  
34 home, a maternity home, or an institution for treating alcoholics.

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

37 4037. (a) "Pharmacy" means an area, place, or premises  
38 licensed by the board in which the profession of pharmacy is  
39 practiced and where prescriptions are compounded. "Pharmacy"  
40 includes, but is not limited to, any area, place, or premises

1 described in a license issued by the board wherein controlled  
2 substances, dangerous drugs, or dangerous devices are stored,  
3 possessed, prepared, manufactured, derived, compounded, or  
4 repackaged, and from which the controlled substances, dangerous  
5 drugs, or dangerous devices are furnished, sold, or dispensed at  
6 retail.

7 (b) “Pharmacy” shall not include any area in a facility licensed  
8 by the State Department of Public Health where floor supplies,  
9 ward supplies, operating room supplies, or emergency room  
10 supplies of dangerous drugs or dangerous devices are stored or  
11 possessed solely for treatment of patients registered for treatment  
12 in the facility or for treatment of patients receiving emergency care  
13 in the facility.

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

16 4052.3. (a) Notwithstanding any other provision of law, a  
17 pharmacist may furnish emergency contraception drug therapy in  
18 accordance with either of the following:

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

22 (2) Standardized procedures or protocols developed and  
23 approved by both the board and the Medical Board of California  
24 in consultation with the American College of Obstetricians and  
25 Gynecologists, the California Pharmacist Association, and other  
26 appropriate entities. Both the board and the Medical Board of  
27 California shall have authority to ensure compliance with this  
28 clause, and both boards are specifically charged with the  
29 enforcement of this provision with respect to their respective  
30 licensees. Nothing in this clause shall be construed to expand the  
31 authority of a pharmacist to prescribe any prescription medication.

32 (b) Prior to performing a procedure authorized under this  
33 paragraph, a pharmacist shall complete a training program on  
34 emergency contraception that consists of at least one hour of  
35 approved continuing education on emergency contraception drug  
36 therapy.

37 (c) A pharmacist, pharmacist’s employer, or pharmacist’s agent  
38 may not directly charge a patient a separate consultation fee for  
39 emergency contraception drug therapy services initiated pursuant  
40 to this paragraph, but may charge an administrative fee not to



1 exceed ten dollars (\$10) above the retail cost of the drug. Upon an  
2 oral, telephonic, electronic, or written request from a patient or  
3 customer, a pharmacist or pharmacist's employee shall disclose  
4 the total retail price that a consumer would pay for emergency  
5 contraception drug therapy. As used in this subparagraph, total  
6 retail price includes providing the consumer with specific  
7 information regarding the price of the emergency contraception  
8 drugs and the price of the administrative fee charged. This  
9 limitation is not intended to interfere with other contractually  
10 agreed-upon terms between a pharmacist, a pharmacist's employer,  
11 or a pharmacist's agent, and a health care service plan or insurer.  
12 Patients who are insured or covered and receive a pharmacy benefit  
13 that covers the cost of emergency contraception shall not be  
14 required to pay an administrative fee. These patients shall be  
15 required to pay copayments pursuant to the terms and conditions  
16 of their coverage. The provisions of this subparagraph shall cease  
17 to be operative for dedicated emergency contraception drugs when  
18 these drugs are reclassified as over-the-counter products by the  
19 federal Food and Drug Administration.

20 (d) A pharmacist may not require a patient to provide  
21 individually identifiable medical information that is not specified  
22 in Section 1707.1 of Title 16 of the California Code of Regulations  
23 before initiating emergency contraception drug therapy pursuant  
24 to this section.

25 (e) For each emergency contraception drug therapy initiated  
26 pursuant to this section, the pharmacist shall provide the recipient  
27 of the emergency contraception drugs with a standardized factsheet  
28 that includes, but is not limited to, the indications for use of the  
29 drug, the appropriate method for using the drug, the need for  
30 medical followup, and other appropriate information. The board  
31 shall develop this form in consultation with the State Department  
32 of Public Health, the American College of Obstetricians and  
33 Gynecologists, the California Pharmacists Association, and other  
34 health care organizations. The provisions of this section do not  
35 preclude the use of existing publications developed by nationally  
36 recognized medical organizations.

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

39 4059. (a) A person may not furnish any dangerous drug, except  
40 upon the prescription of a physician, dentist, podiatrist, optometrist,

1 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A  
2 person may not furnish any dangerous device, except upon the  
3 prescription of a physician, dentist, podiatrist, optometrist,  
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

5 (b) This section does not apply to the furnishing of any  
6 dangerous drug or dangerous device by a manufacturer, wholesaler,  
7 or pharmacy to each other or to a physician, dentist, podiatrist,  
8 optometrist, veterinarian, or naturopathic doctor pursuant to Section  
9 3640.7, or to a laboratory under sales and purchase records that  
10 correctly give the date, the names and addresses of the supplier  
11 and the buyer, the drug or device, and its quantity. This section  
12 does not apply to the furnishing of any dangerous device by a  
13 manufacturer, wholesaler, or pharmacy to a physical therapist  
14 acting within the scope of his or her license under sales and  
15 purchase records that correctly provide the date the device is  
16 provided, the names and addresses of the supplier and the buyer,  
17 a description of the device, and the quantity supplied.

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

32 (d) Home dialysis patients who receive any drugs or devices  
33 pursuant to subdivision (c) shall have completed a full course of  
34 home training given by a dialysis center licensed by the State  
35 Department of Public Health. The physician prescribing the dialysis  
36 products shall submit proof satisfactory to the manufacturer or  
37 wholesaler that the patient has completed the program.

38 (e) A pharmacist may furnish a dangerous drug authorized for  
39 use pursuant to Section 2620.3 to a physical therapist. A record  
40 containing the date, name and address of the buyer, and name and

1 quantity of the drug shall be maintained. This subdivision shall  
2 not be construed to authorize the furnishing of a controlled  
3 substance.

4 (f) A pharmacist may furnish electroneuromyographic needle  
5 electrodes or hypodermic needles used for the purpose of placing  
6 wire electrodes for kinesiological electromyographic testing to  
7 physical therapists who are certified by the Physical Therapy Board  
8 of California to perform tissue penetration in accordance with  
9 Section 2620.5.

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

14 (h) A veterinary food-animal drug retailer shall dispense, furnish,  
15 transfer, or sell veterinary food-animal drugs only to another  
16 veterinary food-animal drug retailer, a pharmacy, a veterinarian,  
17 or to a veterinarian's client pursuant to a prescription from the  
18 veterinarian for food-producing animals.

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

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

34 (b) In enacting this section, the Legislature recognizes and  
35 affirms the role of the State Department of Public Health in  
36 regulating drug order processing requirements for licensed health  
37 care facilities as set forth in Title 22 of the California Code of  
38 Regulations as they may be amended from time to time.

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

1 4101. (a) A pharmacist may take charge of and act as the  
2 pharmacist-in-charge of a pharmacy upon application by the  
3 pharmacy and approval by the board. Any pharmacist-in-charge  
4 who ceases to act as the pharmacist-in-charge of the pharmacy  
5 shall notify the board in writing within 30 days of the date of that  
6 change in status.

7 (b) A designated representative or a pharmacist may take charge  
8 of, and act as, the designated representative-in-charge of a  
9 wholesaler or veterinary food-animal drug retailer upon application  
10 by the wholesaler or veterinary food-animal drug retailer and  
11 approval by the board. Any designated representative-in-charge  
12 who ceases to act as the designated representative-in-charge at that  
13 entity shall notify the board in writing within 30 days of the date  
14 of that change in status.

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

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

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

37 (1) The dangerous drug or dangerous device is furnished  
38 exclusively for use in conjunction with services provided in an  
39 ambulance, or other approved emergency medical services service  
40 provider, that provides prehospital emergency medical services.

1 (2) The requested dangerous drug or dangerous device is within  
2 the licensed or certified emergency medical technician’s scope of  
3 practice as established by the Emergency Medical Services  
4 Authority and set forth in Title 22 of the California Code of  
5 Regulations.

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

9 (4) The approved emergency medical services provider  
10 administers dangerous drugs and dangerous devices in accordance  
11 with the policies and procedures of the local emergency medical  
12 services agency.

13 (5) The approved emergency medical services provider  
14 documents, stores, and restocks dangerous drugs and dangerous  
15 devices in accordance with the policies and procedures of the local  
16 emergency medical services agency.

17 Records of each request by, and dangerous drugs or dangerous  
18 devices furnished to, an approved service provider within an  
19 emergency medical services system, shall be maintained by both  
20 the approved service provider and the dispensing pharmacy for a  
21 period of at least three years.

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

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

27 4127.1. (a) A pharmacy shall not compound injectable sterile  
28 drug products in this state unless the pharmacy has obtained a  
29 license from the board pursuant to this section. The license shall  
30 be renewed annually and is not transferable.

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

39 (c) A license to compound injectable sterile drug products may  
40 not be renewed until the location has been inspected by the board

1 and found to be in compliance with this article and regulations  
2 adopted by the board.

3 (d) Pharmacies operated by entities that are licensed by either  
4 the board or the State Department of Public Health and that have  
5 current accreditation from the Joint Commission on Accreditation  
6 of Healthcare Organizations, or other private accreditation agencies  
7 approved by the board, are exempt from the requirement to obtain  
8 a license pursuant to this section.

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

- 11 (1) The sterile powder was obtained from a manufacturer.
- 12 (2) The drug is reconstituted for administration to patients by  
13 a health care professional licensed to administer drugs by injection  
14 pursuant to this division.

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

17 4169. (a) A person or entity may not do any of the following:

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

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

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

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

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

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

37 (c) Amounts due from any person under this section shall be  
38 offset as provided under Section 12419.5 of the Government Code.  
39 Amounts received by the board under this section shall be deposited  
40 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.

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

6 4181. (a) Prior to the issuance of a clinic license authorized  
7 under Section 4180, the clinic shall comply with all applicable  
8 laws and regulations of the State Department of Public Health  
9 relating to the drug distribution service to ensure that inventories,  
10 security procedures, training, protocol development, recordkeeping,  
11 packaging, labeling, dispensing, and patient consultation occur in  
12 a manner that is consistent with the promotion and protection of  
13 the health and safety of the public. The policies and procedures to  
14 implement the laws and regulations shall be developed and  
15 approved by the consulting pharmacist, the professional director,  
16 and the clinic administrator.

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

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

23 4191. (a) Prior to the issuance of a clinic license authorized  
24 under this article, the clinic shall comply with all applicable laws  
25 and regulations of the State Department of Public Health and the  
26 board relating to drug distribution to ensure that inventories,  
27 security procedures, training, protocol development, recordkeeping,  
28 packaging, labeling, dispensing, and patient consultation are carried  
29 out in a manner that is consistent with the promotion and protection  
30 of the health and safety of the public. The policies and procedures  
31 to implement the laws and regulations shall be developed and  
32 approved by the consulting pharmacist, the professional director,  
33 and the clinic administrator.

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

38 SEC. 27. Section 4196 of the Business and Professions Code  
39 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-in-charge, and shall on the  
5 same form propose another designated representative or pharmacist  
6 to take over as the designated representative-in-charge. The  
7 proposed replacement designated representative-in-charge shall  
8 be subject to approval by the board. If disapproved, the veterinary  
9 food-animal drug retailer shall propose another replacement within  
10 15 days of the date of disapproval, and shall continue to name  
11 proposed replacements until a designated representative-in-charge  
12 is approved by the board.

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

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

19 4200.1. (a) Notwithstanding Section 135, an applicant may  
20 take the North American Pharmacist Licensure Examination four  
21 times, and may take the California Practice Standards and  
22 Jurisprudence Examination for Pharmacists four times.

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

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

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

36 (e) For purposes of this section, the board shall treat each failing  
37 score on the pharmacist licensure examination administered by  
38 the board prior to January 1, 2004, as a failing score on both the  
39 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 SEC. 32. Section 4980.40.5 of the Business and Professions  
14 Code is amended to read:

15 4980.40.5. (a) A doctor's or master's degree in marriage,  
16 family, and child counseling, marital and family therapy,  
17 psychology, clinical psychology, counseling psychology, or  
18 counseling with an emphasis in either marriage, family, and child  
19 counseling, or marriage and family therapy, obtained from a school,  
20 college, or university approved by the Bureau for Private  
21 Postsecondary and Vocational Education as of June 30, 2007, shall  
22 be considered by the board to meet the requirements necessary for  
23 licensure as a marriage and family therapist and for registration  
24 as a marriage and family therapist intern provided that the degree  
25 is conferred on or before July 1, 2010.

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

32 (1) Northwest Commission on Colleges and Universities.

33 (2) Middle States Association of Colleges and Secondary  
34 Schools.

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

36 (4) North Central Association of Colleges and Secondary  
37 Schools.

38 (5) Southern Association of Colleges and Schools.

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

1 4980.43. (a) Prior to applying for licensure examinations, each  
2 applicant shall complete experience that shall comply with the  
3 following:

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

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

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

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

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

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

18 (6) No hours of experience gained more than six years prior to  
19 the date the application for examination eligibility was filed, except  
20 that up to 500 hours of clinical experience gained in the supervised  
21 practicum required by subdivision (c) of Section 4980.37 and  
22 subparagraph (B) of paragraph (1) of subdivision (d) of Section  
23 4980.36 shall be exempt from this six-year requirement.

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

26 (A) Direct supervisor contact.

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

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

34 (ii) Participation by the applicant in personal psychotherapy,  
35 which includes group, marital or conjoint, family, or individual  
36 psychotherapy by an appropriately licensed professional. An  
37 applicant shall have no more than 100 hours of participation in  
38 personal psychotherapy. The applicant shall be credited with three  
39 hours of experience for each hour of personal psychotherapy.

40 (C) Client centered advocacy.

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

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

6 (10) Not less than 500 total hours of experience in diagnosing  
7 and treating couples, families, and children. For up to 150 hours  
8 of treating couples and families in conjoint therapy, the applicant  
9 shall be credited with two hours of experience for each hour of  
10 therapy provided.

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

14 (b) All applicants, trainees, and registrants shall be at all times  
15 under the supervision of a supervisor who shall be responsible for  
16 ensuring that the extent, kind, and quality of counseling performed  
17 is consistent with the training and experience of the person being  
18 supervised, and who shall be responsible to the board for  
19 compliance with all laws, rules, and regulations governing the  
20 practice of marriage and family therapy. Supervised experience  
21 shall be gained by interns and trainees either as an employee or as  
22 a volunteer. The requirements of this chapter regarding gaining  
23 hours of experience and supervision are applicable equally to  
24 employees and volunteers. Experience shall not be gained by  
25 interns or trainees as an independent contractor.

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

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

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

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

38 (2) An individual supervised after being granted a qualifying  
39 degree shall receive at least one additional hour of direct supervisor  
40 contact for every week in which more than 10 hours of client

1 contact is gained in each setting. No more than five hours of  
2 supervision, whether individual or group, shall be credited during  
3 any single week.

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

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

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

13 (6) 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 the  
16 required weekly direct supervisor contact via two-way, real-time  
17 videoconferencing. The supervisor shall be responsible for ensuring  
18 that client confidentiality is upheld.

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

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

23 (A) Lawfully and regularly provides mental health counseling  
24 or psychotherapy.

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

29 (C) Is not a private practice owned by a licensed marriage and  
30 family therapist, a licensed psychologist, a licensed clinical social  
31 worker, a licensed physician and surgeon, or a professional  
32 corporation of any of those licensed professions.

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

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

37 (A) Lawfully and regularly provides mental health counseling  
38 or psychotherapy.

39 (B) Provides oversight to ensure that the intern’s work at the  
40 setting meets the experience and supervision requirements set forth

1 in this chapter and is within the scope of practice for the profession  
2 as defined in Section 4980.02.

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

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

9 (4) Except for periods of time during a supervisor's vacation or  
10 sick leave, an intern who is employed or volunteering in private  
11 practice shall be under the direct supervision of a licensee that has  
12 satisfied the requirements of subdivision (g) of Section 4980.03.  
13 The supervising licensee shall either be employed by and practice  
14 at the same site as the intern's employer, or shall be an owner or  
15 shareholder of the private practice. Alternative supervision may  
16 be arranged during a supervisor's vacation or sick leave if the  
17 supervision meets the requirements of this section.

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

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

23 (g) Except when employed in a private practice setting, all  
24 postdegree hours of experience shall be credited toward licensure  
25 so long as the applicant applies for the intern registration within  
26 90 days of the granting of the qualifying master's or doctor's  
27 degree and is thereafter granted the intern registration by the board.

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

31 (i) Trainees, interns, and applicants shall only perform services  
32 at the place where their employers regularly conduct business,  
33 which may include performing services at other locations, so long  
34 as the services are performed under the direction and control of  
35 their employer and supervisor, and in compliance with the laws  
36 and regulations pertaining to supervision. Trainees and interns  
37 shall have no proprietary interest in their employers' businesses  
38 and shall not lease or rent space, pay for furnishings, equipment  
39 or supplies, or in any other way pay for the obligations of their  
40 employers.

1 (j) Trainees, interns, or applicants who provide volunteered  
 2 services or other services, and who receive no more than a total,  
 3 from all work settings, of five hundred dollars (\$500) per month  
 4 as reimbursement for expenses actually incurred by those trainees,  
 5 interns, or applicants for services rendered in any lawful work  
 6 setting other than a private practice shall be considered an  
 7 employee and not an independent contractor. The board may audit  
 8 applicants who receive reimbursement for expenses, and the  
 9 applicants shall have the burden of demonstrating that the payments  
 10 received were for reimbursement of expenses actually incurred.

11 (k) Each educational institution preparing applicants for  
 12 licensure pursuant to this chapter shall consider requiring, and  
 13 shall encourage, its students to undergo individual, marital or  
 14 conjoint, family, or group counseling or psychotherapy, as  
 15 appropriate. Each supervisor shall consider, advise, and encourage  
 16 his or her interns and trainees regarding the advisability of  
 17 undertaking individual, marital or conjoint, family, or group  
 18 counseling or psychotherapy, as appropriate. Insofar as it is deemed  
 19 appropriate and is desired by the applicant, the educational  
 20 institution and supervisors are encouraged to assist the applicant  
 21 in locating that counseling or psychotherapy at a reasonable cost.

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

24 4980.80. (a) This section applies to persons who apply for  
 25 licensure between January 1, 2010, and December 31, 2013,  
 26 inclusive.

27 (b) The board may issue a license to a person who, at the time  
 28 of application, holds a valid license issued by a board of marriage  
 29 counselor examiners, marriage therapist examiners, or  
 30 corresponding authority of any state, if all of the following  
 31 requirements are satisfied:

32 (1) The person has held that license for at least two years  
 33 immediately preceding the date of application.

34 (2) The education and supervised experience requirements are  
 35 substantially the equivalent of this chapter.

36 (3) The person complies with Section 4980.76, if applicable.

37 (4) The person successfully completes the board administered  
 38 licensing examinations as specified by subdivision (d) of Section  
 39 4980.40 and pays the fees specified.



1 (5) The person completes all of the following coursework or  
2 training:

3 (A) (i) An applicant who completed a two semester or three  
4 quarter unit course in law and professional ethics for marriage and  
5 family therapists that included areas of study as specified in Section  
6 4980.41 as part of his or her qualifying degree shall complete an  
7 18-hour course in California law and professional ethics that  
8 includes, but is not limited to, the following subjects: advertising,  
9 scope of practice, scope of competence, treatment of minors,  
10 confidentiality, dangerous patients, psychotherapist-patient  
11 privilege, recordkeeping, patient access to records, requirements  
12 of the Health Insurance Portability and Accountability Act of 1996,  
13 dual relationships, child abuse, elder and dependent adult abuse,  
14 online therapy, insurance reimbursement, civil liability, disciplinary  
15 actions and unprofessional conduct, ethics complaints and ethical  
16 standards, termination of therapy, standards of care, relevant family  
17 law, and therapist disclosures to patients.

18 (ii) An applicant who has not completed a two semester or three  
19 quarter unit course in law and professional ethics for marriage and  
20 family therapists that included areas of study as specified in Section  
21 4980.41 as part of his or her qualifying degree, shall complete a  
22 two semester or three quarter unit course in California law and  
23 professional ethics that includes, at minimum, the areas of study  
24 specified in Section 4980.41.

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

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

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

34 (E) (i) Instruction in spousal or partner abuse assessment,  
35 detection, and intervention. This instruction may be taken either  
36 in fulfillment of other requirements for licensure or in a separate  
37 course.

38 (ii) A minimum of 15 contact hours of coursework or training  
39 in spousal or partner abuse assessment, detection, and intervention  
40 strategies.

1 (F) A minimum of a two semester or three quarter unit survey  
2 course in psychological testing. This course may be taken either  
3 in fulfillment of other requirements for licensure or in a separate  
4 course.

5 (G) A minimum of a two semester or three quarter unit survey  
6 course in psychopharmacology. This course may be taken either  
7 in fulfillment of other requirements for licensure or in a separate  
8 course.

9 (H) With respect to human sexuality, alcoholism and other  
10 chemical substance dependency, spousal or partner abuse  
11 assessment, detection, and intervention, psychological testing, and  
12 psychopharmacology, the board may accept training or coursework  
13 acquired out of state.

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

17 SEC. 35. Section 4982.2 of the Business and Professions Code  
18 is repealed.

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

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

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

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

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

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

1 4984.8. (a) A licensee may apply to the board to request that  
2 his or her license be placed on inactive status.

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

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

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

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

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

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

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

26 4989.54. The board may deny a license or may suspend or  
27 revoke the license of a licensee if he or she has been guilty of  
28 unprofessional conduct. Unprofessional conduct includes, but is  
29 not limited to, the following:

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

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

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

38 (3) A plea or verdict of guilty or a conviction following a plea  
39 of nolo contendere made to a charge substantially related to the  
40 qualifications, functions, or duties of a licensee under this chapter

1 shall be deemed to be a conviction within the meaning of this  
2 section.

3 (4) The board may order a license suspended or revoked, or  
4 may decline to issue a license when the time for appeal has elapsed,  
5 or the judgment of conviction has been affirmed on appeal, or  
6 when an order granting probation is made suspending the  
7 imposition of sentence, irrespective of a subsequent order under  
8 Section 1203.4 of the Penal Code allowing the person to withdraw  
9 a plea of guilty and enter a plea of not guilty or setting aside the  
10 verdict of guilty or dismissing the accusation, information, or  
11 indictment.

12 (b) Securing a license by fraud, deceit, or misrepresentation on  
13 an application for licensure submitted to the board, whether  
14 engaged in by an applicant for a license or by a licensee in support  
15 of an application for licensure.

16 (c) Administering to himself or herself a controlled substance  
17 or using any of the dangerous drugs specified in Section 4022 or  
18 an alcoholic beverage to the extent, or in a manner, as to be  
19 dangerous or injurious to himself or herself or to any other person  
20 or to the public or to the extent that the use impairs his or her ability  
21 to safely perform the functions authorized by the license. The board  
22 shall deny an application for a license or revoke the license of any  
23 person, other than one who is licensed as a physician and surgeon,  
24 who uses or offers to use drugs in the course of performing  
25 educational psychology.

26 (d) Failure to comply with the consent provisions in Section  
27 2290.5.

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

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

33 (g) Commission of any dishonest, corrupt, or fraudulent act  
34 substantially related to the qualifications, functions, or duties of a  
35 licensee.

36 (h) Denial of licensure, revocation, suspension, restriction, or  
37 any other disciplinary action imposed by another state or territory  
38 or possession of the United States or by any other governmental  
39 agency, on a license, certificate, or registration to practice  
40 educational psychology or any other healing art. A certified copy

1 of the disciplinary action, decision, or judgment shall be conclusive  
2 evidence of that action.

3 (i) Revocation, suspension, or restriction by the board of a  
4 license, certificate, or registration to practice as a clinical social  
5 worker, professional clinical counselor, or marriage and family  
6 therapist.

7 (j) Failure to keep records consistent with sound clinical  
8 judgment, the standards of the profession, and the nature of the  
9 services being rendered.

10 (k) Gross negligence or incompetence in the practice of  
11 educational psychology.

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

16 (m) Intentionally or recklessly causing physical or emotional  
17 harm to any client.

18 (n) Engaging in sexual relations with a client or a former client  
19 within two years following termination of professional services,  
20 soliciting sexual relations with a client, or committing an act of  
21 sexual abuse or sexual misconduct with a client or committing an  
22 act punishable as a sexually related crime, if that act or solicitation  
23 is substantially related to the qualifications, functions, or duties of  
24 a licensed educational psychologist.

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

29 (p) Paying, accepting, or soliciting any consideration,  
30 compensation, or remuneration, whether monetary or otherwise,  
31 for the referral of professional clients.

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

37 (r) Performing, holding himself or herself out as being able to  
38 perform, or offering to perform any professional services beyond  
39 the scope of the license authorized by this chapter or beyond his

1 or her field or fields of competence as established by his or her  
2 education, training, or experience.

3 (s) Reproducing or describing in public, or in any publication  
4 subject to general public distribution, any psychological test or  
5 other assessment device the value of which depends in whole or  
6 in part on the naivete of the subject in ways that might invalidate  
7 the test or device. An educational psychologist shall limit access  
8 to the test or device to persons with professional interests who can  
9 be expected to safeguard its use.

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

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

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

18 (w) Failing to comply with the elder and adult dependent abuse  
19 reporting requirements of Section 15630 of the Welfare and  
20 Institutions Code.

21 (x) Willful violation of Chapter 1 (commencing with Section  
22 123100) of Part 1 of Division 106 of the Health and Safety Code.

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

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

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

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

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

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

13 4990.02. “Board,” as used in this chapter, Chapter 13  
14 (commencing with Section 4980), Chapter 13.5 (commencing with  
15 Section 4989.10), Chapter 14 (commencing with Section 4991),  
16 and Chapter 16 (commencing with Section 4999.10) means the  
17 Board of Behavioral Sciences.

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

20 4990.12. The duty of administering and enforcing this chapter,  
21 Chapter 13 (commencing with Section 4980), Chapter 13.5  
22 (commencing with Section 4989.10), Chapter 14 (commencing  
23 with Section 4991), and Chapter 16 (commencing with Section  
24 4999.10) is vested in the board and the executive officer subject  
25 to, and under the direction of, the board. In the performance of  
26 this duty, the board and the executive officer have all the powers  
27 and are subject to all the responsibilities vested in, and imposed  
28 upon, the head of a department by Chapter 2 (commencing with  
29 Section 11150) of Part 1 of Division 3 of Title 2 of the Government  
30 Code.

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

33 4990.18. It is the intent of the Legislature that the board employ  
34 its resources for each and all of the following functions:

35 (a) The licensure of marriage and family therapists, clinical  
36 social workers, professional clinical counselors, and educational  
37 psychologists.

38 (b) The development and administration of licensure  
39 examinations and examination procedures consistent with  
40 prevailing standards for the validation and use of licensing and

1 certification tests. Examinations shall measure knowledge and  
2 abilities demonstrably important to the safe, effective practice of  
3 the profession.

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

6 (d) Consumer education.

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

9 4990.22. (a) The Behavioral Sciences Fund shall be used for  
10 the purposes of carrying out and enforcing the provisions of this  
11 chapter and the chapters listed in Section 4990.12. All moneys in  
12 the fund shall be expended by the board for the purposes of the  
13 programs under its jurisdiction.

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

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

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

26 4990.30. (a) A licensed marriage and family therapist, marriage  
27 and family therapist intern, licensed clinical social worker,  
28 associate clinical social worker, licensed professional clinical  
29 counselor, professional clinical counselor intern, or licensed  
30 educational psychologist whose license or registration has been  
31 revoked, suspended, or placed on probation, may petition the board  
32 for reinstatement or modification of the penalty, including  
33 modification or termination of probation. The petition shall be on  
34 a form provided by the board and shall state any facts and  
35 information as may be required by the board including, but not  
36 limited to, proof of compliance with the terms and conditions of  
37 the underlying disciplinary order. The petition shall be verified by  
38 the petitioner who shall file an original and sufficient copies of  
39 the petition, together with any supporting documents, for the



1 members of the board, the administrative law judge, and the  
2 Attorney General.

3 (b) The licensee or registrant may file the petition on or after  
4 the expiration of the following timeframes, each of which  
5 commences on the effective date of the decision ordering the  
6 disciplinary action or, if the order of the board, or any portion of  
7 it, is stayed by the board itself or by the superior court, from the  
8 date the disciplinary action is actually implemented in its entirety:

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

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

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

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

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

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

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

31 (g) The board, when it is hearing the petition itself, or an  
32 administrative law judge sitting for the board, may consider all  
33 activities of the petitioner since the disciplinary action was taken,  
34 the offense for which the petitioner was disciplined, the petitioner's  
35 activities during the time his or her license or registration was in  
36 good standing, and the petitioner's rehabilitative efforts, general  
37 reputation for truth, and professional ability.

38 (h) The hearing may be continued from time to time as the board  
39 or the administrative law judge deems appropriate but in no case

1 may the hearing on the petition be delayed more than 180 days  
2 from its filing without the consent of the petitioner.

3 (i) The board itself, or the administrative law judge if one is  
4 designated by the board, shall hear the petition and shall prepare  
5 a written decision setting forth the reasons supporting the decision.  
6 In a decision granting a petition reinstating a license or modifying  
7 a penalty, the board itself, or the administrative law judge, may  
8 impose any terms and conditions that the agency deems reasonably  
9 appropriate, including those set forth in Sections 823 and 4990.40.  
10 If a petition is heard by an administrative law judge sitting alone,  
11 the administrative law judge shall prepare a proposed decision and  
12 submit it to the board. The board may take action with respect to  
13 the proposed decision and petition as it deems appropriate.

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

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

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

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

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

1 4990.38. The board may deny an application or may suspend  
2 or revoke a license or registration issued under the chapters it  
3 administers and enforces for any disciplinary action imposed by  
4 another state or territory or possession of the United States, or by  
5 a governmental agency on a license, certificate or registration to  
6 practice marriage and family therapy, clinical social work,  
7 educational psychology, professional clinical counseling, or any  
8 other healing art. The disciplinary action, which may include denial  
9 of licensure or revocation or suspension of the license or imposition  
10 of restrictions on it, constitutes unprofessional conduct. A certified  
11 copy of the disciplinary action decision or judgment shall be  
12 conclusive evidence of that action.

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

15 4992.36. The board may deny an application, or may suspend  
16 or revoke a license or registration issued under this chapter, for  
17 any of the following:

18 (a) Denial of licensure, revocation, suspension, restriction, or  
19 any other disciplinary action imposed by another state or territory  
20 of the United States, or by any other governmental agency, on a  
21 license, certificate, or registration to practice clinical social work  
22 or any other healing art shall constitute grounds for disciplinary  
23 action for unprofessional conduct. A certified copy of the  
24 disciplinary action decision or judgment shall be conclusive  
25 evidence of that action.

26 (b) Revocation, suspension, or restriction by the board of a  
27 license, certificate, or registration to practice marriage and family  
28 therapy, professional clinical counseling, or educational psychology  
29 against a licensee or registrant shall also constitute grounds for  
30 disciplinary action for unprofessional conduct under this chapter.

31 SEC. 47. Article 3 (commencing with Section 4994) of Chapter  
32 14 of Division 2 of the Business and Professions Code is repealed.

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

35 4996.17. (a) Experience gained outside of California shall be  
36 accepted toward the licensure requirements if it is substantially  
37 the equivalent of the requirements of this chapter.

38 (b) The board may issue a license to any person who, at the time  
39 of application, holds a valid active clinical social work license  
40 issued by a board of clinical social work examiners or

1 corresponding authority of any state, if the person passes the board  
2 administered licensing examinations as specified in Section 4996.1  
3 and pays the required fees. Issuance of the license is conditioned  
4 upon all of the following:

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

10 (2) Completion of the following coursework or training in or  
11 out of this state:

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

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

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

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

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

26 (4) The applicant is not currently under investigation in any  
27 other state, and has not been charged with an offense for any act  
28 substantially related to the practice of social work by any public  
29 agency, entered into any consent agreement or been subject to an  
30 administrative decision that contains conditions placed by an  
31 agency upon an applicant's professional conduct or practice,  
32 including any voluntary surrender of license, or been the subject  
33 of an adverse judgment resulting from the practice of social work  
34 that the board determines constitutes evidence of a pattern of  
35 incompetence or negligence.

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

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

1 (c) The board may issue a license to any person who, at the time  
2 of application, holds a valid, active clinical social work license  
3 issued by a board of clinical social work examiners or a  
4 corresponding authority of any state, if the person has held that  
5 license for at least four years immediately preceding the date of  
6 application, the person passes the board administered licensing  
7 examinations as specified in Section 4996.1, and the person pays  
8 the required fees. Issuance of the license is conditioned upon all  
9 of the following:

10 (1) Completion of the following coursework or training in or  
11 out of state:

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

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

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

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

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

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

29 (4) The applicant is not currently under investigation in any  
30 other state, and has not been charged with an offense for any act  
31 substantially related to the practice of social work by any public  
32 agency, entered into any consent agreement or been subject to an  
33 administrative decision that contains conditions placed by an  
34 agency upon an applicant's professional conduct or practice,  
35 including any voluntary surrender of license, or been the subject  
36 of an adverse judgment resulting from the practice of social work  
37 that the board determines constitutes evidence of a pattern of  
38 incompetence or negligence.

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

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

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

8 4996.23. The experience required by subdivision (c) of Section  
9 4996.2 shall meet the following criteria:

10 (a) All persons registered with the board on and after January  
11 1, 2002, shall have at least 3,200 hours of post-master's degree  
12 supervised experience providing clinical social work services as  
13 permitted by Section 4996.9. At least 1,700 hours shall be gained  
14 under the supervision of a licensed clinical social worker. The  
15 remaining required supervised experience may be gained under  
16 the supervision of a licensed mental health professional acceptable  
17 to the board as defined by a regulation adopted by the board. This  
18 experience shall consist of the following:

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

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

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

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

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

34 (b) "Supervision" means responsibility for, and control of, the  
35 quality of clinical social work services being provided.  
36 Consultation or peer discussion shall not be considered to be  
37 supervision.

38 (c) (1) Prior to the commencement of supervision, a supervisor  
39 shall comply with all requirements enumerated in Section 1870 of  
40 Title 16 of the California Code of Regulations and shall sign under

1 penalty of perjury the “Responsibility Statement for Supervisors  
2 of an Associate Clinical Social Worker” form.

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

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

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

18 (5) Of the 104 weeks of required supervision, 52 weeks shall  
19 be individual supervision, and of the 52 weeks of required  
20 individual supervision, not less than 13 weeks shall be supervised  
21 by a licensed clinical social worker.

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

28 (d) The supervisor and the associate shall develop a supervisory  
29 plan that describes the goals and objectives of supervision. These  
30 goals shall include the ongoing assessment of strengths and  
31 limitations and the assurance of practice in accordance with the  
32 laws and regulations. The associate shall submit to the board the  
33 initial original supervisory plan upon application for licensure.

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

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

38 (2) Provides oversight to ensure that the associate’s work at the  
39 setting meets the experience and supervision requirements set forth

1 in this chapter and is within the scope of practice for the profession  
2 as defined in Section 4996.9.

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

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

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

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

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

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

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

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

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

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

28 (m) An associate, whether employed or volunteering, may obtain  
29 supervision from a person not employed by the associate's  
30 employer if that person has signed a written agreement with the  
31 employer to take supervisory responsibility for the associate's  
32 social work services.

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

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



1 4999.46. (a) To qualify for licensure, applicants shall complete  
2 clinical mental health experience under the general supervision of  
3 an approved supervisor as defined in Section 4999.12.

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

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

9 (2) Not less than 1,750 hours of direct counseling with  
10 individuals or groups in a clinical mental health counseling setting  
11 using a variety of psychotherapeutic techniques and recognized  
12 counseling interventions within the scope of practice of licensed  
13 professional clinical counselors.

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

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

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

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

22 (A) Direct supervisor contact.

23 (B) Client centered advocacy.

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

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

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

34 (d) An applicant shall register with the board as an intern in  
35 order to be credited for postdegree hours of experience toward  
36 licensure. Postdegree hours of experience shall be credited toward  
37 licensure, provided that the applicant applies for intern registration  
38 within 90 days of the granting of the qualifying degree and is  
39 registered as an intern by the board.

1 (e) All applicants and interns shall be at all times under the  
2 supervision of a supervisor who shall be responsible for ensuring  
3 that the extent, kind, and quality of counseling performed is  
4 consistent with the training and experience of the person being  
5 supervised, and who shall be responsible to the board for  
6 compliance with all laws, rules, and regulations governing the  
7 practice of professional clinical counseling.

8 (f) Experience obtained under the supervision of a spouse or  
9 relative by blood or marriage shall not be credited toward the  
10 required hours of supervised experience. Experience obtained  
11 under the supervision of a supervisor with whom the applicant has  
12 had or currently has a personal, professional, or business  
13 relationship that undermines the authority or effectiveness of the  
14 supervision shall not be credited toward the required hours of  
15 supervised experience.

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

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

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

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

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

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

38 4999.57. (a) This section applies to a person who applies for  
39 examination eligibility or registration between January 1, 2011,

1 and December 31, 2013, inclusive, who does not hold a license  
2 described in subdivision (a) of Section 4999.58.

3 (b) Experience gained outside of California shall be accepted  
4 toward the licensure requirements if it is substantially equivalent  
5 to that required by this chapter, if the applicant complies with  
6 Section 4999.40, if applicable, and if the applicant has gained a  
7 minimum of 250 hours of supervised experience in direct  
8 counseling within California while registered as an intern with the  
9 board.

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

27 (d) For purposes of this section, the board may, in its discretion,  
28 accept education as substantially equivalent if the applicant's  
29 education meets the requirements of Section 4999.32. If the  
30 applicant's degree does not contain the content or the overall units  
31 required by Section 4999.32, the board may, in its discretion, accept  
32 the applicant's education as substantially equivalent if the following  
33 criteria are satisfied:

34 (1) The applicant's degree contains the required number of  
35 practicum units under paragraph (3) of subdivision (c) of Section  
36 4999.32.

37 (2) The applicant remediates his or her specific deficiency by  
38 completing the course content and units required by Section  
39 4999.32.

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

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

4 ~~SEC. 52. Section 4999.58 of the Business and Professions~~  
5 ~~Code is amended to read:~~

6 ~~4999.58. (a) This section applies to a person who applies for~~  
7 ~~examination eligibility between January 1, 2011, and December~~  
8 ~~31, 2013, inclusive, who meets both of the following requirements:~~

9 ~~(1) At the time of application, holds a valid license as a~~  
10 ~~professional clinical counselor, or other counseling license that~~  
11 ~~allows the applicant to independently provide clinical mental health~~  
12 ~~services, in another jurisdiction of the United States.~~

13 ~~(2) Has held the license described in paragraph (1) for at least~~  
14 ~~two years immediately preceding the date of application.~~

15 ~~(b) The board may issue a license to a person described in~~  
16 ~~subdivision (a) if all of the following requirements are satisfied:~~

17 ~~(1) The education and supervised experience requirements of~~  
18 ~~the other jurisdiction are substantially the equivalent of this chapter,~~  
19 ~~as described in subdivision (c) and in Section 4999.46.~~

20 ~~(2) The person complies with subdivision (b) of Section 4999.40,~~  
21 ~~if applicable.~~

22 ~~(3) The person successfully completes the examinations required~~  
23 ~~by the board pursuant to paragraph (3) of subdivision (a) of Section~~  
24 ~~4999.50.~~

25 ~~(4) The person pays the required fees.~~

26 ~~(c) Experience gained outside of California shall be accepted~~  
27 ~~toward the licensure requirements if it is substantially equivalent~~  
28 ~~to that required by this chapter. The board shall consider hours of~~  
29 ~~experience obtained in another state during the six-year period~~  
30 ~~immediately preceding the applicant's initial licensure by that state~~  
31 ~~as a licensed professional clinical counselor.~~

32 ~~(d) 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 (c) 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 (e) ~~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 (e) 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 (f) ~~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 Code*  
27 *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, and who~~  
31 *meets 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 the.

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

11 (3) The person successfully completes the examinations required  
12 by the board pursuant to paragraph (3) of subdivision (a) of Section  
13 4999.50, and the.

14 (4) The person pays the required fees.

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

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

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