

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1489

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

March 11, 2010

An act to amend Sections 2065, 2096, 2102, 2103, 2177, 2184, 2516, 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. 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.~~

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. 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.

Existing law requires a licensed midwife who assists in childbirths that occur in out-of-hospital settings to annually report specified information to the Office of Statewide Health Planning and Development in March and requires the office to report to the Medical Board of California licensee compliance with that requirement every April and the aggregate information collected every July.

This bill would require those annual reports to be made by March 30, April 30, and July 30, respectively, and would make additional changes to the information required to be reported by a midwife with regard to cases in California.

(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 SEC. 2. Section 2065 of the Business and Professions Code is
- 4 amended to read:
- 5 2065. Unless otherwise provided by law, no postgraduate
- 6 trainee, intern, resident, postdoctoral fellow, or instructor may
- 7 engage in the practice of medicine, or receive compensation
- 8 therefor, or offer to engage in the practice of medicine unless he
- 9 or she holds a valid, unrevoked, and unsuspended physician's and
- 10 surgeon's certificate issued by the board. However, a graduate of

1 an approved medical school, who is registered with the board and
2 who is enrolled in a postgraduate training program approved by
3 the board, may engage in the practice of medicine whenever and
4 wherever required as a part of the program under the following
5 conditions:

6 (a) A graduate enrolled in an approved first-year postgraduate
7 training program may so engage in the practice of medicine for a
8 period not to exceed one year whenever and wherever required as
9 a part of the training program, and may receive compensation for
10 that practice.

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

24 SEC. 3. Section 2096 of the Business and Professions Code is
25 amended to read:

26 2096. (a) In addition to other requirements of this chapter,
27 before a physician's and surgeon's license may be issued, each
28 applicant, including an applicant applying pursuant to Article 5
29 (commencing with Section 2100), except as provided in subdivision
30 (b), shall show by evidence satisfactory to the board that he or she
31 has satisfactorily completed at least one year of postgraduate
32 training.

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

36 (c) The postgraduate training required by this section shall
37 include at least four months of general medicine and shall be
38 obtained in a postgraduate training program approved by the
39 Accreditation Council for Graduate Medical Education (ACGME)

1 or the Royal College of Physicians and Surgeons of Canada
2 (RCPSC).

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

7 SEC. 4. Section 2102 of the Business and Professions Code is
8 amended to read:

9 2102. An applicant whose professional instruction was acquired
10 in a country other than the United States or Canada shall provide
11 evidence satisfactory to the board of compliance with the following
12 requirements to be issued a physician's and surgeon's certificate:

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

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

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

38 (d) Passage of the written examination as provided under Article
39 9 (commencing with Section 2170). An applicant shall be required

1 to meet the requirements specified in subdivision (b) prior to being
2 admitted to the written examination required by this subdivision.

3 (e) Nothing in this section prohibits the board from disapproving
4 a foreign medical school or from denying an application if, in the
5 opinion of the board, the professional instruction provided by the
6 medical school or the instruction received by the applicant is not
7 equivalent to that required in Article 4 (commencing with Section
8 2080).

9 SEC. 5. Section 2103 of the Business and Professions Code is
10 amended to read:

11 2103. An applicant who is a citizen of the United States shall
12 be eligible for a physician's and surgeon's certificate if he or she
13 has completed the following requirements:

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

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

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

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

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

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

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

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

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

15 SEC. 6. Section 2177 of the Business and Professions Code is
16 amended to read:

17 2177. (a) A passing score is required for an entire examination
18 or for each part of an examination, as established by resolution of
19 the board.

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

22 (c) (1) An applicant shall have obtained a passing score on Step
23 3 of the United States Medical Licensing Examination within not
24 more than four attempts in order to be eligible for a physician's
25 and surgeon's certificate.

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

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

33 2184. (a) Each applicant shall obtain on the written
34 examination a passing score, established by the board pursuant to
35 Section 2177.

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

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

3 (A) For good cause.

4 (B) For time spent in a postgraduate training program, including,
5 but not limited to, residency training, fellowship training, remedial
6 or refresher training, or other training that is intended to maintain
7 or improve medical skills.

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

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

16 *SEC. 8. Section 2516 of the Business and Professions Code is*
17 *amended to read:*

18 2516. (a) Each licensed midwife who assists, or supervises a
19 student midwife in assisting, in childbirth that occurs in an
20 out-of-hospital setting shall annually report to the Office of
21 Statewide Health Planning and Development. The report shall be
22 submitted ~~in March~~ *no later than March 30*, with the first report
23 due in March 2008, for the prior calendar year, in a form specified
24 by the board and shall contain all of the following:

25 (1) The midwife's name and license number.

26 (2) The calendar year being reported.

27 (3) The following information with regard to cases *in California*
28 in which the midwife, or the student midwife supervised by the
29 midwife, assisted during the previous year when the intended place
30 of birth at the onset of care was an out-of-hospital setting:

31 (A) The total number of clients served as primary caregiver at
32 the onset of care.

33 (B) The total number of clients served with collaborative care
34 available through, or given by, a licensed physician and surgeon.

35 (C) The total number of clients served under the supervision of
36 a licensed physician and surgeon.

37 (D) The number by county of live births attended as primary
38 caregiver.

1 (E) The number, by county, of cases of fetal demise, *infant*
2 *deaths, and maternal deaths* attended as primary caregiver at the
3 discovery of the demise *or death*.

4 (F) The number of women whose primary care was transferred
5 to another health care practitioner during the antepartum period,
6 and the reason for each transfer.

7 (G) The number, reason, and outcome for each elective hospital
8 transfer during the intrapartum or postpartum period.

9 (H) The number, reason, and outcome for each urgent or
10 emergency transport of an expectant mother in the antepartum
11 period.

12 (I) The number, reason, and outcome for each urgent or
13 emergency transport of an infant or mother during the intrapartum
14 or immediate postpartum period.

15 (J) The number of planned out-of-hospital births at the onset of
16 labor and the number of births completed in an out-of-hospital
17 setting.

18 (K) The number of planned out-of-hospital births completed in
19 an out-of-hospital setting that were any of the following:

20 (i) Twin births.

21 (ii) Multiple births other than twin births.

22 (iii) Breech births.

23 (iv) Vaginal births after the performance of a cesarean section.

24 (L) A brief description of any complications resulting in the
25 *morbidity or mortality* of a mother or an infant.

26 (M) Any other information prescribed by the board in
27 regulations.

28 (b) The Office of Statewide Health Planning and Development
29 shall maintain the confidentiality of the information submitted
30 pursuant to this section, and shall not permit any law enforcement
31 or regulatory agency to inspect or have copies made of the contents
32 of any reports submitted pursuant to subdivision (a) for any
33 purpose, including, but not limited to, investigations for licensing,
34 certification, or regulatory purposes.

35 (c) The office shall report to the board, by April 30, those
36 licensees who have met the requirements of subdivision (a) for
37 that year.

38 (d) The board shall send a written notice of noncompliance to
39 each licensee who fails to meet the reporting requirement of
40 subdivision (a). Failure to comply with subdivision (a) will result

1 in the midwife being unable to renew his or her license without
2 first submitting the requisite data to the Office of Statewide Health
3 Planning and Development for the year for which that data was
4 missing or incomplete. The board shall not take any other action
5 against the licensee for failure to comply with subdivision (a).

6 (e) The board, in consultation with the office and the Midwifery
7 Advisory Council, shall devise a coding system related to data
8 elements that require coding in order to assist in both effective
9 reporting and the aggregation of data pursuant to subdivision (f).
10 The office shall utilize this coding system in its processing of
11 information collected for purposes of subdivision (f).

12 (f) The office shall report the aggregate information collected
13 pursuant to this section to the board by July 30 of each year. The
14 board shall include this information in its annual report to the
15 Legislature.

16 (g) Notwithstanding any other provision of law, a violation of
17 this section shall not be a crime.

18 ~~SEC. 8.~~

19 *SEC. 9.* Section 2570.19 of the Business and Professions Code
20 is amended to read:

21 2570.19. (a) There is hereby created a California Board of
22 Occupational Therapy, hereafter referred to as the board. The board
23 shall enforce and administer this chapter.

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

25 (1) Three occupational therapists who shall have practiced
26 occupational therapy for five years.

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

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

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

37 (d) All members shall be residents of California at the time of
38 their appointment. The occupational therapist and occupational
39 therapy assistant members shall have been engaged in rendering
40 occupational therapy services to the public, teaching, or research

1 in occupational therapy for at least five years preceding their
2 appointments.

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

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

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

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

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

36 (j) The appointing power shall have the power to remove any
37 member of the board from office for neglect of any duty imposed
38 by state law, for incompetency, or for unprofessional or
39 dishonorable conduct.

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

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 3025.1 of the Business and Professions Code
9 is amended to read:

10 3025.1. The board may adopt rules and regulations that are, in
11 its judgment, reasonable and necessary to ensure that optometrists
12 have the knowledge to adequately protect the public health and
13 safety by establishing educational requirements for admission to
14 the examinations for licensure.

15 ~~SEC. 10.~~

16 *SEC. 11.* Section 3046 of the Business and Professions Code
17 is amended to read:

18 3046. In order to obtain a license to practice optometry in
19 California, an applicant shall have graduated from an accredited
20 school of optometry, passed the required examinations for
21 licensure, and not have met any of the grounds for denial
22 established in Section 480. The proceedings under this section
23 shall be in accordance with Chapter 5 (commencing with Section
24 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

25 ~~SEC. 11.~~

26 *SEC. 12.* Section 3057.5 of the Business and Professions Code
27 is amended to read:

28 3057.5. Notwithstanding any other provision of this chapter,
29 the board shall permit a person who meets all of the following
30 requirements to take the examinations for a certificate of
31 registration as an optometrist:

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

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

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

36 ~~SEC. 12.~~

37 *SEC. 13.* Section 3147 of the Business and Professions Code
38 is amended to read:

39 3147. Except as otherwise provided by Section 114, an expired
40 license may be renewed at any time within three years after its

1 expiration by filing an application for renewal on a form prescribed
2 by the board, paying all accrued and unpaid renewal fees, paying
3 any delinquency fees prescribed by the board, and submitting proof
4 of completion of the required number of hours of continuing
5 education for the last two years, as prescribed by the board pursuant
6 to Section 3159. Renewal under this section shall be effective on
7 the date on which all of those requirements are satisfied. If so
8 renewed, the license shall continue as provided in Sections 3146
9 and 3147.5.

10 ~~SEC. 13.~~

11 *SEC. 14.* Section 3147.6 of the Business and Professions Code
12 is amended to read:

13 3147.6. Except as otherwise provided by Section 114, a license
14 that is not renewed within three years after its expiration may be
15 restored thereafter, if no fact, circumstance, or condition exists
16 that, if the license were restored, would justify its revocation or
17 suspension, provided all of the following conditions are met:

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

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

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

25 (d) The holder of the expired license satisfactorily passes both
26 of the following examinations:

27 (1) The National Board of Examiners in Optometry's Clinical
28 Skills examination or other clinical examination approved by the
29 board.

30 (2) The board's jurisprudence examination.

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

36 ~~SEC. 14.~~

37 *SEC. 15.* Section 3147.7 of the Business and Professions Code
38 is amended to read:

39 3147.7. The provisions of Section 3147.6 shall not apply to a
40 person holding a license that has not been renewed within three

1 years of expiration, if the person provides satisfactory proof that
2 he or she holds an active license from another state and meets all
3 of the following conditions:

- 4 (a) Is not subject to denial of a license under Section 480.
- 5 (b) Applies in writing for restoration of the license on a form
6 prescribed by the board.
- 7 (c) Pays all accrued and unpaid renewal fees and any
8 delinquency fees prescribed by the board.
- 9 (d) Submits proof of completion of the required number of hours
10 of continuing education for the last two years.
- 11 (e) Takes and satisfactorily passes the board’s jurisprudence
12 examination.

13 ~~SEC. 15.~~

14 *SEC. 16.* Section 4017 of the Business and Professions Code
15 is amended to read:

16 4017. “Authorized officers of the law” means inspectors of the
17 California State Board of Pharmacy, inspectors of the Food and
18 Drug Branch of the State Department of Public Health, and
19 investigators of the department’s Division of Investigation or peace
20 officers engaged in official investigations.

21 ~~SEC. 16.~~

22 *SEC. 17.* Section 4028 of the Business and Professions Code
23 is amended to read:

24 4028. “Licensed hospital” means an institution, place, building,
25 or agency that maintains and operates organized facilities for one
26 or more persons for the diagnosis, care, and treatment of human
27 illnesses to which persons may be admitted for overnight stay, and
28 includes any institution classified under regulations issued by the
29 State Department of Public Health as a general or specialized
30 hospital, as a maternity hospital, or as a tuberculosis hospital, but
31 does not include a sanitarium, rest home, a nursing or convalescent
32 home, a maternity home, or an institution for treating alcoholics.

33 ~~SEC. 17.~~

34 *SEC. 18.* Section 4037 of the Business and Professions Code
35 is amended to read:

36 4037. (a) “Pharmacy” means an area, place, or premises
37 licensed by the board in which the profession of pharmacy is
38 practiced and where prescriptions are compounded. “Pharmacy”
39 includes, but is not limited to, any area, place, or premises
40 described in a license issued by the board wherein controlled

1 substances, dangerous drugs, or dangerous devices are stored,
2 possessed, prepared, manufactured, derived, compounded, or
3 repackaged, and from which the controlled substances, dangerous
4 drugs, or dangerous devices are furnished, sold, or dispensed at
5 retail.

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

13 ~~SEC. 18.~~

14 *SEC. 19.* 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.~~

38 *SEC. 20.* Section 4059 of the Business and Professions Code
39 is amended to read:

1 4059. (a) A person may not furnish any dangerous drug, except
2 upon the prescription of a physician, dentist, podiatrist, optometrist,
3 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
4 person may not furnish any dangerous device, except upon the
5 prescription of a physician, dentist, podiatrist, optometrist,
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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

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

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

1 (e) A pharmacist may furnish a dangerous drug authorized for
2 use pursuant to Section 2620.3 to a physical therapist. A record
3 containing the date, name and address of the buyer, and name and
4 quantity of the drug shall be maintained. This subdivision shall
5 not be construed to authorize the furnishing of a controlled
6 substance.

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

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

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

22 ~~SEC. 20.~~

23 *SEC. 21.* Section 4072 of the Business and Professions Code
24 is amended to read:

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

38 (b) In enacting this section, the Legislature recognizes and
39 affirms the role of the State Department of Public Health in
40 regulating drug order processing requirements for licensed health

1 care facilities as set forth in Title 22 of the California Code of
2 Regulations as they may be amended from time to time.

3 ~~SEC. 21.~~

4 *SEC. 22.* Section 4101 of the Business and Professions Code
5 is amended to read:

6 4101. (a) A pharmacist may take charge of and act as the
7 pharmacist-in-charge of a pharmacy upon application by the
8 pharmacy and approval by the board. Any pharmacist-in-charge
9 who ceases to act as the pharmacist-in-charge of the pharmacy
10 shall notify the board in writing within 30 days of the date of that
11 change in status.

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

20 ~~SEC. 22.~~

21 *SEC. 23.* Section 4119 of the Business and Professions Code
22 is amended to read:

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

36 (b) Notwithstanding any other provision of law, a pharmacy
37 may furnish a dangerous drug or a dangerous device to an approved
38 service provider within an emergency medical services system for
39 storage in a secured emergency pharmaceutical supplies container,
40 in accordance with the policies and procedures of the local

1 emergency medical services agency, if all of the following are
2 met:

3 (1) The dangerous drug or dangerous device is furnished
4 exclusively for use in conjunction with services provided in an
5 ambulance, or other approved emergency medical services service
6 provider, that provides prehospital emergency medical services.

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

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

15 (4) The approved emergency medical services provider
16 administers dangerous drugs and dangerous devices in accordance
17 with the policies and procedures of the local emergency medical
18 services agency.

19 (5) The approved emergency medical services provider
20 documents, stores, and restocks dangerous drugs and dangerous
21 devices in accordance with the policies and procedures of the local
22 emergency medical services agency.

23 Records of each request by, and dangerous drugs or dangerous
24 devices furnished to, an approved service provider within an
25 emergency medical services system, shall be maintained by both
26 the approved service provider and the dispensing pharmacy for a
27 period of at least three years.

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

31 ~~SEC. 23.~~

32 *SEC. 24.* Section 4127.1 of the Business and Professions Code
33 is amended to read:

34 4127.1. (a) A pharmacy shall not compound injectable sterile
35 drug products in this state unless the pharmacy has obtained a
36 license from the board pursuant to this section. The license shall
37 be renewed annually and is not transferable.

38 (b) A license to compound injectable sterile drug products may
39 only be issued for a location that is licensed as a pharmacy.
40 Furthermore, the license to compound injectable sterile drug

1 products may only be issued to the owner of the pharmacy license
2 at that location. A license to compound injectable sterile drug
3 products may not be issued until the location is inspected by the
4 board and found in compliance with this article and regulations
5 adopted by the board.

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

10 (d) Pharmacies operated by entities that are licensed by either
11 the board or the State Department of Public Health and that have
12 current accreditation from the Joint Commission on Accreditation
13 of Healthcare Organizations, or other private accreditation agencies
14 approved by the board, are exempt from the requirement to obtain
15 a license pursuant to this section.

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

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

22 ~~SEC. 24.~~

23 *SEC. 25.* Section 4169 of the Business and Professions Code
24 is amended to read:

25 4169. (a) A person or entity may not do any of the following:

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

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

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

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

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

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

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

10 (d) This section shall not apply to a pharmaceutical manufacturer
11 licensed by the Food and Drug Administration or by the State
12 Department of Public Health.

13 ~~SEC. 25.~~

14 *SEC. 26.* Section 4181 of the Business and Professions Code
15 is amended to read:

16 4181. (a) Prior to the issuance of a clinic license authorized
17 under Section 4180, the clinic shall comply with all applicable
18 laws and regulations of the State Department of Public Health
19 relating to the drug distribution service to ensure that inventories,
20 security procedures, training, protocol development, recordkeeping,
21 packaging, labeling, dispensing, and patient consultation occur in
22 a manner that is consistent with the promotion and protection of
23 the health and safety of the public. The policies and procedures to
24 implement the laws and regulations shall be developed and
25 approved by the consulting pharmacist, the professional director,
26 and the clinic administrator.

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

31 ~~SEC. 26.~~

32 *SEC. 27.* Section 4191 of the Business and Professions Code
33 is amended to read:

34 4191. (a) Prior to the issuance of a clinic license authorized
35 under this article, the clinic shall comply with all applicable laws
36 and regulations of the State Department of Public Health and the
37 board relating to drug distribution to ensure that inventories,
38 security procedures, training, protocol development, recordkeeping,
39 packaging, labeling, dispensing, and patient consultation are carried
40 out in a manner that is consistent with the promotion and protection

1 of the health and safety of the public. The policies and procedures
2 to implement the laws and regulations shall be developed and
3 approved by the consulting pharmacist, the professional director,
4 and the clinic administrator.

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

9 ~~SEC. 27.~~

10 *SEC. 28.* Section 4196 of the Business and Professions Code
11 is amended to read:

12 4196. (a) No person shall conduct a veterinary food-animal
13 drug retailer in the State of California unless he or she has obtained
14 a license from the board. A license shall be required for each
15 veterinary food-animal drug retailer owned or operated by a
16 specific person. A separate license shall be required for each of
17 the premises of any person operating a veterinary food-animal
18 drug retailer in more than one location. The license shall be
19 renewed annually and shall not be transferable.

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

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

36 (d) Every veterinary food-animal drug retailer shall be
37 supervised or managed by a designated representative-in-charge.
38 The designated representative-in-charge shall be responsible for
39 the veterinary food-animal drug retailer's compliance with state
40 and federal laws governing veterinary food-animal drug retailers.

1 As part of its initial application for a license, and for each renewal,
2 each veterinary food-animal drug retailer shall, on a form designed
3 by the board, provide identifying information and the California
4 license number for a designated representative or pharmacist
5 proposed to serve as the designated representative-in-charge. The
6 proposed designated representative-in-charge shall be subject to
7 approval by the board. The board shall not issue or renew a
8 veterinary food-animal drug retailer license without identification
9 of an approved designated representative-in-charge for the
10 veterinary food-animal drug retailer.

11 (e) Every veterinary food-animal drug retailer shall notify the
12 board in writing, on a form designed by the board, within 30 days
13 of the date when a designated representative-in-charge who ceases
14 to act as the designated representative-in-charge, and shall on the
15 same form propose another designated representative or pharmacist
16 to take over as the designated representative-in-charge. The
17 proposed replacement designated representative-in-charge shall
18 be subject to approval by the board. If disapproved, the veterinary
19 food-animal drug retailer shall propose another replacement within
20 15 days of the date of disapproval, and shall continue to name
21 proposed replacements until a designated representative-in-charge
22 is approved by the board.

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

27 ~~SEC. 28.~~

28 *SEC. 29.* Section 4200.1 is added to the Business and
29 Professions Code, to read:

30 4200.1. (a) Notwithstanding Section 135, an applicant may
31 take the North American Pharmacist Licensure Examination four
32 times, and may take the California Practice Standards and
33 Jurisprudence Examination for Pharmacists four times.

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

1 (c) The applicant shall comply with the requirements of Section
2 4200 for each application for reexamination made pursuant to
3 subdivision (b).

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

8 (e) For purposes of this section, the board shall treat each failing
9 score on the pharmacist licensure examination administered by
10 the board prior to January 1, 2004, as a failing score on both the
11 North American Pharmacist Licensure Examination and the
12 California Practice Standards and Jurisprudence Examination for
13 Pharmacists.

14 ~~SEC. 29:~~

15 *SEC. 30.* Section 4425 of the Business and Professions Code
16 is amended to read:

17 4425. (a) As a condition for the participation of a pharmacy
18 in the Medi-Cal program pursuant to Chapter 7 (commencing with
19 Section 14000) of Division 9 of the Welfare and Institutions Code,
20 the pharmacy, upon presentation of a valid prescription for the
21 patient and the patient's Medicare card, shall charge Medicare
22 beneficiaries a price that does not exceed the Medi-Cal
23 reimbursement rate for prescription medicines, and an amount, as
24 set by the State Department of Health Care Services to cover
25 electronic transmission charges. However, Medicare beneficiaries
26 shall not be allowed to use the Medi-Cal reimbursement rate for
27 over-the-counter medications or compounded prescriptions.

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

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

34 (d) The State Department of Health Care Services shall conduct
35 an outreach program to inform Medicare beneficiaries of their
36 right to participate in the program described in subdivision (a),
37 including, but not limited to, the following:

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

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

8 (e) If prescription drugs are added to the scope of benefits
9 available under the federal Medicare program, the Senate Office
10 of Research shall report that fact to the appropriate committees of
11 the Legislature. It is the intent of the Legislature to evaluate the
12 need to continue the implementation of this article under those
13 circumstances.

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

16 ~~SEC. 30.~~

17 *SEC. 31.* Section 4426 of the Business and Professions Code
18 is amended to read:

19 4426. The State Department of Health Care Services shall
20 conduct a study of the adequacy of Medi-Cal pharmacy
21 reimbursement rates including the cost of providing prescription
22 drugs and services.

23 ~~SEC. 31.~~

24 *SEC. 32.* Section 4980.07 of the Business and Professions Code
25 is repealed.

26 ~~SEC. 32.~~

27 *SEC. 33.* Section 4980.40.5 of the Business and Professions
28 Code is amended to read:

29 4980.40.5. (a) A ~~doctor's~~ *doctoral* or master's degree in
30 marriage, family, and child counseling, marital and family therapy,
31 psychology, clinical psychology, counseling psychology, or
32 counseling with an emphasis in either marriage, family, and child
33 counseling, or marriage and family therapy, obtained from a school,
34 college, or university approved by the Bureau for Private
35 Postsecondary and Vocational Education as of June 30, 2007, shall
36 be considered by the board to meet the requirements necessary for
37 licensure as a marriage and family therapist and for registration
38 as a marriage and family therapist intern provided that the degree
39 is conferred on or before July 1, 2010.

1 (b) As an alternative to meeting the qualifications specified in
2 subdivision (a) of Section 4980.40, the board shall accept as
3 equivalent degrees those ~~doctor's~~ *doctoral* or master's degrees
4 that otherwise meet the requirements of this chapter and are
5 conferred by educational institutions accredited by any of the
6 following associations:

- 7 (1) Northwest Commission on Colleges and Universities.
- 8 (2) Middle States Association of Colleges and Secondary
9 Schools.
- 10 (3) New England Association of Schools and Colleges.
- 11 (4) North Central Association of Colleges and Secondary
12 Schools.
- 13 (5) Southern Association of Colleges and Schools.

14 ~~SEC. 33.~~

15 *SEC. 34.* Section 4980.43 of the Business and Professions Code
16 is amended to read:

17 4980.43. (a) Prior to applying for licensure examinations, each
18 applicant shall complete experience that shall comply with the
19 following:

- 20 (1) A minimum of 3,000 hours completed during a period of at
21 least 104 weeks.
- 22 (2) Not more than 40 hours in any seven consecutive days.
- 23 (3) Not less than 1,700 hours of supervised experience
24 completed subsequent to the granting of the qualifying master's
25 or ~~doctor's~~ *doctoral* degree.
- 26 (4) Not more than 1,300 hours of supervised experience obtained
27 prior to completing a master's or ~~doctor's~~ *doctoral* degree.

28 The applicant shall not be credited with more than 750 hours of
29 counseling and direct supervisor contact prior to completing the
30 master's or ~~doctor's~~ *doctoral* degree.

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

34 (6) No hours of experience gained more than six years prior to
35 the date the application for examination eligibility was filed, except
36 that up to 500 hours of clinical experience gained in the supervised
37 practicum required by subdivision (c) of Section 4980.37 and
38 subparagraph (B) of paragraph (1) of subdivision (d) of Section
39 4980.36 shall be exempt from this six-year requirement.

- 1 (7) Not more than a combined total of 1,250 hours of experience
2 in the following:
- 3 (A) Direct supervisor contact.
- 4 (B) Professional enrichment activities. For purposes of this
5 chapter, “professional enrichment activities” include the following:
- 6 (i) Workshops, seminars, training sessions, or conferences
7 directly related to marriage and family therapy attended by the
8 applicant that are approved by the applicant’s supervisor. An
9 applicant shall have no more than 250 hours of verified attendance
10 at these workshops, seminars, training sessions, or conferences.
- 11 (ii) Participation by the applicant in personal psychotherapy,
12 which includes group, marital or conjoint, family, or individual
13 psychotherapy by an appropriately licensed professional. An
14 applicant shall have no more than 100 hours of participation in
15 personal psychotherapy. The applicant shall be credited with three
16 hours of experience for each hour of personal psychotherapy.
- 17 (C) Client centered advocacy.
- 18 (8) Not more than 500 hours of experience providing group
19 therapy or group counseling.
- 20 (9) Not more than 250 hours of experience administering and
21 evaluating psychological tests, writing clinical reports, writing
22 progress notes, or writing process notes.
- 23 (10) Not less than 500 total hours of experience in diagnosing
24 and treating couples, families, and children. For up to 150 hours
25 of treating couples and families in conjoint therapy, the applicant
26 shall be credited with two hours of experience for each hour of
27 therapy provided.
- 28 (11) Not more than 375 hours of experience providing personal
29 psychotherapy, crisis counseling, or other counseling services via
30 telemedicine in accordance with Section 2290.5.
- 31 (b) All applicants, trainees, and registrants shall be at all times
32 under the supervision of a supervisor who shall be responsible for
33 ensuring that the extent, kind, and quality of counseling performed
34 is consistent with the training and experience of the person being
35 supervised, and who shall be responsible to the board for
36 compliance with all laws, rules, and regulations governing the
37 practice of marriage and family therapy. Supervised experience
38 shall be gained by interns and trainees either as an employee or as
39 a volunteer. The requirements of this chapter regarding gaining
40 hours of experience and supervision are applicable equally to

1 employees and volunteers. Experience shall not be gained by
2 interns or trainees as an independent contractor.

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

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

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

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

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

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

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

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

30 (6) 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 (7) All experience gained by a trainee shall be monitored by the
37 supervisor as specified by regulation.

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

1 (A) Lawfully and regularly provides mental health counseling
2 or psychotherapy.

3 (B) Provides oversight to ensure that the trainee's work at the
4 setting meets the experience and supervision requirements set forth
5 in this chapter and is within the scope of practice for the profession
6 as defined in Section 4980.02.

7 (C) Is not a private practice owned by a licensed marriage and
8 family therapist, a licensed psychologist, a licensed clinical social
9 worker, a licensed physician and surgeon, or a professional
10 corporation of any of those licensed professions.

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

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

15 (A) Lawfully and regularly provides mental health counseling
16 or psychotherapy.

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

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

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

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

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

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

1 (g) Except when employed in a private practice setting, all
2 postdegree hours of experience shall be credited toward licensure
3 so long as the applicant applies for the intern registration within
4 90 days of the granting of the qualifying master's or ~~doctor's~~
5 *doctoral* degree and is thereafter granted the intern registration by
6 the board.

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

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

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

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

1 ~~SEC. 34.~~

2 *SEC. 35.* Section 4980.80 of the Business and Professions Code
3 is amended to read:

4 4980.80. (a) This section applies to persons who apply for
5 licensure between January 1, 2010, and December 31, 2013,
6 inclusive.

7 (b) The board may issue a license to a person who, at the time
8 of application, holds a valid license issued by a board of marriage
9 counselor examiners, marriage therapist examiners, or
10 corresponding authority of any state, if all of the following
11 requirements are satisfied:

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

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

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

17 (4) The person successfully completes the board administered
18 licensing examinations as specified by subdivision (d) of Section
19 4980.40 and pays the fees specified.

20 (5) The person completes all of the following coursework or
21 training:

22 (A) (i) An applicant who completed a two semester or three
23 quarter unit course in law and professional ethics for marriage and
24 family therapists that included areas of study as specified in Section
25 4980.41 as part of his or her qualifying degree shall complete an
26 18-hour course in California law and professional ethics that
27 includes, but is not limited to, the following subjects: advertising,
28 scope of practice, scope of competence, treatment of minors,
29 confidentiality, dangerous patients, psychotherapist-patient
30 privilege, recordkeeping, patient access to records, requirements
31 of the Health Insurance Portability and Accountability Act of 1996,
32 dual relationships, child abuse, elder and dependent adult abuse,
33 online therapy, insurance reimbursement, civil liability, disciplinary
34 actions and unprofessional conduct, ethics complaints and ethical
35 standards, termination of therapy, standards of care, relevant family
36 law, and therapist disclosures to patients.

37 (ii) An applicant who has not completed a two semester or three
38 quarter unit course in law and professional ethics for marriage and
39 family therapists that included areas of study as specified in Section
40 4980.41 as part of his or her qualifying degree, shall complete a

1 two semester or three quarter unit course in California law and
2 professional ethics that includes, at minimum, the areas of study
3 specified in Section 4980.41.

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

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

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

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

17 (ii) A minimum of 15 contact hours of coursework or training
18 in spousal or partner abuse assessment, detection, and intervention
19 strategies.

20 (F) A minimum of a two semester or three quarter unit survey
21 course in psychological testing. This course may be taken either
22 in fulfillment of other requirements for licensure or in a separate
23 course.

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

28 (H) With respect to human sexuality, alcoholism and other
29 chemical substance dependency, spousal or partner abuse
30 assessment, detection, and intervention, psychological testing, and
31 psychopharmacology, the board may accept training or coursework
32 acquired out of state.

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

36 ~~SEC. 35.~~

37 *SEC. 36.* Section 4982.2 of the Business and Professions Code
38 is repealed.

1 ~~SEC. 36.~~

2 *SEC. 37.* Section 4982.25 of the Business and Professions Code
3 is amended to read:

4 4982.25. The board may deny an application, or may suspend
5 or revoke a license or registration issued under this chapter, for
6 any of the following:

7 (a) Denial of licensure, revocation, suspension, restriction, or
8 any other disciplinary action imposed by another state or territory
9 or possession of the United States, or by any other governmental
10 agency, on a license, certificate, or registration to practice marriage
11 and family therapy, or any other healing art, shall constitute
12 unprofessional conduct. A certified copy of the disciplinary action
13 decision or judgment shall be conclusive evidence of that action.

14 (b) Revocation, suspension, or restriction by the board of a
15 license, certificate, or registration to practice as a clinical social
16 worker, professional clinical counselor, or educational psychologist
17 shall also constitute grounds for disciplinary action for
18 unprofessional conduct against the licensee or registrant under this
19 chapter.

20 ~~SEC. 37.~~

21 *SEC. 38.* Section 4984.6 of the Business and Professions Code
22 is repealed.

23 ~~SEC. 38.~~

24 *SEC. 39.* Section 4984.8 of the Business and Professions Code
25 is amended to read:

26 4984.8. (a) A licensee may apply to the board to request that
27 his or her license be placed on inactive status.

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

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

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

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

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

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

9 ~~SEC. 39.~~

10 *SEC. 40.* Section 4989.54 of the Business and Professions Code
11 is amended to read:

12 4989.54. The board may deny a license or may suspend or
13 revoke the license of a licensee if he or she has been guilty of
14 unprofessional conduct. Unprofessional conduct includes, but is
15 not limited to, the following:

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

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

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

24 (3) A plea or verdict of guilty or a conviction following a plea
25 of nolo contendere made to a charge substantially related to the
26 qualifications, functions, or duties of a licensee under this chapter
27 shall be deemed to be a conviction within the meaning of this
28 section.

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

38 (b) Securing a license by fraud, deceit, or misrepresentation on
39 an application for licensure submitted to the board, whether

- 1 engaged in by an applicant for a license or by a licensee in support
2 of an application for licensure.
- 3 (c) Administering to himself or herself a controlled substance
4 or using any of the dangerous drugs specified in Section 4022 or
5 an alcoholic beverage to the extent, or in a manner, as to be
6 dangerous or injurious to himself or herself or to any other person
7 or to the public or to the extent that the use impairs his or her ability
8 to safely perform the functions authorized by the license. The board
9 shall deny an application for a license or revoke the license of any
10 person, other than one who is licensed as a physician and surgeon,
11 who uses or offers to use drugs in the course of performing
12 educational psychology.
- 13 (d) Failure to comply with the consent provisions in Section
14 2290.5.
- 15 (e) Advertising in a manner that is false, fraudulent, misleading,
16 or deceptive, as defined in Section 651.
- 17 (f) Violating, attempting to violate, or conspiring to violate any
18 of the provisions of this chapter or any regulation adopted by the
19 board.
- 20 (g) Commission of any dishonest, corrupt, or fraudulent act
21 substantially related to the qualifications, functions, or duties of a
22 licensee.
- 23 (h) Denial of licensure, revocation, suspension, restriction, or
24 any other disciplinary action imposed by another state or territory
25 or possession of the United States or by any other governmental
26 agency, on a license, certificate, or registration to practice
27 educational psychology or any other healing art. A certified copy
28 of the disciplinary action, decision, or judgment shall be conclusive
29 evidence of that action.
- 30 (i) Revocation, suspension, or restriction by the board of a
31 license, certificate, or registration to practice as a clinical social
32 worker, professional clinical counselor, or marriage and family
33 therapist.
- 34 (j) Failure to keep records consistent with sound clinical
35 judgment, the standards of the profession, and the nature of the
36 services being rendered.
- 37 (k) Gross negligence or incompetence in the practice of
38 educational psychology.
- 39 (l) Misrepresentation as to the type or status of a license held
40 by the licensee or otherwise misrepresenting or permitting

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

3 (m) Intentionally or recklessly causing physical or emotional
4 harm to any client.

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

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

16 (p) Paying, accepting, or soliciting any consideration,
17 compensation, or remuneration, whether monetary or otherwise,
18 for the referral of professional clients.

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

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

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

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

38 (u) When employed by another person or agency, encouraging,
39 either orally or in writing, the employer's or agency's clientele to

1 utilize his or her private practice for further counseling without
2 the approval of the employing agency or administration.

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

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

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

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

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

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

36 ~~SEC. 40.~~

37 *SEC. 41.* Section 4990.02 of the Business and Professions Code
38 is amended to read:

39 4990.02. "Board," as used in this chapter, Chapter 13
40 (commencing with Section 4980), Chapter 13.5 (commencing with

1 Section 4989.10), Chapter 14 (commencing with Section 4991),
2 and Chapter 16 (commencing with Section 4999.10) means the
3 Board of Behavioral Sciences.

4 ~~SEC. 41.~~

5 *SEC. 42.* Section 4990.12 of the Business and Professions Code
6 is amended to read:

7 4990.12. The duty of administering and enforcing this chapter,
8 Chapter 13 (commencing with Section 4980), Chapter 13.5
9 (commencing with Section 4989.10), Chapter 14 (commencing
10 with Section 4991), and Chapter 16 (commencing with Section
11 4999.10) is vested in the board and the executive officer subject
12 to, and under the direction of, the board. In the performance of
13 this duty, the board and the executive officer have all the powers
14 and are subject to all the responsibilities vested in, and imposed
15 upon, the head of a department by Chapter 2 (commencing with
16 Section 11150) of Part 1 of Division 3 of Title 2 of the Government
17 Code.

18 ~~SEC. 42.~~

19 *SEC. 43.* Section 4990.18 of the Business and Professions Code
20 is amended to read:

21 4990.18. It is the intent of the Legislature that the board employ
22 its resources for each and all of the following functions:

23 (a) The licensure of marriage and family therapists, clinical
24 social workers, professional clinical counselors, and educational
25 psychologists.

26 (b) The development and administration of licensure
27 examinations and examination procedures consistent with
28 prevailing standards for the validation and use of licensing and
29 certification tests. Examinations shall measure knowledge and
30 abilities demonstrably important to the safe, effective practice of
31 the profession.

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

34 (d) Consumer education.

35 ~~SEC. 43.~~

36 *SEC. 44.* Section 4990.22 of the Business and Professions Code
37 is amended to read:

38 4990.22. (a) The Behavioral Sciences Fund shall be used for
39 the purposes of carrying out and enforcing the provisions of this
40 chapter and the chapters listed in Section 4990.12. All moneys in

1 the fund shall be expended by the board for the purposes of the
2 programs under its jurisdiction.

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

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

13 ~~SEC. 44.~~

14 *SEC. 45.* Section 4990.30 of the Business and Professions Code
15 is amended to read:

16 4990.30. (a) A licensed marriage and family therapist, marriage
17 and family therapist intern, licensed clinical social worker,
18 associate clinical social worker, licensed professional clinical
19 counselor, professional clinical counselor intern, or licensed
20 educational psychologist whose license or registration has been
21 revoked, suspended, or placed on probation, may petition the board
22 for reinstatement or modification of the penalty, including
23 modification or termination of probation. The petition shall be on
24 a form provided by the board and shall state any facts and
25 information as may be required by the board including, but not
26 limited to, proof of compliance with the terms and conditions of
27 the underlying disciplinary order. The petition shall be verified by
28 the petitioner who shall file an original and sufficient copies of
29 the petition, together with any supporting documents, for the
30 members of the board, the administrative law judge, and the
31 Attorney General.

32 (b) The licensee or registrant may file the petition on or after
33 the expiration of the following timeframes, each of which
34 commences on the effective date of the decision ordering the
35 disciplinary action or, if the order of the board, or any portion of
36 it, is stayed by the board itself or by the superior court, from the
37 date the disciplinary action is actually implemented in its entirety:

38 (1) Three years for reinstatement of a license or registration that
39 was revoked for unprofessional conduct, except that the board

1 may, in its sole discretion, specify in its revocation order that a
2 petition for reinstatement may be filed after two years.

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

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

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

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

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

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

21 (g) The board, when it is hearing the petition itself, or an
22 administrative law judge sitting for the board, may consider all
23 activities of the petitioner since the disciplinary action was taken,
24 the offense for which the petitioner was disciplined, the petitioner's
25 activities during the time his or her license or registration was in
26 good standing, and the petitioner's rehabilitative efforts, general
27 reputation for truth, and professional ability.

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

32 (i) The board itself, or the administrative law judge if one is
33 designated by the board, shall hear the petition and shall prepare
34 a written decision setting forth the reasons supporting the decision.
35 In a decision granting a petition reinstating a license or modifying
36 a penalty, the board itself, or the administrative law judge, may
37 impose any terms and conditions that the agency deems reasonably
38 appropriate, including those set forth in Sections 823 and 4990.40.
39 If a petition is heard by an administrative law judge sitting alone,
40 the administrative law judge shall prepare a proposed decision and

1 submit it to the board. The board may take action with respect to
2 the proposed decision and petition as it deems appropriate.

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

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

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

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

27 ~~SEC. 45.~~

28 *SEC. 46.* Section 4990.38 of the Business and Professions Code
29 is amended to read:

30 4990.38. The board may deny an application or may suspend
31 or revoke a license or registration issued under the chapters it
32 administers and enforces for any disciplinary action imposed by
33 another state or territory or possession of the United States, or by
34 a governmental agency on a license, certificate or registration to
35 practice marriage and family therapy, clinical social work,
36 educational psychology, professional clinical counseling, or any
37 other healing art. The disciplinary action, which may include denial
38 of licensure or revocation or suspension of the license or imposition
39 of restrictions on it, constitutes unprofessional conduct. A certified

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

3 ~~SEC. 46.~~

4 *SEC. 47.* Section 4992.36 of the Business and Professions Code
5 is amended to read:

6 4992.36. The board may deny an application, or may suspend
7 or revoke a license or registration issued under this chapter, for
8 any of the following:

9 (a) Denial of licensure, revocation, suspension, restriction, or
10 any other disciplinary action imposed by another state or territory
11 of the United States, or by any other governmental agency, on a
12 license, certificate, or registration to practice clinical social work
13 or any other healing art shall constitute grounds for disciplinary
14 action for unprofessional conduct. A certified copy of the
15 disciplinary action decision or judgment shall be conclusive
16 evidence of that action.

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

22 ~~SEC. 47.~~

23 *SEC. 48.* Article 3 (commencing with Section 4994) of Chapter
24 14 of Division 2 of the Business and Professions Code is repealed.

25 ~~SEC. 48.~~

26 *SEC. 49.* Section 4996.17 of the Business and Professions Code
27 is amended to read:

28 4996.17. (a) Experience gained outside of California shall be
29 accepted toward the licensure requirements if it is substantially
30 the equivalent of the requirements of this chapter.

31 (b) The board may issue a license to any person who, at the time
32 of application, holds a valid active clinical social work license
33 issued by a board of clinical social work examiners or
34 corresponding authority of any state, if the person passes the board
35 administered licensing examinations as specified in Section 4996.1
36 and pays the required fees. Issuance of the license is conditioned
37 upon all of the following:

38 (1) The applicant has supervised experience that is substantially
39 the equivalent of that required by this chapter. If the applicant has
40 less than 3,200 hours of qualifying supervised experience, time

1 actively licensed as a clinical social worker shall be accepted at a
2 rate of 100 hours per month up to a maximum of 1,200 hours.

3 (2) Completion of the following coursework or training in or
4 out of this state:

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

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

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

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

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

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

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

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

34 (c) The board may issue a license to any person who, at the time
35 of application, holds a valid, active clinical social work license
36 issued by a board of clinical social work examiners or a
37 corresponding authority of any state, if the person has held that
38 license for at least four years immediately preceding the date of
39 application, the person passes the board administered licensing
40 examinations as specified in Section 4996.1, and the person pays

1 the required fees. Issuance of the license is conditioned upon all
2 of the following:

3 (1) Completion of the following coursework or training in or
4 out of state:

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

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

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

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

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

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

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

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

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

37 ~~SEC. 49.~~

38 *SEC. 50.* Section 4996.23 of the Business and Professions Code
39 is amended to read:

1 4996.23. The experience required by subdivision (c) of Section
2 4996.2 shall meet the following criteria:

3 (a) All persons registered with the board on and after January
4 1, 2002, shall have at least 3,200 hours of post-master's degree
5 supervised experience providing clinical social work services as
6 permitted by Section 4996.9. At least 1,700 hours shall be gained
7 under the supervision of a licensed clinical social worker. The
8 remaining required supervised experience may be gained under
9 the supervision of a licensed mental health professional acceptable
10 to the board as defined by a regulation adopted by the board. This
11 experience shall consist of the following:

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

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

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

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

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

27 (b) "Supervision" means responsibility for, and control of, the
28 quality of clinical social work services being provided.
29 Consultation or peer discussion shall not be considered to be
30 supervision.

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

36 (2) Supervised experience shall include at least one hour of
37 direct supervisor contact for a minimum of 104 weeks. For
38 purposes of this subdivision, "one hour of direct supervisor contact"
39 means one hour per week of face-to-face contact on an individual

1 basis or two hours of face-to-face contact in a group conducted
2 within the same week as the hours claimed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~SEC. 50.~~

31 *SEC. 51.* Section 4999.46 of the Business and Professions Code
32 is amended to read:

33 4999.46. (a) To qualify for licensure, applicants shall complete
34 clinical mental health experience under the general supervision of
35 an approved supervisor as defined in Section 4999.12.

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

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

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

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

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

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

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

14 (A) Direct supervisor contact.

15 (B) Client centered advocacy.

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

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

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

26 (d) An applicant shall register with the board as an intern in
27 order to be credited for postdegree hours of experience toward
28 licensure. Postdegree hours of experience shall be credited toward
29 licensure, provided that the applicant applies for intern registration
30 within 90 days of the granting of the qualifying degree and is
31 registered as an intern by the board.

32 (e) All applicants and interns shall be at all times under the
33 supervision of a supervisor who shall be responsible for ensuring
34 that the extent, kind, and quality of counseling performed is
35 consistent with the training and experience of the person being
36 supervised, and who shall be responsible to the board for
37 compliance with all laws, rules, and regulations governing the
38 practice of professional clinical counseling.

39 (f) Experience obtained under the supervision of a spouse or
40 relative by blood or marriage shall not be credited toward the

1 required hours of supervised experience. Experience obtained
2 under the supervision of a supervisor with whom the applicant has
3 had or currently has a personal, professional, or business
4 relationship that undermines the authority or effectiveness of the
5 supervision shall not be credited toward the required hours of
6 supervised experience.

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

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

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

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

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

27 ~~SEC. 51.~~

28 *SEC. 52.* Section 4999.57 is added to the Business and
29 Professions Code, to read:

30 4999.57. (a) This section applies to a person who applies for
31 examination eligibility or registration between January 1, 2011,
32 and December 31, 2013, inclusive, who does not hold a license
33 described in subdivision (a) of Section 4999.58.

34 (b) Experience gained outside of California shall be accepted
35 toward the licensure requirements if it is substantially equivalent
36 to that required by this chapter, if the applicant complies with
37 Section 4999.40, if applicable, and if the applicant has gained a
38 minimum of 250 hours of supervised experience in direct
39 counseling within California while registered as an intern with the
40 board.

1 (c) Education gained while residing outside of California shall
2 be accepted toward the licensure requirements if it is substantially
3 equivalent to the education requirements of this chapter, if the
4 applicant has completed the training or coursework required under
5 subdivision (e) of Section 4999.32, and if the applicant completes,
6 in addition to the course described in subparagraph (I) of paragraph
7 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
8 California law and professional ethics that includes, but is not
9 limited to, instruction in advertising, scope of practice, scope of
10 competence, treatment of minors, confidentiality, dangerous clients,
11 psychotherapist-client privilege, recordkeeping, client access to
12 records, the Health Insurance Portability and Accountability Act,
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 clients.

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

25 (1) The applicant's degree contains the required number of
26 practicum units under paragraph (3) of subdivision (c) of Section
27 4999.32.

28 (2) The applicant remediates his or her specific deficiency by
29 completing the course content and units required by Section
30 4999.32.

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

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

35 ~~SEC. 52.~~

36 *SEC. 53.* Section 4999.58 of the Business and Professions Code
37 is amended to read:

38 4999.58. (a) This section applies to a person who applies for
39 examination eligibility between January 1, 2011, and December

1 31, 2013, inclusive, and who meets both of the following
2 requirements:

3 (1) At the time of application, holds a valid license as a
4 professional clinical counselor, or other counseling license that
5 allows the applicant to independently provide clinical mental health
6 services, in another jurisdiction of the United States.

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

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

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

14 (2) The person complies with subdivision (b) of Section 4999.40,
15 if applicable.

16 (3) The person successfully completes the examinations required
17 by the board pursuant to paragraph (3) of subdivision (a) of Section
18 4999.50.

19 (4) The person pays the required fees.

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

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

1 standards, termination of therapy, standards of care, relevant family
2 law, and therapist disclosures to clients.

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

10 (1) The applicant's degree contains the required number of
11 practicum units under paragraph (3) of subdivision (c) of Section
12 4999.32.

13 (2) The applicant remediates his or her specific deficiency by
14 completing the course content and units required by Section
15 4999.32.

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

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

20 ~~SEC. 53:~~

21 *SEC. 54.* Section 4999.59 is added to the Business and
22 Professions Code, to read:

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

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

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

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

1 (c) Education gained while residing outside of California shall
2 be accepted toward the licensure requirements if it is substantially
3 equivalent to the education requirements of this chapter, if the
4 applicant has completed the training or coursework required under
5 subdivision (e) of Section 4999.32, and if the applicant completes,
6 in addition to the course described in subparagraph (I) of paragraph
7 (1) of subdivision (c) of Section 4999.32, an 18-hour course in
8 California law and professional ethics that includes, but is not
9 limited to, instruction in advertising, scope of practice, scope of
10 competence, treatment of minors, confidentiality, dangerous clients,
11 psychotherapist-client privilege, recordkeeping, client access to
12 records, the Health Insurance Portability and Accountability Act,
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 clients.

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

25 (1) The applicant's degree contains the required number of
26 practicum units under paragraph (3) of subdivision (c) of Section
27 4999.32.

28 (2) The applicant remediates his or her specific deficiency by
29 completing the course content and units required by Section
30 4999.32.

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

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

35 ~~SEC. 54.~~

36 *SEC. 55.* Section 4999.90 of the Business and Professions Code
37 is amended to read:

38 4999.90. The board may refuse to issue any registration or
39 license, or may suspend or revoke the registration or license of
40 any intern or licensed professional clinical counselor, if the

1 applicant, licensee, or registrant has been guilty of unprofessional
2 conduct. Unprofessional conduct includes, but is not limited to,
3 the following:

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

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

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

1 referred to in this subdivision, or any combination thereof. The
2 board shall deny an application for a registration or license or
3 revoke the license or registration of any person, other than one
4 who is licensed as a physician and surgeon, who uses or offers to
5 use drugs in the course of performing licensed professional clinical
6 counseling services.

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

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

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

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

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

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

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

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

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

39 (m) Failure to maintain confidentiality, except as otherwise
40 required or permitted by law, of all information that has been

1 received from a client in confidence during the course of treatment
2 and all information about the client which is obtained from tests
3 or other means.

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

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

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

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

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

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

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

39 (u) The violation of any statute or regulation of the standards
40 of the profession, and the nature of the services being rendered,

- 1 governing the gaining and supervision of experience required by
- 2 this chapter.
- 3 (v) Failure to keep records consistent with sound clinical
- 4 judgment, the standards of the profession, and the nature of the
- 5 services being rendered.
- 6 (w) Failure to comply with the child abuse reporting
- 7 requirements of Section 11166 of the Penal Code.
- 8 (x) Failing to comply with the elder and dependent adult abuse
- 9 reporting requirements of Section 15630 of the Welfare and
- 10 Institutions Code.
- 11 (y) Repeated acts of negligence.
- 12 (z) (1) Engaging in an act described in Section 261, 286, 288a,
- 13 or 289 of the Penal Code with a minor or an act described in
- 14 Section 288 or 288.5 of the Penal Code regardless of whether the
- 15 act occurred prior to or after the time the registration or license
- 16 was issued by the board. An act described in this subdivision
- 17 occurring prior to the effective date of this subdivision shall
- 18 constitute unprofessional conduct and shall subject the licensee to
- 19 refusal, suspension, or revocation of a license under this section.
- 20 (2) The Legislature hereby finds and declares that protection of
- 21 the public, and in particular minors, from sexual misconduct by a
- 22 licensee is a compelling governmental interest, and that the ability
- 23 to suspend or revoke a license for sexual conduct with a minor
- 24 occurring prior to the effective date of this section is equally
- 25 important to protecting the public as is the ability to refuse a license
- 26 for sexual conduct with a minor occurring prior to the effective
- 27 date of this section.
- 28 (aa) Engaging in any conduct that subverts or attempts to subvert
- 29 any licensing examination or the administration of an examination
- 30 as described in Section 123.
- 31 (ab) Revocation, suspension, or restriction by the board of a
- 32 license, certificate, or registration to practice as a clinical social
- 33 worker, educational psychologist, or marriage and family therapist.

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