

AMENDED IN ASSEMBLY JUNE 17, 2010

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, 2530.2, 2539.1, 2570.19, 3025.1, 3046, 3057.5, 3147, 3147.6, 3147.7, 3365.5, 4013, 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.

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~~ *each step* of the United States Medical Licensing Examination and would also authorize the board to extend that period for ~~applicants~~ *an applicant* who ~~hold a valid, unlimited license as is~~ a physician and surgeon in another state or a Canadian province and ~~have who is currently and actively practiced~~ *practicing* 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 provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. Existing law requires a licensed audiologist who wishes to sell hearing aids to meet specified licensure and examination requirements, and to apply for a dispensing audiologist certificate, pay applicable fees, and pass a board-approved hearing aid examination, except as specified. Existing law authorizes a licensed audiologist with an expired hearing aid dispenser's license to continue to sell hearing aids pursuant to his or her audiology license.

This bill would require the board to issue a dispensing audiology license to a licensed audiologist who meets those requirements or whose

license to sell hearing aids has expired. The bill would also waive the licensure, examination, and application requirements described above as applied to a licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist.

Existing law requires a hearing aid dispenser to inform a customer, in writing, that he or she should consult with a physician based upon an observation, or being informed by the customer, that certain problems of the ear exist.

This bill would additionally require that written notification upon observing or being informed by the customer of pain or discomfort in the ear or of specified accumulation or a foreign body in the ear canal.

~~(2)~~

(3) 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)

(4) 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.

Existing law requires a facility licensed by the board to join the board's e-mail notification list within 60 days of obtaining a license or at the time of license renewal.

This bill would allow an owner of 2 or more facilities to comply with the e-mail notification requirement through the use of one e-mail address under specified circumstances.

(4)

(5) 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, *and would only allow an applicant to comply with the experience requirements with hours of experience gained on and after January 1, 2010.*

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 associate clinical worker or 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 associate clinical worker or 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 contract via two-way, real time videoconferencing.

This bill would delete that 30-hour limit and would require *an associate clinical worker or 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, *and* (4) *failing to comply with required procedures when delivering health care via telemedicine.*

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
- 11 an approved medical school, who is registered with the board and
- 12 who is enrolled in a postgraduate training program approved by
- 13 the board, may engage in the practice of medicine whenever and
- 14 wherever required as a part of the program under the following
- 15 conditions:

1 (a) A graduate enrolled in an approved first-year postgraduate
2 training program may so engage in the practice of medicine for a
3 period not to exceed one year whenever and wherever required as
4 a part of the training program, and may receive compensation for
5 that practice.

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

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

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

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

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

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

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

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

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

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

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

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

36 (e) Nothing in this section prohibits the board from disapproving
37 a foreign medical school or from denying an application if, in the
38 opinion of the board, the professional instruction provided by the
39 medical school or the instruction received by the applicant is not

1 equivalent to that required in Article 4 (commencing with Section
2 2080).

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

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

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

16 (b) Submitted official evidence satisfactory to the board of
17 completion of all formal requirements of the medical school for
18 graduation, except the applicant shall not be required to have
19 completed an internship or social service or be admitted or licensed
20 to practice medicine in the country in which the professional
21 instruction was completed.

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

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

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

36 (2) An applicant who has passed the basic science and English
37 language examinations required for certification by the Educational
38 Commission for Foreign Medical Graduates may present evidence
39 of those passing scores along with a certificate of completion of
40 one academic year of supervised clinical training in a program

1 approved by the board pursuant to Section 2104 in satisfaction of
2 the formal certification requirements of subdivision (b) of Section
3 2102.

4 (e) Satisfactorily completed the postgraduate training required
5 under Section 2096.

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

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

10 2177. (a) A passing score is required for an entire examination
11 or for each part of an examination, as established by resolution of
12 the board.

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

15 (c) (1) An applicant shall have obtained a passing score on Step
16 3 of the United States Medical Licensing Examination within not
17 more than four attempts in order to be eligible for a physician's
18 and surgeon's certificate.

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

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

26 2184. (a) Each applicant shall obtain on the written
27 examination a passing score, established by the board pursuant to
28 Section 2177.

29 (b) (1) Passing scores on ~~Step 3~~ *each step* of the United States
30 Medical Licensing Examination shall be valid for a period of 10
31 years from the month of the examination for purposes of
32 qualification for licensure in California.

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

35 (A) For good cause.

36 (B) For time spent in a postgraduate training program, including,
37 but not limited to, residency training, fellowship training, remedial
38 or refresher training, or other training that is intended to maintain
39 or improve medical skills.

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

4 *(C) For an applicant who is a physician and surgeon in another*
5 *state or a Canadian province who is currently and actively*
6 *practicing medicine in that state or province.*

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

12 SEC. 8. Section 2516 of the Business and Professions Code is
13 amended to read:

14 2516. (a) Each licensed midwife who assists, or supervises a
15 student midwife in assisting, in childbirth that occurs in an
16 out-of-hospital setting shall annually report to the Office of
17 Statewide Health Planning and Development. The report shall be
18 submitted no later than March 30, with the first report due in March
19 2008, for the prior calendar year, in a form specified by the board
20 and shall contain all of the following:

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

22 (2) The calendar year being reported.

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

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

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

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

33 (D) The number by county of live births attended as primary
34 caregiver.

35 (E) The number, by county, of cases of fetal demise, infant
36 deaths, and maternal deaths attended as primary caregiver at the
37 discovery of the demise or death.

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

- 1 (G) The number, reason, and outcome for each elective hospital
2 transfer during the intrapartum or postpartum period.
- 3 (H) The number, reason, and outcome for each urgent or
4 emergency transport of an expectant mother in the antepartum
5 period.
- 6 (I) The number, reason, and outcome for each urgent or
7 emergency transport of an infant or mother during the intrapartum
8 or immediate postpartum period.
- 9 (J) The number of planned out-of-hospital births at the onset of
10 labor and the number of births completed in an out-of-hospital
11 setting.
- 12 (K) The number of planned out-of-hospital births completed in
13 an out-of-hospital setting that were any of the following:
- 14 (i) Twin births.
- 15 (ii) Multiple births other than twin births.
- 16 (iii) Breech births.
- 17 (iv) Vaginal births after the performance of a cesarean section.
- 18 (L) A brief description of any complications resulting in the
19 morbidity or mortality of a mother or an infant.
- 20 (M) Any other information prescribed by the board in
21 regulations.
- 22 (b) The Office of Statewide Health Planning and Development
23 shall maintain the confidentiality of the information submitted
24 pursuant to this section, and shall not permit any law enforcement
25 or regulatory agency to inspect or have copies made of the contents
26 of any reports submitted pursuant to subdivision (a) for any
27 purpose, including, but not limited to, investigations for licensing,
28 certification, or regulatory purposes.
- 29 (c) The office shall report to the board, by April 30, those
30 licensees who have met the requirements of subdivision (a) for
31 that year.
- 32 (d) The board shall send a written notice of noncompliance to
33 each licensee who fails to meet the reporting requirement of
34 subdivision (a). Failure to comply with subdivision (a) will result
35 in the midwife being unable to renew his or her license without
36 first submitting the requisite data to the Office of Statewide Health
37 Planning and Development for the year for which that data was
38 missing or incomplete. The board shall not take any other action
39 against the licensee for failure to comply with subdivision (a).

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

7 (f) The office shall report the aggregate information collected
8 pursuant to this section to the board by July 30 of each year. The
9 board shall include this information in its annual report to the
10 Legislature.

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

13 *SEC. 9. Section 2530.2 of the Business and Professions Code*
14 *is amended to read:*

15 2530.2. As used in this chapter, unless the context otherwise
16 requires:

17 (a) “Board” means the Speech-Language Pathology and
18 Audiology and Hearing Aid Dispensers Board. As used in this
19 chapter or any other provision of law, “Speech-Language Pathology
20 and Audiology Board” shall be deemed to refer to the
21 Speech-Language Pathology and Audiology and Hearing Aid
22 Dispensers Board or any successor.

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

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

29 (d) The practice of speech-language pathology means all of the
30 following:

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

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

1 (3) Conducting hearing screenings.

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

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

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

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

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

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

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

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

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

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

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

32 (l) A “dispensing audiologist” is a person who is authorized to
33 sell hearing aids pursuant to his or her audiology license.

34 (†)

35 (m) “Audiology aide” means any person, meeting the minimum
36 requirements established by the board. An audiology aid may not
37 perform any function that constitutes the practice of audiology
38 unless he or she is under the supervision of an audiologist. The
39 board may by regulation exempt certain functions performed by
40 an industrial audiology aide from supervision provided that his or

1 her employer has established a set of procedures or protocols that
2 the aide shall follow in performing these functions.

3 ~~(m)~~

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

5 ~~(n)~~

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

10 ~~(o)~~

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

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

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

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

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

34 *SEC. 10. Section 2539.1 of the Business and Professions Code*
35 *is amended to read:*

36 2539.1. (a) (1) On and after January 1, 2010, in addition to
37 satisfying the licensure and examination requirements described
38 in Sections 2532 and 2532.2, no licensed audiologist shall sell
39 hearing aids unless he or she ~~has completed~~ *completes* an
40 application for a dispensing ~~audiologist certificate~~ *audiology*

1 ~~license, paid~~ pays all applicable fees, and ~~passed~~ passes an
2 examination, approved by the board, relating to selling hearing
3 aids.

4 (2) The board shall issue a dispensing ~~audiologist certificate~~
5 *audiology license* to a licensed audiologist who meets the
6 requirements of paragraph (1).

7 (b) (1) On and after January 1, 2010, a licensed audiologist
8 with an unexpired license to sell hearing aids pursuant to Chapter
9 7.5 (commencing with Section 3300) may continue to sell hearing
10 aids pursuant to that license until that license expires pursuant to
11 Section 3451, and upon that expiration the licensee shall be deemed
12 to have satisfied the requirements described in subdivision (a) and
13 may continue to sell hearing aids pursuant to his or her audiology
14 license subject to the provisions of this chapter. ~~▲ Upon the~~
15 ~~expiration of the audiologist's license to sell hearing aids, the~~
16 ~~board shall issue him or her a dispensing audiology license~~
17 ~~pursuant to paragraph (2) of subdivision (a). This paragraph shall~~
18 ~~not prevent an audiologist who also has a hearing aid dispenser's~~
19 ~~license from maintaining dual or separate licenses if he or she~~
20 ~~chooses to do so.~~

21 (2) A licensed audiologist whose license to sell hearing aids,
22 issued pursuant to Chapter 7.5 (commencing with Section 3300),
23 is suspended, *surrendered*, or revoked shall not be authorized to
24 sell hearing aids pursuant to this subdivision and he or she shall
25 be subject to the requirements described in subdivision (a) as well
26 as the other provisions of this chapter.

27 (c) *A licensed hearing aid dispenser who meets the qualifications*
28 *for licensure as an audiologist shall be deemed to have satisfied*
29 *the requirements of paragraph (1) of subdivision (a) for the*
30 *purposes of obtaining a dispensing audiology license.*

31 (e)

32 (d) For purposes of subdivision (a), the board shall provide the
33 hearing aid dispenser's examination provided by the former
34 Hearing Aid Dispensers Bureau until such time as the next
35 examination validation and occupational analysis is completed by
36 the Department of Consumer Affairs pursuant to Section 139 and
37 a determination is made that a different examination is to be
38 administered.

1 ~~SEC. 9.~~

2 *SEC. 11.* Section 2570.19 of the Business and Professions Code
3 is amended to read:

4 2570.19. (a) There is hereby created a California Board of
5 Occupational Therapy, hereafter referred to as the board. The board
6 shall enforce and administer this chapter.

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

8 (1) Three occupational therapists who shall have practiced
9 occupational therapy for five years.

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

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

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

20 (d) All members shall be residents of California at the time of
21 their appointment. The occupational therapist and occupational
22 therapy assistant members shall have been engaged in rendering
23 occupational therapy services to the public, teaching, or research
24 in occupational therapy for at least five years preceding their
25 appointments.

26 (e) The public members may not be or have ever been
27 occupational therapists or occupational therapy assistants or in
28 training to become occupational therapists or occupational therapy
29 assistants. The public members may not be related to, or have a
30 household member who is, an occupational therapist or an
31 occupational therapy assistant, and may not have had, within two
32 years of the appointment, a substantial financial interest in a person
33 regulated by the board.

34 (f) The Governor shall appoint two board members for a term
35 of one year, two board members for a term of two years, and one
36 board member for a term of three years. Appointments made
37 thereafter shall be for four-year terms, but no person shall be
38 appointed to serve more than two consecutive terms. Terms shall
39 begin on the first day of the calendar year and end on the last day
40 of the calendar year or until successors are appointed, except for

1 the first appointed members who shall serve through the last
2 calendar day of the year in which they are appointed, before
3 commencing the terms prescribed by this section. Vacancies shall
4 be filled by appointment for the unexpired term. The board shall
5 annually elect one of its members as president.

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

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

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

19 (j) The appointing power shall have the power to remove any
20 member of the board from office for neglect of any duty imposed
21 by state law, for incompetency, or for unprofessional or
22 dishonorable conduct.

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

29 ~~SEC. 10.~~

30 *SEC. 12.* Section 3025.1 of the Business and Professions Code
31 is amended to read:

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

37 ~~SEC. 11.~~

38 *SEC. 13.* Section 3046 of the Business and Professions Code
39 is amended to read:

1 3046. In order to obtain a license to practice optometry in
 2 California, an applicant shall have graduated from an accredited
 3 school of optometry, passed the required examinations for
 4 licensure, and not have met any of the grounds for denial
 5 established in Section 480. The proceedings under this section
 6 shall be in accordance with Chapter 5 (commencing with Section
 7 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

8 ~~SEC. 12.~~

9 *SEC. 14.* Section 3057.5 of the Business and Professions Code
 10 is amended to read:

11 3057.5. Notwithstanding any other provision of this chapter,
 12 the board shall permit a person who meets all of the following
 13 requirements to take the examinations for a certificate of
 14 registration as an optometrist:

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

19 ~~SEC. 13.~~

20 *SEC. 15.* Section 3147 of the Business and Professions Code
 21 is amended to read:

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

33 ~~SEC. 14.~~

34 *SEC. 16.* Section 3147.6 of the Business and Professions Code
 35 is amended to read:

36 3147.6. Except as otherwise provided by Section 114, a license
 37 that is not renewed within three years after its expiration may be
 38 restored thereafter, if no fact, circumstance, or condition exists
 39 that, if the license were restored, would justify its revocation or
 40 suspension, provided all of the following conditions are met:

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

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

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

8 (d) The holder of the expired license satisfactorily passes both
9 of the following examinations:

10 (1) The National Board of Examiners in Optometry's Clinical
11 Skills examination or other clinical examination approved by the
12 board.

13 (2) The board's jurisprudence examination.

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

19 ~~SEC. 15.~~

20 *SEC. 17.* Section 3147.7 of the Business and Professions Code
21 is amended to read:

22 3147.7. The provisions of Section 3147.6 shall not apply to a
23 person holding a license that has not been renewed within three
24 years of expiration, if the person provides satisfactory proof that
25 he or she holds an active license from another state and meets all
26 of the following conditions:

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

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

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

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

34 (e) Takes and satisfactorily passes the board's jurisprudence
35 examination.

36 *SEC. 18.* Section 3365.5 of the Business and Professions Code
37 is amended to read:

38 3365.5. Whenever any of the following conditions are found
39 to exist either from observations by the licensee or on the basis of
40 information furnished by the prospective hearing aid user, a

1 licensee shall, prior to fitting or selling a hearing aid to any
2 individual, suggest to that individual in writing that his best
3 interests would be served if he would consult a licensed physician
4 specializing in diseases of the ear or if no such licensed physician
5 is available in the community then to a duly licensed physician:

- 6 (1) Visible congenital or traumatic deformity of the ear.
- 7 (2) History of, or active drainage from the ear within the
8 previous 90 days.
- 9 (3) History of sudden or rapidly progressive hearing loss within
10 the previous 90 days.
- 11 (4) Acute or chronic dizziness.
- 12 (5) Unilateral hearing loss of sudden or recent onset within the
13 previous 90 days.
- 14 (6) Significant air-bone gap (when generally acceptable
15 standards have been established).
- 16 (7) *Visible evidence of significant cerumen accumulation or a*
17 *foreign body in the ear canal.*
- 18 (8) *Pain or discomfort in the ear.*

19 No ~~such~~ referral for medical opinion need be made by any
20 licensee in the instance of replacement only of a hearing aid ~~which~~
21 *that* has been lost or damaged beyond repair within one year of
22 the date of purchase. A copy of the written recommendation shall
23 be retained by the licensee for the period provided for in Section
24 3366. A person receiving the written recommendation who elects
25 to purchase a hearing aid shall sign a receipt for the same, and the
26 receipt shall be kept with the other papers retained by the licensee
27 for the period provided for in Section 3366. Nothing in this section
28 required to be performed by a licensee shall mean that the licensee
29 is engaged in the diagnosis of illness or the practice of medicine
30 or any other activity prohibited by the provisions of this code.

31 *SEC. 19. Section 4013 of the Business and Professions Code*
32 *is amended to read:*

33 4013. (a) Any facility licensed by the board shall join the
34 board's e-mail notification list within 60 days of obtaining a license
35 or at the time of license renewal.

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

39 (c) *An owner of two or more facilities licensed by the board*
40 *may comply with subdivisions (a) and (b) by subscribing a single*

1 *e-mail address to the board's e-mail notification list, where the*
2 *owner maintains an electronic notification system within all of its*
3 *licensed facilities that, upon receipt of an e-mail notification from*
4 *the board, immediately transmits electronic notice of the same*
5 *notification to all of its licensed facilities. If an owner chooses to*
6 *comply with this section by using such an electronic notice system,*
7 *the owner shall register the electronic notification system with the*
8 *board by July 1, 2011, or within 60 days of initial licensure,*
9 *whichever is later, informing the board of the single e-mail address*
10 *to be utilized by the owner, describing the electronic notification*
11 *system, and listing all facilities to which immediate electronic*
12 *notification will be provided.*

13 (e)

14 (d) This section shall become operative on July 1, 2010.

15 ~~SEC. 16.~~

16 *SEC. 20.* Section 4017 of the Business and Professions Code
17 is amended to read:

18 4017. "Authorized officers of the law" means inspectors of the
19 California State Board of Pharmacy, inspectors of the Food and
20 Drug Branch of the State Department of Public Health, and
21 investigators of the department's Division of Investigation or peace
22 officers engaged in official investigations.

23 ~~SEC. 17.~~

24 *SEC. 21.* Section 4028 of the Business and Professions Code
25 is amended to read:

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

35 ~~SEC. 18.~~

36 *SEC. 22.* Section 4037 of the Business and Professions Code
37 is amended to read:

38 4037. (a) "Pharmacy" means an area, place, or premises
39 licensed by the board in which the profession of pharmacy is
40 practiced and where prescriptions are compounded. "Pharmacy"

1 includes, but is not limited to, any area, place, or premises
2 described in a license issued by the board wherein controlled
3 substances, dangerous drugs, or dangerous devices are stored,
4 possessed, prepared, manufactured, derived, compounded, or
5 repackaged, and from which the controlled substances, dangerous
6 drugs, or dangerous devices are furnished, sold, or dispensed at
7 retail.

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

15 ~~SEC. 19.~~

16 *SEC. 23.* Section 4052.3 of the Business and Professions Code
17 is amended to read:

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

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

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

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

39 (c) A pharmacist, pharmacist’s employer, or pharmacist’s agent
40 may not directly charge a patient a separate consultation fee for

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

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

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

1 ~~SEC. 20.~~

2 *SEC. 24.* Section 4059 of the Business and Professions Code
3 is amended to read:

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

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

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

37 (d) Home dialysis patients who receive any drugs or devices
38 pursuant to subdivision (c) shall have completed a full course of
39 home training given by a dialysis center licensed by the State
40 Department of Public Health. The physician prescribing the dialysis

1 products shall submit proof satisfactory to the manufacturer or
2 wholesaler that the patient has completed the program.

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

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

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

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

24 ~~SEC. 21.~~

25 *SEC. 25.* Section 4072 of the Business and Professions Code
26 is amended to read:

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

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

6 ~~SEC. 22.~~

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

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

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

23 ~~SEC. 23.~~

24 SEC. 27. Section 4119 of the Business and Professions Code
25 is amended to read:

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

39 (b) Notwithstanding any other provision of law, a pharmacy
40 may furnish a dangerous drug or a dangerous device to an approved

1 service provider within an emergency medical services system for
2 storage in a secured emergency pharmaceutical supplies container,
3 in accordance with the policies and procedures of the local
4 emergency medical services agency, if all of the following are
5 met:

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

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

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

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

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

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

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

34 ~~SEC. 24.~~

35 *SEC. 28.* Section 4127.1 of the Business and Professions Code
36 is amended to read:

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

1 (b) A license to compound injectable sterile drug products may
2 only be issued for a location that is licensed as a pharmacy.
3 Furthermore, the license to compound injectable sterile drug
4 products may only be issued to the owner of the pharmacy license
5 at that location. A license to compound injectable sterile drug
6 products may not be issued until the location is inspected by the
7 board and found in compliance with this article and regulations
8 adopted by the board.

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

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

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

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

25 ~~SEC. 25.~~

26 *SEC. 29.* Section 4169 of the Business and Professions Code
27 is amended to read:

28 4169. (a) A person or entity may not do any of the following:

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

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

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

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

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

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

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

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

15 ~~SEC. 26.~~

16 *SEC. 30.* Section 4181 of the Business and Professions Code
17 is amended to read:

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

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

33 ~~SEC. 27.~~

34 *SEC. 31.* Section 4191 of the Business and Professions Code
35 is amended to read:

36 4191. (a) Prior to the issuance of a clinic license authorized
37 under this article, the clinic shall comply with all applicable laws
38 and regulations of the State Department of Public Health and the
39 board relating to drug distribution to ensure that inventories,
40 security procedures, training, protocol development, recordkeeping,

1 packaging, labeling, dispensing, and patient consultation are carried
2 out in a manner that is consistent with the promotion and protection
3 of the health and safety of the public. The policies and procedures
4 to implement the laws and regulations shall be developed and
5 approved by the consulting pharmacist, the professional director,
6 and the clinic administrator.

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

11 ~~SEC. 28.~~

12 *SEC. 32.* Section 4196 of the Business and Professions Code
13 is amended to read:

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

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

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

38 (d) Every veterinary food-animal drug retailer shall be
39 supervised or managed by a designated representative-in-charge.
40 The designated representative-in-charge shall be responsible for

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

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

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

29 ~~SEC. 29.~~

30 *SEC. 33.* Section 4200.1 is added to the Business and
31 Professions Code, to read:

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

36 (b) Notwithstanding Section 135, an applicant may take the
37 North American Pharmacist Licensure Examination and the
38 California Practice Standards and Jurisprudence Examination for
39 Pharmacists four additional times each if he or she successfully

1 completes, at a minimum, 16 additional semester units of education
2 in pharmacy as approved by the board.

3 (c) The applicant shall comply with the requirements of Section
4 4200 for each application for reexamination made pursuant to
5 subdivision (b).

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

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

16 ~~SEC. 30.~~

17 *SEC. 34.* Section 4425 of the Business and Professions Code
18 is amended to read:

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

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

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

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

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

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

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

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

19 ~~SEC. 31.~~

20 *SEC. 35.* Section 4426 of the Business and Professions Code
21 is amended to read:

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

26 ~~SEC. 32.~~

27 *SEC. 36.* Section 4980.07 of the Business and Professions Code
28 is repealed.

29 ~~SEC. 33.~~

30 *SEC. 37.* Section 4980.40.5 of the Business and Professions
31 Code is amended to read:

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

1 as a marriage and family therapist intern provided that the degree
2 is conferred on or before July 1, 2010.

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

9 (1) Northwest Commission on Colleges and Universities.

10 (2) Middle States Association of Colleges and Secondary
11 Schools.

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

13 (4) North Central Association of Colleges and Secondary
14 Schools.

15 (5) Southern Association of Colleges and Schools.

16 ~~SEC. 34.~~

17 ~~SEC. 38.~~ Section 4980.43 of the Business and Professions Code
18 is amended to read:

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

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

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

25 (3) Not less than 1,700 hours of supervised experience
26 completed subsequent to the granting of the qualifying master's
27 or doctoral degree.

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

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

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

36 (6) No hours of experience *may be* gained more than six years
37 prior to the date the application for examination eligibility was
38 filed, except that up to 500 hours of clinical experience gained in
39 the supervised practicum required by subdivision (c) of Section

1 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
2 of Section 4980.36 shall be exempt from this six-year requirement.

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

5 (A) Direct supervisor contact.

6 (B) Professional enrichment activities. For purposes of this
7 chapter, “professional enrichment activities” include the following:

8 (i) Workshops, seminars, training sessions, or conferences
9 directly related to marriage and family therapy attended by the
10 applicant that are approved by the applicant’s supervisor. An
11 applicant shall have no more than 250 hours of verified attendance
12 at these workshops, seminars, training sessions, or conferences.

13 (ii) Participation by the applicant in personal psychotherapy,
14 which includes group, marital or conjoint, family, or individual
15 psychotherapy by an appropriately licensed professional. An
16 applicant shall have no more than 100 hours of participation in
17 personal psychotherapy. The applicant shall be credited with three
18 hours of experience for each hour of personal psychotherapy.

19 (C) Client centered advocacy.

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

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

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

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

33 *This subdivision shall only apply to hours gained on and after*
34 *January 1, 2010.*

35 (b) All applicants, trainees, and registrants shall be at all times
36 under the supervision of a supervisor who shall be responsible for
37 ensuring that the extent, kind, and quality of counseling performed
38 is consistent with the training and experience of the person being
39 supervised, and who shall be responsible to the board for
40 compliance with all laws, rules, and regulations governing the

1 practice of marriage and family therapy. Supervised experience
2 shall be gained by interns and trainees either as an employee or as
3 a volunteer. The requirements of this chapter regarding gaining
4 hours of experience and supervision are applicable equally to
5 employees and volunteers. Experience shall not be gained by
6 interns or trainees as an independent contractor.

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

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

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

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

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

25 (3) For purposes of this section, "one hour of direct supervisor
26 contact" means one hour per week of face-to-face contact on an
27 individual basis or two hours per week of face-to-face contact in
28 a group.

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

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

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

- 1 (7) All experience gained by a trainee shall be monitored by the
2 supervisor as specified by regulation.
- 3 (d) (1) A trainee may be credited with supervised experience
4 completed in any setting that meets all of the following:
- 5 (A) Lawfully and regularly provides mental health counseling
6 or psychotherapy.
- 7 (B) Provides oversight to ensure that the trainee’s work at the
8 setting meets the experience and supervision requirements set forth
9 in this chapter and is within the scope of practice for the profession
10 as defined in Section 4980.02.
- 11 (C) Is not a private practice owned by a licensed marriage and
12 family therapist, a licensed psychologist, a licensed clinical social
13 worker, a licensed physician and surgeon, or a professional
14 corporation of any of those licensed professions.
- 15 (2) Experience may be gained by the trainee solely as part of
16 the position for which the trainee volunteers or is employed.
- 17 (e) (1) An intern may be credited with supervised experience
18 completed in any setting that meets both of the following:
- 19 (A) Lawfully and regularly provides mental health counseling
20 or psychotherapy.
- 21 (B) Provides oversight to ensure that the intern’s work at the
22 setting meets the experience and supervision requirements set forth
23 in this chapter and is within the scope of practice for the profession
24 as defined in Section 4980.02.
- 25 (2) An applicant shall not be employed or volunteer in a private
26 practice, as defined in subparagraph (C) of paragraph (1) of
27 subdivision (d), until registered as an intern.
- 28 (3) While an intern may be either a paid employee or a
29 volunteer, employers are encouraged to provide fair remuneration
30 to interns.
- 31 (4) Except for periods of time during a supervisor’s vacation or
32 sick leave, an intern who is employed or volunteering in private
33 practice shall be under the direct supervision of a licensee that has
34 satisfied the requirements of subdivision (g) of Section 4980.03.
35 The supervising licensee shall either be employed by and practice
36 at the same site as the intern’s employer, or shall be an owner or
37 shareholder of the private practice. Alternative supervision may
38 be arranged during a supervisor’s vacation or sick leave if the
39 supervision meets the requirements of this section.

- 1 (5) Experience may be gained by the intern solely as part of the
2 position for which the intern volunteers or is employed.
- 3 (f) Except as provided in subdivision (g), all persons shall
4 register with the board as an intern in order to be credited for
5 postdegree hours of supervised experience gained toward licensure.
- 6 (g) Except when employed in a private practice setting, all
7 postdegree hours of experience shall be credited toward licensure
8 so long as the applicant applies for the intern registration within
9 90 days of the granting of the qualifying master’s or doctoral
10 degree and is thereafter granted the intern registration by the board.
- 11 (h) Trainees, interns, and applicants shall not receive any
12 remuneration from patients or clients, and shall only be paid by
13 their employers.
- 14 (i) Trainees, interns, and applicants shall only perform services
15 at the place where their employers regularly conduct business,
16 which may include performing services at other locations, so long
17 as the services are performed under the direction and control of
18 their employer and supervisor, and in compliance with the laws
19 and regulations pertaining to supervision. Trainees and interns
20 shall have no proprietary interest in their employers’ businesses
21 and shall not lease or rent space, pay for furnishings, equipment
22 or supplies, or in any other way pay for the obligations of their
23 employers.
- 24 (j) Trainees, interns, or applicants who provide volunteered
25 services or other services, and who receive no more than a total,
26 from all work settings, of five hundred dollars (\$500) per month
27 as reimbursement for expenses actually incurred by those trainees,
28 interns, or applicants for services rendered in any lawful work
29 setting other than a private practice shall be considered an
30 employee and not an independent contractor. The board may audit
31 applicants who receive reimbursement for expenses, and the
32 applicants shall have the burden of demonstrating that the payments
33 received were for reimbursement of expenses actually incurred.
- 34 (k) Each educational institution preparing applicants for
35 licensure pursuant to this chapter shall consider requiring, and
36 shall encourage, its students to undergo individual, marital or
37 conjoint, family, or group counseling or psychotherapy, as
38 appropriate. Each supervisor shall consider, advise, and encourage
39 his or her interns and trainees regarding the advisability of
40 undertaking individual, marital or conjoint, family, or group

1 counseling or psychotherapy, as appropriate. Insofar as it is deemed
2 appropriate and is desired by the applicant, the educational
3 institution and supervisors are encouraged to assist the applicant
4 in locating that counseling or psychotherapy at a reasonable cost.

5 ~~SEC. 35.~~

6 *SEC. 39.* Section 4980.80 of the Business and Professions Code
7 is amended to read:

8 4980.80. (a) This section applies to persons who apply for
9 licensure between January 1, 2010, and December 31, 2013,
10 inclusive.

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

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

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

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

21 (4) The person successfully completes the board administered
22 licensing examinations as specified by subdivision (d) of Section
23 4980.40 and pays the fees specified.

24 (5) The person completes all of the following coursework or
25 training:

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

1 (ii) An applicant who has not completed a two semester or three
2 quarter unit course in law and professional ethics for marriage and
3 family therapists that included areas of study as specified in Section
4 4980.41 as part of his or her qualifying degree, shall complete a
5 two semester or three quarter unit course in California law and
6 professional ethics that includes, at minimum, the areas of study
7 specified in Section 4980.41.

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

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

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

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

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

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

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

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

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

1 ~~SEC. 36.~~

2 ~~SEC. 40.~~ Section 4982.2 of the Business and Professions Code
3 is repealed.

4 ~~SEC. 37.~~

5 ~~SEC. 41.~~ Section 4982.25 of the Business and Professions Code
6 is amended to read:

7 4982.25. The board may deny an application, or may suspend
8 or revoke a license or registration issued under this chapter, for
9 any of the following:

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

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

23 ~~SEC. 38.~~

24 ~~SEC. 42.~~ Section 4984.6 of the Business and Professions Code
25 is repealed.

26 ~~SEC. 39.~~

27 ~~SEC. 43.~~ Section 4984.8 of the Business and Professions Code
28 is amended to read:

29 4984.8. (a) A licensee may apply to the board to request that
30 his or her license be placed on inactive status.

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

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

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

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

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

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

12 ~~SEC. 40.~~

13 *SEC. 44.* Section 4989.54 of the Business and Professions Code
14 is amended to read:

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

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

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

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

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

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

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

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

15 (d) Failure to comply with the consent provisions in Section
16 2290.5.

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

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

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

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

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

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

39 (k) Gross negligence or incompetence in the practice of
40 educational psychology.

- 1 (l) Misrepresentation as to the type or status of a license held
2 by the licensee or otherwise misrepresenting or permitting
3 misrepresentation of his or her education, professional
4 qualifications, or professional affiliations to any person or entity.
- 5 (m) Intentionally or recklessly causing physical or emotional
6 harm to any client.
- 7 (n) Engaging in sexual relations with a client or a former client
8 within two years following termination of professional services,
9 soliciting sexual relations with a client, or committing an act of
10 sexual abuse or sexual misconduct with a client or committing an
11 act punishable as a sexually related crime, if that act or solicitation
12 is substantially related to the qualifications, functions, or duties of
13 a licensed educational psychologist.
- 14 (o) Prior to the commencement of treatment, failing to disclose
15 to the client or prospective client the fee to be charged for the
16 professional services or the basis upon which that fee will be
17 computed.
- 18 (p) Paying, accepting, or soliciting any consideration,
19 compensation, or remuneration, whether monetary or otherwise,
20 for the referral of professional clients.
- 21 (q) Failing to maintain confidentiality, except as otherwise
22 required or permitted by law, of all information that has been
23 received from a client in confidence during the course of treatment
24 and all information about the client that is obtained from tests or
25 other means.
- 26 (r) Performing, holding himself or herself out as being able to
27 perform, or offering to perform any professional services beyond
28 the scope of the license authorized by this chapter or beyond his
29 or her field or fields of competence as established by his or her
30 education, training, or experience.
- 31 (s) Reproducing or describing in public, or in any publication
32 subject to general public distribution, any psychological test or
33 other assessment device the value of which depends in whole or
34 in part on the naivete of the subject in ways that might invalidate
35 the test or device. An educational psychologist shall limit access
36 to the test or device to persons with professional interests who can
37 be expected to safeguard its use.
- 38 (t) Aiding or abetting an unlicensed person to engage in conduct
39 requiring a license under this chapter.

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

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

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

10 (x) Willful violation of Chapter 1 (commencing with Section
11 123100) of Part 1 of Division 106 of the Health and Safety Code.

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

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

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

38 ~~SEC. 41.~~

39 *SEC. 45.* Section 4990.02 of the Business and Professions Code
40 is amended to read:

1 4990.02. “Board,” as used in this chapter, Chapter 13
2 (commencing with Section 4980), Chapter 13.5 (commencing with
3 Section 4989.10), Chapter 14 (commencing with Section 4991),
4 and Chapter 16 (commencing with Section 4999.10) means the
5 Board of Behavioral Sciences.

6 ~~SEC. 42.~~

7 *SEC. 46.* Section 4990.12 of the Business and Professions Code
8 is amended to read:

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

20 ~~SEC. 43.~~

21 *SEC. 47.* Section 4990.18 of the Business and Professions Code
22 is amended to read:

23 4990.18. It is the intent of the Legislature that the board employ
24 its resources for each and all of the following functions:

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

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

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

36 (d) Consumer education.

37 ~~SEC. 44.~~

38 *SEC. 48.* Section 4990.22 of the Business and Professions Code
39 is amended to read:

1 4990.22. (a) The Behavioral Sciences Fund shall be used for
2 the purposes of carrying out and enforcing the provisions of this
3 chapter and the chapters listed in Section 4990.12. All moneys in
4 the fund shall be expended by the board for the purposes of the
5 programs under its jurisdiction.

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

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

16 ~~SEC. 45.~~

17 *SEC. 49.* Section 4990.30 of the Business and Professions Code
18 is amended to read:

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

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

- 1 (1) Three years for reinstatement of a license or registration that
2 was revoked for unprofessional conduct, except that the board
3 may, in its sole discretion, specify in its revocation order that a
4 petition for reinstatement may be filed after two years.
- 5 (2) Two years for early termination of any probation period of
6 three years or more.
- 7 (3) One year for modification of a condition, reinstatement of
8 a license or registration revoked for mental or physical illness, or
9 termination of probation of less than three years.
- 10 (c) The petition may be heard by the board itself or the board
11 may assign the petition to an administrative law judge pursuant to
12 Section 11512 of the Government Code.
- 13 (d) The petitioner may request that the board schedule the
14 hearing on the petition for a board meeting at a specific city where
15 the board regularly meets.
- 16 (e) The petitioner and the Attorney General shall be given timely
17 notice by letter of the time and place of the hearing on the petition
18 and an opportunity to present both oral and documentary evidence
19 and argument to the board or the administrative law judge.
- 20 (f) The petitioner shall at all times have the burden of production
21 and proof to establish by clear and convincing evidence that he or
22 she is entitled to the relief sought in the petition.
- 23 (g) The board, when it is hearing the petition itself, or an
24 administrative law judge sitting for the board, may consider all
25 activities of the petitioner since the disciplinary action was taken,
26 the offense for which the petitioner was disciplined, the petitioner's
27 activities during the time his or her license or registration was in
28 good standing, and the petitioner's rehabilitative efforts, general
29 reputation for truth, and professional ability.
- 30 (h) The hearing may be continued from time to time as the board
31 or the administrative law judge deems appropriate but in no case
32 may the hearing on the petition be delayed more than 180 days
33 from its filing without the consent of the petitioner.
- 34 (i) The board itself, or the administrative law judge if one is
35 designated by the board, shall hear the petition and shall prepare
36 a written decision setting forth the reasons supporting the decision.
37 In a decision granting a petition reinstating a license or modifying
38 a penalty, the board itself, or the administrative law judge, may
39 impose any terms and conditions that the agency deems reasonably
40 appropriate, including those set forth in Sections 823 and 4990.40.

1 If a petition is heard by an administrative law judge sitting alone,
2 the administrative law judge shall prepare a proposed decision and
3 submit it to the board. The board may take action with respect to
4 the proposed decision and petition as it deems appropriate.

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

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

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

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

29 ~~SEC. 46.~~

30 *SEC. 50.* Section 4990.38 of the Business and Professions Code
31 is amended to read:

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

1 of restrictions on it, constitutes unprofessional conduct. A certified
2 copy of the disciplinary action decision or judgment shall be
3 conclusive evidence of that action.

4 ~~SEC. 47.~~

5 *SEC. 51.* Section 4992.36 of the Business and Professions Code
6 is amended to read:

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

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

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

23 ~~SEC. 48.~~

24 *SEC. 52.* Article 3 (commencing with Section 4994) of Chapter
25 14 of Division 2 of the Business and Professions Code is repealed.

26 ~~SEC. 49.~~

27 *SEC. 53.* Section 4996.17 of the Business and Professions Code
28 is amended to read:

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

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

39 (1) The applicant has supervised experience that is substantially
40 the equivalent of that required by this chapter. If the applicant has

1 less than 3,200 hours of qualifying supervised experience, time
2 actively licensed as a clinical social worker shall be accepted at a
3 rate of 100 hours per month up to a maximum of 1,200 hours.

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

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

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

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

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

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

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

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

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

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

1 examinations as specified in Section 4996.1, and the person pays
2 the required fees. Issuance of the license is conditioned upon all
3 of the following:

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

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

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

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

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

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

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

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

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

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

38 ~~SEC. 50.~~

39 *SEC. 54.* Section 4996.23 of the Business and Professions Code
40 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~~ *at least*
4 *one additional* hour of direct supervisor contact for every week in
5 which more than 10 hours of face-to-face psychotherapy is
6 performed in each setting in which experience is gained. No more
7 than five hours of supervision, whether individual or group, shall
8 be credited during 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. 51.~~

31 *SEC. 55.* 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 *setting described in Section 4999.44* using a variety of
4 psychotherapeutic techniques and recognized counseling
5 interventions within the scope of practice of licensed professional
6 clinical counselors.

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

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

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

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

15 (A) Direct supervisor contact.

16 (B) Client centered advocacy.

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

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

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

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

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

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

9 (g) 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.

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

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

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

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

29 ~~SEC. 52.~~

30 *SEC. 56.* Section 4999.57 is added to the Business and
31 Professions Code, to read:

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

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

1 counseling within California while registered as an intern with the
2 board.

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

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

27 (1) The applicant's degree contains the required number of
28 practicum units under paragraph (3) of subdivision (c) of Section
29 4999.32.

30 (2) The applicant remediates his or her specific deficiency by
31 completing the course content and units required by Section
32 4999.32.

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

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

37 ~~SEC. 53.~~

38 *SEC. 57.* Section 4999.58 of the Business and Professions Code
39 is amended to read:

1 4999.58. (a) This section applies to a person who applies for
2 examination eligibility between January 1, 2011, and December
3 31, 2013, inclusive, and who meets both of the following
4 requirements:

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

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

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

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

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

18 (3) The person successfully completes the examinations required
19 by the board pursuant to paragraph (3) of subdivision (a) of Section
20 4999.50.

21 (4) The person pays the required fees.

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

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

1 online therapy, insurance reimbursement, civil liability, disciplinary
2 actions and unprofessional conduct, ethics complaints and ethical
3 standards, termination of therapy, standards of care, relevant family
4 law, and therapist disclosures to clients.

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

12 (1) The applicant's degree contains the required number of
13 practicum units under paragraph (3) of subdivision (c) of Section
14 4999.32.

15 (2) The applicant remediates his or her specific deficiency by
16 completing the course content and units required by Section
17 4999.32.

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

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

22 ~~SEC. 54.~~

23 *SEC. 58.* Section 4999.59 is added to the Business and
24 Professions Code, to read:

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

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

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

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

1 applicant's initial licensure in that state as a professional clinical
2 counselor.

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

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

27 (1) The applicant's degree contains the required number of
28 practicum units under paragraph (3) of subdivision (c) of Section
29 4999.32.

30 (2) The applicant remediates his or her specific deficiency by
31 completing the course content and units required by Section
32 4999.32.

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

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

37 ~~SEC. 55.~~

38 *SEC. 59.* Section 4999.90 of the Business and Professions Code
39 is amended to read:

1 4999.90. The board may refuse to issue any registration or
2 license, or may suspend or revoke the registration or license of
3 any intern or licensed professional clinical counselor, if the
4 applicant, licensee, or registrant has been guilty of unprofessional
5 conduct. Unprofessional conduct includes, but is not limited to,
6 the following:

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

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

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

1 practice authorized by the registration or license, or the conviction
2 of more than one misdemeanor or any felony involving the use,
3 consumption, or self-administration of any of the substances
4 referred to in this subdivision, or any combination thereof. The
5 board shall deny an application for a registration or license or
6 revoke the license or registration of any person, other than one
7 who is licensed as a physician and surgeon, who uses or offers to
8 use drugs in the course of performing licensed professional clinical
9 counseling services.

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

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

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

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

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

26 (i) Intentionally or recklessly causing physical or emotional
27 harm to any client.

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

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

38 (l) Performing, or holding oneself out as being able to perform,
39 or offering to perform, or permitting any clinical counselor trainee

1 or intern under supervision to perform, any professional services
2 beyond the scope of the license authorized by this chapter.

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

8 (n) Prior to the commencement of treatment, failing to disclose
9 to the client or prospective client the fee to be charged for the
10 professional services, or the basis upon which that fee will be
11 computed.

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

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

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

28 ~~(r) Any conduct in the supervision of a registered intern;~~

29 *(r) Any conduct in the supervision of a registered intern,*
30 associate clinical social worker, or clinical counselor trainee by
31 any licensee that violates this chapter or any rules or regulations
32 adopted by the board.

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

38 (t) Permitting a clinical counselor trainee or intern under one's
39 supervision or control to perform, or permitting the clinical
40 counselor trainee or intern to hold himself or herself out as

1 competent to perform, professional services beyond the clinical
2 counselor trainee’s or intern’s level of education, training, or
3 experience.

4 (u) The violation of any statute or regulation of the standards
5 of the profession, and the nature of the services being rendered,
6 governing the gaining and supervision of experience required by
7 this chapter.

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

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

13 (x) Failing to comply with the elder and dependent adult abuse
14 reporting requirements of Section 15630 of the Welfare and
15 Institutions Code.

16 (y) Repeated acts of negligence.

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

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

33 (aa) Engaging in any conduct that subverts or attempts to subvert
34 any licensing examination or the administration of an examination
35 as described in Section 123.

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

- 1 (ac) *Failing to comply with the procedures set forth in Section*
- 2 *2290.5 when delivering health care via telemedicine.*

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