

AMENDED IN ASSEMBLY AUGUST 12, 2010

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, 2539.6, 2570.19, 3025.1, 3046, 3057.5, 3147, 3147.6, 3147.7, 3365.5, 4013, 4017, 4028, 4037, 4052.3, 4059, 4072, 4076.5, 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, 4999.54, 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~~ *apply* this 10-year period of validity to passing scores obtained on each step of the United States Medical Licensing Examination and would also authorize the board to extend that period for an applicant who is a physician and surgeon in another state or a Canadian province and who is currently and actively 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~~ *dispensers and audiologists* 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.

(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.

(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.

Existing law requires the California State Board of Pharmacy to promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California.

This bill would exempt from those standardized, prescription drug label requirements prescriptions dispensed to a patient in a health facility and administered by a licensed health care professional, as specified.

(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 June 30, 2011, inclusive. Existing law imposes specified unit requirements on applicants who hold degrees issued prior to 1996.

This bill would include within those requirements specified units of supervised practicum or field study experience.

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, (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.

(6) This bill would incorporate additional changes in Section 2177 of the Business and Professions Code proposed by SB 1410, to be operative if SB 1410 and this bill become effective on or before January 1, 2011, and this bill is enacted last.

(7) This bill would incorporate additional changes in Section 2570.19 of the Business and Professions Code proposed by SB 294 and SB 999, to be operative if SB 294 and SB 999, or either of them, and this bill become effective on or before January 1, 2011, and this bill is enacted last.

(8) *This bill would incorporate additional changes in Section 4980.43 of the Business and Professions Code proposed by AB 2435, to be operative if AB 2435 and this bill become effective on or before January 1, 2011, and this bill is enacted last.*

(9) *This bill would incorporate additional changes in Section 4996.17 of the Business and Professions Code proposed by AB 2167, to be operative if AB 2167 and this bill become effective on or before January 1, 2011, and this bill is enacted last.*

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:

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

21 (b) A graduate who has completed the first year of postgraduate
22 training may, in an approved residency or fellowship, engage in
23 the practice of medicine whenever and wherever required as part
24 of that residency or fellowship, and may receive compensation for
25 that practice. The resident or fellow shall qualify for, take, and
26 pass the next succeeding written examination for licensure, or shall
27 qualify for and receive a physician’s and surgeon’s certificate by

1 one of the other methods specified in this chapter. If the resident
2 or fellow fails to receive a license to practice medicine under this
3 chapter within one year from the commencement of the residency
4 or fellowship or if the board denies his or her application for
5 licensure, all privileges and exemptions under this section shall
6 automatically cease.

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

9 2096. (a) In addition to other requirements of this chapter,
10 before a physician's and surgeon's license may be issued, each
11 applicant, including an applicant applying pursuant to Article 5
12 (commencing with Section 2100), except as provided in subdivision
13 (b), shall show by evidence satisfactory to the board that he or she
14 has satisfactorily completed at least one year of postgraduate
15 training.

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

19 (c) The postgraduate training required by this section shall
20 include at least four months of general medicine and shall be
21 obtained in a postgraduate training program approved by the
22 Accreditation Council for Graduate Medical Education (ACGME)
23 or the Royal College of Physicians and Surgeons of Canada
24 (RCPSC).

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

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

31 2102. An applicant whose professional instruction was acquired
32 in a country other than the United States or Canada shall provide
33 evidence satisfactory to the board of compliance with the following
34 requirements to be issued a physician's and surgeon's certificate:

35 (a) Completion in a medical school or schools of a resident
36 course of professional instruction equivalent to that required by
37 Section 2089 and issuance to the applicant of a document
38 acceptable to the board that shows final and successful completion
39 of the course. However, nothing in this section shall be construed
40 to require the board to evaluate for equivalency any coursework

1 obtained at a medical school disapproved by the board pursuant
2 to this section.

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

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

20 (d) Passage of the written examination as provided under Article
21 9 (commencing with Section 2170). An applicant shall be required
22 to meet the requirements specified in subdivision (b) prior to being
23 admitted to the written examination required by this subdivision.

24 (e) Nothing in this section prohibits the board from disapproving
25 a foreign medical school or from denying an application if, in the
26 opinion of the board, the professional instruction provided by the
27 medical school or the instruction received by the applicant is not
28 equivalent to that required in Article 4 (commencing with Section
29 2080).

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

32 2103. An applicant who is a citizen of the United States shall
33 be eligible for a physician's and surgeon's certificate if he or she
34 has completed the following requirements:

35 (a) Submitted official evidence satisfactory to the board of
36 completion of a resident course or professional instruction
37 equivalent to that required in Section 2089 in a medical school
38 located outside the United States or Canada. However, nothing in
39 this section shall be construed to require the board to evaluate for
40 equivalency any coursework obtained at a medical school

1 disapproved by the board pursuant to Article 4 (commencing with
2 Section 2080).

3 (b) Submitted official evidence satisfactory to the board of
4 completion of all formal requirements of the medical school for
5 graduation, except the applicant shall not be required to have
6 completed an internship or social service or be admitted or licensed
7 to practice medicine in the country in which the professional
8 instruction was completed.

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

11 (d) Successfully completed one academic year of supervised
12 clinical training in a program approved by the board pursuant to
13 Section 2104. The board shall also recognize as compliance with
14 this subdivision the successful completion of a one-year supervised
15 clinical medical internship operated by a medical school pursuant
16 to Chapter 85 of the Statutes of 1972 and as amended by Chapter
17 888 of the Statutes of 1973 as the equivalent of the year of
18 supervised clinical training required by this section.

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

23 (2) An applicant who has passed the basic science and English
24 language examinations required for certification by the Educational
25 Commission for Foreign Medical Graduates may present evidence
26 of those passing scores along with a certificate of completion of
27 one academic year of supervised clinical training in a program
28 approved by the board pursuant to Section 2104 in satisfaction of
29 the formal certification requirements of subdivision (b) of Section
30 2102.

31 (e) Satisfactorily completed the postgraduate training required
32 under Section 2096.

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

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

37 2177. (a) A passing score is required for an entire examination
38 or for each part of an examination, as established by resolution of
39 the board.

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

3 (c) (1) An applicant shall have obtained a passing score on Step
4 3 of the United States Medical Licensing Examination within not
5 more than four attempts in order to be eligible for a physician's
6 and surgeon's certificate.

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

12 *SEC. 6.5. Section 2177 of the Business and Professions Code*
13 *is amended to read:*

14 2177. (a) A passing score is required for an entire examination
15 or for each part of an examination, as established by resolution of
16 the ~~Division of Licensing~~ *board*.

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

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

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

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

30 2184. (a) Each applicant shall obtain on the written
31 examination a passing score, established by the board pursuant to
32 Section 2177.

33 (b) (1) Passing scores on each step of the United States Medical
34 Licensing Examination shall be valid for a period of 10 years from
35 the month of the examination for purposes of qualification for
36 licensure in California.

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

39 (A) For good cause.

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

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

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

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

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

- 22 (1) The midwife’s name and license number.
- 23 (2) The calendar year being reported.
- 24 (3) The following information with regard to cases in California
25 in which the midwife, or the student midwife supervised by the
26 midwife, assisted during the previous year when the intended place
27 of birth at the onset of care was an out-of-hospital setting:

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

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

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

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

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

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

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

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

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

12 (J) The number of planned out-of-hospital births at the onset of
13 labor and the number of births completed in an out-of-hospital
14 setting.

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

17 (i) Twin births.

18 (ii) Multiple births other than twin births.

19 (iii) Breech births.

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

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

23 (M) Any other information prescribed by the board in
24 regulations.

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

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

35 (d) The board shall send a written notice of noncompliance to
36 each licensee who fails to meet the reporting requirement of
37 subdivision (a). Failure to comply with subdivision (a) will result
38 in the midwife being unable to renew his or her license without
39 first submitting the requisite data to the Office of Statewide Health
40 Planning and Development for the year for which that data was

1 missing or incomplete. The board shall not take any other action
2 against the licensee for failure to comply with subdivision (a).

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

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

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

15 SEC. 9. Section 2530.2 of the Business and Professions Code
16 is amended to read:

17 2530.2. As used in this chapter, unless the context otherwise
18 requires:

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

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

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

31 (d) The practice of speech-language pathology means all of the
32 following:

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

38 (2) The application of principles and methods for preventing,
39 planning, directing, conducting, and supervising programs for
40 habilitating, rehabilitating, ameliorating, managing, or modifying

1 disorders of speech, voice, language, or swallowing in individuals
2 or groups of individuals.

3 (3) Conducting hearing screenings.

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

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

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

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

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

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

38 (i) (1) "Speech-language pathology assistant" means a person
39 who meets the academic and supervised training requirements set
40 forth by the board and who is approved by the board to assist in

1 the provision of speech-language pathology under the direction
2 and supervision of a speech-language pathologist who shall be
3 responsible for the extent, kind, and quality of the services provided
4 by the speech-language pathology assistant.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 SEC. 10. Section 2539.1 of the Business and Professions Code
33 is amended to read:

34 2539.1. (a) (1) On and after January 1, 2010, in addition to
35 satisfying the licensure and examination requirements described
36 in Sections 2532 and 2532.2, no licensed audiologist shall sell
37 hearing aids unless he or she completes an application for a
38 dispensing audiology license, pays all applicable fees, and passes
39 an examination, approved by the board, relating to selling hearing
40 aids.

1 (2) The board shall issue a dispensing audiology license to a
2 licensed audiologist who meets the requirements of paragraph (1).

3 (b) (1) On and after January 1, 2010, a licensed audiologist
4 with an unexpired license to sell hearing aids pursuant to Chapter
5 7.5 (commencing with Section 3300) may continue to sell hearing
6 aids pursuant to that license until that license expires pursuant to
7 Section 3451, and upon that expiration the licensee shall be deemed
8 to have satisfied the requirements described in subdivision (a) and
9 may continue to sell hearing aids pursuant to his or her audiology
10 license subject to the provisions of this chapter. Upon the expiration
11 of the audiologist’s license to sell hearing aids, the board shall
12 issue him or her a dispensing audiology license pursuant to
13 paragraph (2) of subdivision (a). This paragraph shall not prevent
14 an audiologist who also has a hearing aid dispenser’s license from
15 maintaining dual or separate licenses if he or she chooses to do
16 so.

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

23 (c) A licensed hearing aid dispenser who meets the qualifications
24 for licensure as an audiologist shall be deemed to have satisfied
25 the requirements of paragraph (1) of subdivision (a) for the
26 purposes of obtaining a dispensing audiology license.

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

34 *SEC. 10.1. Section 2539.6 of the Business and Professions*
35 *Code is amended to read:*

36 2539.6. (a) Whenever any of the following conditions are
37 found to exist either from observations by the licensed audiologist
38 or on the basis of information furnished by the prospective hearing
39 aid user, a licensed audiologist shall, prior to fitting or selling a
40 hearing aid to any individual, suggest to that individual in writing

1 that his or her best interests would be served if he or she would
2 consult a licensed physician specializing in diseases of the ear or
3 if no licensed physician is available in the community then to a
4 duly licensed physician:

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

18 (b) No referral for medical opinion need be made by any
19 licensed audiologist in the instance of replacement only of a hearing
20 aid that has been lost or damaged beyond repair within one year
21 of the date of purchase. A copy of the written recommendation
22 shall be retained by the licensed audiologist for the period provided
23 for in Section 2539.10. A person receiving the written
24 recommendation who elects to purchase a hearing aid shall sign a
25 receipt for the same, and the receipt shall be kept with the other
26 papers retained by the licensed audiologist for the period provided
27 for in Section 2539.10. Nothing in this section required to be
28 performed by a licensed audiologist shall mean that the licensed
29 audiologist is engaged in the diagnosis of illness or the practice of
30 medicine or any other activity prohibited by the provisions of this
31 code.

32 SEC. 11. Section 2570.19 of the Business and Professions
33 Code is amended to read:

34 2570.19. (a) There is hereby created a California Board of
35 Occupational Therapy, hereafter referred to as the board. The board
36 shall enforce and administer this chapter.

- 37 (b) The members of the board shall consist of the following:
 - 38 (1) Three occupational therapists who shall have practiced
39 occupational therapy for five years.

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

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

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

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

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

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

37 (g) The board shall meet and hold at least one regular meeting
38 annually in the Cities of Sacramento, Los Angeles, and San
39 Francisco. The board may convene from time to time until its

1 business is concluded. Special meetings of the board may be held
2 at any time and place designated by the board.

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

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

11 (j) The appointing power shall have the power to remove any
12 member of the board from office for neglect of any duty imposed
13 by state law, for incompetency, or for unprofessional or
14 dishonorable conduct.

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

21 *SEC. 11.5. Section 2570.19 of the Business and Professions*
22 *Code is amended to read:*

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

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

27 (1) Three occupational therapists who shall have practiced
28 occupational therapy for five years.

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

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

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

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

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

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

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

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

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

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

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

20 ~~(l)~~

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

28 *SEC. 11.7. Section 2570.19 of the Business and Professions*
29 *Code is amended to read:*

30 2570.19. (a) There is hereby created a California Board of
31 Occupational Therapy, hereafter referred to as the board. The board
32 shall enforce and administer this chapter.

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

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

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

38 (3) Three public members who shall not be licentiates of the
39 board, *of any other board under this division*, or of any board
40 referred to in Section 1000 or 3600.

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

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

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

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

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

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

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

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

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

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

26 ~~(l)~~

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

33 *SEC. 11.9. Section 2570.19 of the Business and Professions*
34 *Code is amended to read:*

35 2570.19. (a) There is hereby created a California Board of
36 Occupational Therapy, hereafter referred to as the board. The board
37 shall enforce and administer this chapter.

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

39 (1) Three occupational therapists who shall have practiced
40 occupational therapy for five years.

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

3 (3) Three public members who shall not be licentiates of the
4 board, *of any other board under this division*, or of any board
5 referred to in Section 1000 or 3600.

6 (c) The Governor shall appoint the three occupational therapists
7 and one occupational therapy assistant to be members of the board.
8 The Governor, the Senate ~~Rules~~ Committee *on Rules*, and the
9 Speaker of the Assembly shall each appoint a public member. Not
10 more than one member of the board shall be appointed from the
11 full-time faculty of any university, college, or other educational
12 institution.

13 (d) All members shall be residents of California at the time of
14 their appointment. The occupational therapist and occupational
15 therapy assistant members shall have been engaged in rendering
16 occupational therapy services to the public, teaching, or research
17 in occupational therapy for at least five years preceding their
18 appointments.

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

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

39 (g) The board shall meet and hold at least one regular meeting
40 annually in the Cities of Sacramento, Los Angeles, and San

1 Francisco. The board may convene from time to time until its
2 business is concluded. Special meetings of the board may be held
3 at any time and place designated by the board.

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

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

12 (j) The appointing power shall have the power to remove any
13 member of the board from office for neglect of any duty imposed
14 by state law, for incompetency, or for unprofessional or
15 dishonorable conduct.

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

31 ~~(l)~~

32 ~~(k) This section shall become inoperative on July 1, 2013, and,
33 as of January 1, 2014, remain in effect only until January 1, 2014,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2014, deletes or extends the dates on
36 which it becomes inoperative and is repealed that date.~~ The repeal
37 of this section renders the board subject to the review required by
38 Division 1.2 (commencing with Section 473).

39 SEC. 12. Section 3025.1 of the Business and Professions Code
40 is amended to read:

1 3025.1. The board may adopt rules and regulations that are, in
2 its judgment, reasonable and necessary to ensure that optometrists
3 have the knowledge to adequately protect the public health and
4 safety by establishing educational requirements for admission to
5 the examinations for licensure.

6 SEC. 13. Section 3046 of the Business and Professions Code
7 is amended to read:

8 3046. In order to obtain a license to practice optometry in
9 California, an applicant shall have graduated from an accredited
10 school of optometry, passed the required examinations for
11 licensure, and not have met any of the grounds for denial
12 established in Section 480. The proceedings under this section
13 shall be in accordance with Chapter 5 (commencing with Section
14 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

15 SEC. 14. Section 3057.5 of the Business and Professions Code
16 is amended to read:

17 3057.5. Notwithstanding any other provision of this chapter,
18 the board shall permit a person who meets all of the following
19 requirements to take the examinations for a certificate of
20 registration as an optometrist:

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

25 SEC. 15. Section 3147 of the Business and Professions Code
26 is amended to read:

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

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

1 3147.6. Except as otherwise provided by Section 114, a license
2 that is not renewed within three years after its expiration may be
3 restored thereafter, if no fact, circumstance, or condition exists
4 that, if the license were restored, would justify its revocation or
5 suspension, provided all of the following conditions are met:

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

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

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

13 (d) The holder of the expired license satisfactorily passes both
14 of the following examinations:

15 (1) The National Board of Examiners in Optometry's Clinical
16 Skills examination or other clinical examination approved by the
17 board.

18 (2) The board's jurisprudence examination.

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

24 SEC. 17. Section 3147.7 of the Business and Professions Code
25 is amended to read:

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

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

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

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

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

38 (e) Takes and satisfactorily passes the board's jurisprudence
39 examination.

1 SEC. 18. Section 3365.5 of the Business and Professions Code
2 is amended to read:

3 3365.5. (a) Whenever any of the following conditions are
4 found to exist either from observations by the licensee or on the
5 basis of information furnished by the prospective hearing aid user,
6 a licensee shall, prior to fitting or selling a hearing aid to any
7 individual, suggest to that individual in writing that his *or her* best
8 interests would be served if he *or she* would consult a licensed
9 physician specializing in diseases of the ear or if no such licensed
10 physician is available in the community then to a duly licensed
11 physician:

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

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

38 SEC. 19. Section 4013 of the Business and Professions Code
39 is amended to read:

1 4013. (a) Any facility licensed by the board shall join the
2 board's e-mail notification list within 60 days of obtaining a license
3 or at the time of license renewal.

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

7 (c) An owner of two or more facilities licensed by the board
8 may comply with subdivisions (a) and (b) by subscribing a single
9 e-mail address to the board's e-mail notification list, where the
10 owner maintains an ~~electronic-notification~~ *notice* system within
11 all of its licensed facilities that, upon receipt of an e-mail
12 notification from the board, immediately transmits electronic notice
13 of the same notification to all of its licensed facilities. If an owner
14 chooses to comply with this section by using such an electronic
15 notice system, the owner shall register the ~~electronic-notification~~
16 *notice* system with the board by July 1, 2011, or within 60 days
17 of initial licensure, whichever is later, informing the board of the
18 single e-mail address to be utilized by the owner, describing the
19 ~~electronic-notification~~ *notice* system, and listing all facilities to
20 which immediate ~~electronic-notification~~ *notice* will be provided.
21 *The owner shall update its e-mail address with the board's e-mail*
22 *notification list within 30 days of any change in the owner's e-mail*
23 *address.*

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

25 SEC. 20. Section 4017 of the Business and Professions Code
26 is amended to read:

27 4017. "Authorized officers of the law" means inspectors of the
28 California State Board of Pharmacy, inspectors of the Food and
29 Drug Branch of the State Department of Public Health, and
30 investigators of the department's Division of Investigation or peace
31 officers engaged in official investigations.

32 SEC. 21. Section 4028 of the Business and Professions Code
33 is amended to read:

34 4028. "Licensed hospital" means an institution, place, building,
35 or agency that maintains and operates organized facilities for one
36 or more persons for the diagnosis, care, and treatment of human
37 illnesses to which persons may be admitted for overnight stay, and
38 includes any institution classified under regulations issued by the
39 State Department of Public Health as a general or specialized
40 hospital, as a maternity hospital, or as a tuberculosis hospital, but

1 does not include a sanitarium, rest home, a nursing or convalescent
2 home, a maternity home, or an institution for treating alcoholics.

3 SEC. 22. Section 4037 of the Business and Professions Code
4 is amended to read:

5 4037. (a) "Pharmacy" means an area, place, or premises
6 licensed by the board in which the profession of pharmacy is
7 practiced and where prescriptions are compounded. "Pharmacy"
8 includes, but is not limited to, any area, place, or premises
9 described in a license issued by the board wherein controlled
10 substances, dangerous drugs, or dangerous devices are stored,
11 possessed, prepared, manufactured, derived, compounded, or
12 repackaged, and from which the controlled substances, dangerous
13 drugs, or dangerous devices are furnished, sold, or dispensed at
14 retail.

15 (b) "Pharmacy" shall not include any area in a facility licensed
16 by the State Department of Public Health where floor supplies,
17 ward supplies, operating room supplies, or emergency room
18 supplies of dangerous drugs or dangerous devices are stored or
19 possessed solely for treatment of patients registered for treatment
20 in the facility or for treatment of patients receiving emergency care
21 in the facility.

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

24 4052.3. (a) Notwithstanding any other provision of law, a
25 pharmacist may furnish emergency contraception drug therapy in
26 accordance with either of the following:

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

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

1 (b) Prior to performing a procedure authorized under this
2 paragraph, a pharmacist shall complete a training program on
3 emergency contraception that consists of at least one hour of
4 approved continuing education on emergency contraception drug
5 therapy.

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

29 (d) A pharmacist may not require a patient to provide
30 individually identifiable medical information that is not specified
31 in Section 1707.1 of Title 16 of the California Code of Regulations
32 before initiating emergency contraception drug therapy pursuant
33 to this section.

34 (e) For each emergency contraception drug therapy initiated
35 pursuant to this section, the pharmacist shall provide the recipient
36 of the emergency contraception drugs with a standardized factsheet
37 that includes, but is not limited to, the indications for use of the
38 drug, the appropriate method for using the drug, the need for
39 medical followup, and other appropriate information. The board
40 shall develop this form in consultation with the State Department

1 of Public Health, the American College of Obstetricians and
2 Gynecologists, the California Pharmacists Association, and other
3 health care organizations. The provisions of this section do not
4 preclude the use of existing publications developed by nationally
5 recognized medical organizations.

6 SEC. 24. Section 4059 of the Business and Professions Code
7 is amended to read:

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

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

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

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

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

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

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

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

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

30 4072. (a) Notwithstanding any other provision of law, a
31 pharmacist, registered nurse, licensed vocational nurse, licensed
32 psychiatric technician, or other healing arts licentiate, if so
33 authorized by administrative regulation, who is employed by or
34 serves as a consultant for a licensed skilled nursing, intermediate
35 care, or other health care facility, may orally or electronically
36 transmit to the furnisher a prescription lawfully ordered by a person
37 authorized to prescribe drugs or devices pursuant to Sections 4040
38 and 4070. The furnisher shall take appropriate steps to determine
39 that the person who transmits the prescription is authorized to do
40 so and shall record the name of the person who transmits the order.

1 This section shall not apply to orders for Schedule II controlled
2 substances.

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

8 *SEC. 25.1. Section 4076.5 of the Business and Professions*
9 *Code is amended to read:*

10 4076.5. (a) The board shall promulgate regulations that require,
11 on or before January 1, 2011, a standardized, patient-centered,
12 prescription drug label on all prescription medicine dispensed to
13 patients in California.

14 (b) To ensure maximum public comment, the board shall hold
15 public meetings statewide that are separate from its normally
16 scheduled hearings in order to seek information from groups
17 representing consumers, seniors, pharmacists or the practice of
18 pharmacy, other health care professionals, and other interested
19 parties.

20 (c) When developing the requirements for prescription drug
21 labels, the board shall consider all of the following factors:

22 (1) Medical literacy research that points to increased
23 understandability of labels.

24 (2) Improved directions for use.

25 (3) Improved font types and sizes.

26 (4) Placement of information that is patient-centered.

27 (5) The needs of patients with limited English proficiency.

28 (6) The needs of senior citizens.

29 (7) Technology requirements necessary to implement the
30 standards.

31 (d) *The board may exempt from the requirements of regulations*
32 *promulgated pursuant to subdivision (a) prescriptions dispensed*
33 *to a patient in a health facility, as defined in Section 1250 of the*
34 *Health and Safety Code, if the prescriptions are administered by*
35 *a licensed health care professional. Prescriptions dispensed to a*
36 *patient in a health facility that will not be administered by a*
37 *licensed health care professional or that are provided to the patient*
38 *upon discharge from the facility shall be subject to the*
39 *requirements of this section and the regulations promulgated*
40 *pursuant to subdivision (a). Nothing in this subdivision shall alter*

1 *or diminish existing statutory and regulatory informed consent,*
2 *patients' rights, or pharmaceutical labeling and storage*
3 *requirements, including, but not limited to, the requirements of*
4 *Section 1418.9 of the Health and Safety Code or Section 72357,*
5 *72527, or 72528 of Title 22 of the California Code of Regulations.*

6 *(e) (1) The board may exempt from the requirements of*
7 *regulations promulgated pursuant to subdivision (a) a prescription*
8 *dispensed to a patient if all of the following apply:*

9 *(A) The drugs are dispensed by a JCAHO-accredited home*
10 *infusion or specialty pharmacy.*

11 *(B) The patient receives health-professional-directed education*
12 *prior to the beginning of therapy by a nurse or pharmacist.*

13 *(C) The patient receives weekly or more frequent followup*
14 *contacts by a nurse or pharmacist.*

15 *(D) Care is provided under a formal plan of care based upon*
16 *a physician and surgeon's orders.*

17 *(2) For purposes of paragraph (1), home infusion and specialty*
18 *therapies include parenteral therapy or other forms of*
19 *administration that require regular laboratory and patient*
20 *monitoring.*

21 ~~(d)~~

22 *(f) (1) On or before January 1, 2010, the board shall report to*
23 *the Legislature on its progress under this section as of the time of*
24 *the report.*

25 *(2) On or before January 1, 2013, the board shall report to the*
26 *Legislature the status of implementation of the prescription drug*
27 *label requirements adopted pursuant to this section.*

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

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

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

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

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

6 4119. (a) Notwithstanding any other provision of law, a
7 pharmacy may furnish a dangerous drug or dangerous device to a
8 licensed health care facility for storage in a secured emergency
9 pharmaceutical supplies container maintained within the facility
10 in accordance with facility regulations of the State Department of
11 Public Health set forth in Title 22 of the California Code of
12 Regulations and the requirements set forth in Section 1261.5 of
13 the Health and Safety Code. These emergency supplies shall be
14 approved by the facility’s patient care policy committee or
15 pharmaceutical service committee and shall be readily available
16 to each nursing station. Section 1261.5 of the Health and Safety
17 Code limits the number of oral dosage form or suppository form
18 drugs in these emergency supplies to 24.

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

26 (1) The dangerous drug or dangerous device is furnished
27 exclusively for use in conjunction with services provided in an
28 ambulance, or other approved emergency medical services service
29 provider, that provides prehospital emergency medical services.

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

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

38 (4) The approved emergency medical services provider
39 administers dangerous drugs and dangerous devices in accordance

1 with the policies and procedures of the local emergency medical
2 services agency.

3 (5) The approved emergency medical services provider
4 documents, stores, and restocks dangerous drugs and dangerous
5 devices in accordance with the policies and procedures of the local
6 emergency medical services agency.

7 Records of each request by, and dangerous drugs or dangerous
8 devices furnished to, an approved service provider within an
9 emergency medical services system, shall be maintained by both
10 the approved service provider and the dispensing pharmacy for a
11 period of at least three years.

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

15 SEC. 28. Section 4127.1 of the Business and Professions Code
16 is amended to read:

17 4127.1. (a) A pharmacy shall not compound injectable sterile
18 drug products in this state unless the pharmacy has obtained a
19 license from the board pursuant to this section. The license shall
20 be renewed annually and is not transferable.

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

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

33 (d) Pharmacies operated by entities that are licensed by either
34 the board or the State Department of Public Health and that have
35 current accreditation from the Joint Commission on Accreditation
36 of Healthcare Organizations, or other private accreditation agencies
37 approved by the board, are exempt from the requirement to obtain
38 a license pursuant to this section.

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

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

5 SEC. 29. Section 4169 of the Business and Professions Code
6 is amended to read:

7 4169. (a) A person or entity may not do any of the following:

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

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

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

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

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

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

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

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

34 SEC. 30. Section 4181 of the Business and Professions Code
35 is amended to read:

36 4181. (a) Prior to the issuance of a clinic license authorized
37 under Section 4180, the clinic shall comply with all applicable
38 laws and regulations of the State Department of Public Health
39 relating to the drug distribution service to ensure that inventories,
40 security procedures, training, protocol development, recordkeeping,

1 packaging, labeling, dispensing, and patient consultation occur in
2 a manner that is consistent with the promotion and protection of
3 the health and safety of the public. The policies and procedures to
4 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 shall be performed only
8 by a physician, a pharmacist, or other person lawfully authorized
9 to dispense drugs, and only in compliance with all applicable laws
10 and regulations.

11 SEC. 31. Section 4191 of the Business and Professions Code
12 is amended to read:

13 4191. (a) Prior to the issuance of a clinic license authorized
14 under this article, the clinic shall comply with all applicable laws
15 and regulations of the State Department of Public Health and the
16 board relating to drug distribution to ensure that inventories,
17 security procedures, training, protocol development, recordkeeping,
18 packaging, labeling, dispensing, and patient consultation are carried
19 out in a manner that is consistent with the promotion and protection
20 of the health and safety of the public. The policies and procedures
21 to implement the laws and regulations shall be developed and
22 approved by the consulting pharmacist, the professional director,
23 and the clinic administrator.

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

28 SEC. 32. Section 4196 of the Business and Professions Code
29 is amended to read:

30 4196. (a) No person shall conduct a veterinary food-animal
31 drug retailer in the State of California unless he or she has obtained
32 a license from the board. A license shall be required for each
33 veterinary food-animal drug retailer owned or operated by a
34 specific person. A separate license shall be required for each of
35 the premises of any person operating a veterinary food-animal
36 drug retailer in more than one location. The license shall be
37 renewed annually and shall not be transferable.

38 (b) The board may issue a temporary license, upon conditions
39 and for periods of time as the board determines to be in the public
40 interest. A temporary license fee shall be fixed by the board at an

1 amount not to exceed the annual fee for renewal of a license to
2 conduct a veterinary food-animal drug retailer.

3 (c) No person other than a pharmacist, an intern pharmacist, a
4 designated representative, an authorized officer of the law, or a
5 person authorized to prescribe, shall be permitted in that area,
6 place, or premises described in the permit issued by the board
7 pursuant to Section 4041, wherein veterinary food-animal drugs
8 are stored, possessed, or repacked. A pharmacist or designated
9 representative shall be responsible for any individual who enters
10 the veterinary food-animal drug retailer for the purpose of
11 performing clerical, inventory control, housekeeping, delivery,
12 maintenance, or similar functions relating to the veterinary
13 food-animal drug retailer.

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

29 (e) Every veterinary food-animal drug retailer shall notify the
30 board in writing, on a form designed by the board, within 30 days
31 of the date when a designated representative-in-charge who ceases
32 to act as the designated representative-in-charge, and shall on the
33 same form propose another designated representative or pharmacist
34 to take over as the designated representative-in-charge. The
35 proposed replacement designated representative-in-charge shall
36 be subject to approval by the board. If disapproved, the veterinary
37 food-animal drug retailer shall propose another replacement within
38 15 days of the date of disapproval, and shall continue to name
39 proposed replacements until a designated representative-in-charge
40 is approved by the board.

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

5 SEC. 33. Section 4200.1 is added to the Business and
6 Professions Code, to read:

7 4200.1. (a) Notwithstanding Section 135, an applicant may
8 take the North American Pharmacist Licensure Examination four
9 times, and may take the California Practice Standards and
10 Jurisprudence Examination for Pharmacists four times.

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

17 (c) The applicant shall comply with the requirements of Section
18 4200 for each application for reexamination made pursuant to
19 subdivision (b).

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

24 (e) For purposes of this section, the board shall treat each failing
25 score on the pharmacist licensure examination administered by
26 the board prior to January 1, 2004, as a failing score on both the
27 North American Pharmacist Licensure Examination and the
28 California Practice Standards and Jurisprudence Examination for
29 Pharmacists.

30 SEC. 34. Section 4425 of the Business and Professions Code
31 is amended to read:

32 4425. (a) As a condition for the participation of a pharmacy
33 in the Medi-Cal program pursuant to Chapter 7 (commencing with
34 Section 14000) of Division 9 of the Welfare and Institutions Code,
35 the pharmacy, upon presentation of a valid prescription for the
36 patient and the patient's Medicare card, shall charge Medicare
37 beneficiaries a price that does not exceed the Medi-Cal
38 reimbursement rate for prescription medicines, and an amount, as
39 set by the State Department of Health Care Services to cover
40 electronic transmission charges. However, Medicare beneficiaries

1 shall not be allowed to use the Medi-Cal reimbursement rate for
2 over-the-counter medications or compounded prescriptions.

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

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

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

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

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

23 (e) If prescription drugs are added to the scope of benefits
24 available under the federal Medicare program, the Senate Office
25 of Research shall report that fact to the appropriate committees of
26 the Legislature. It is the intent of the Legislature to evaluate the
27 need to continue the implementation of this article under those
28 circumstances.

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

31 SEC. 35. Section 4426 of the Business and Professions Code
32 is amended to read:

33 4426. The State Department of Health Care Services shall
34 conduct a study of the adequacy of Medi-Cal pharmacy
35 reimbursement rates including the cost of providing prescription
36 drugs and services.

37 SEC. 36. Section 4980.07 of the Business and Professions
38 Code is repealed.

39 SEC. 37. Section 4980.40.5 of the Business and Professions
40 Code is amended to read:

1 4980.40.5. (a) A doctoral or master's degree in marriage,
2 family, and child counseling, marital and family therapy,
3 psychology, clinical psychology, counseling psychology, or
4 counseling with an emphasis in either marriage, family, and child
5 counseling, or marriage and family therapy, obtained from a school,
6 college, or university approved by the Bureau for Private
7 Postsecondary and Vocational Education as of June 30, 2007, shall
8 be considered by the board to meet the requirements necessary for
9 licensure as a marriage and family therapist and for registration
10 as a marriage and family therapist intern provided that the degree
11 is conferred on or before July 1, 2010.

12 (b) As an alternative to meeting the qualifications specified in
13 subdivision (a) of Section 4980.40, the board shall accept as
14 equivalent degrees those doctoral or master's degrees that otherwise
15 meet the requirements of this chapter and are conferred by
16 educational institutions accredited by any of the following
17 associations:

- 18 (1) Northwest Commission on Colleges and Universities.
- 19 (2) Middle States Association of Colleges and Secondary
20 Schools.
- 21 (3) New England Association of Schools and Colleges.
- 22 (4) North Central Association of Colleges and Secondary
23 Schools.
- 24 (5) Southern Association of Colleges and Schools.

25 SEC. 38. Section 4980.43 of the Business and Professions
26 Code is amended to read:

27 4980.43. (a) Prior to applying for licensure examinations, each
28 applicant shall complete experience that shall comply with the
29 following:

- 30 (1) A minimum of 3,000 hours completed during a period of at
31 least 104 weeks.
- 32 (2) Not more than 40 hours in any seven consecutive days.
- 33 (3) Not less than 1,700 hours of supervised experience
34 completed subsequent to the granting of the qualifying master's
35 or doctoral degree.
- 36 (4) Not more than 1,300 hours of supervised experience obtained
37 prior to completing a master's or doctoral degree.

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

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

4 (6) No hours of experience may be gained more than six years
5 prior to the date the application for examination eligibility was
6 filed, except that up to 500 hours of clinical experience gained in
7 the supervised practicum required by subdivision (c) of Section
8 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
9 of Section 4980.36 shall be exempt from this six-year requirement.

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

12 (A) Direct supervisor contact.

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

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

20 (ii) Participation by the applicant in personal psychotherapy,
21 which includes group, marital or conjoint, family, or individual
22 psychotherapy by an appropriately licensed professional. An
23 applicant shall have no more than 100 hours of participation in
24 personal psychotherapy. The applicant shall be credited with three
25 hours of experience for each hour of personal psychotherapy.

26 (C) Client centered advocacy.

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

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

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

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

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

3 (b) All applicants, trainees, and registrants shall be at all times
4 under the supervision of a supervisor who shall be responsible for
5 ensuring that the extent, kind, and quality of counseling performed
6 is consistent with the training and experience of the person being
7 supervised, and who shall be responsible to the board for
8 compliance with all laws, rules, and regulations governing the
9 practice of marriage and family therapy. Supervised experience
10 shall be gained by interns and trainees either as an employee or as
11 a volunteer. The requirements of this chapter regarding gaining
12 hours of experience and supervision are applicable equally to
13 employees and volunteers. Experience shall not be gained by
14 interns or trainees as an independent contractor.

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

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

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

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

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

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

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

- 1 (5) Direct supervisor contact provided in a group shall be
- 2 provided in a group of not more than eight supervisees and in
- 3 segments lasting no less than one continuous hour.
- 4 (6) Notwithstanding paragraph (3), an intern working in a
- 5 governmental entity, a school, a college, or a university, or an
- 6 institution that is both nonprofit and charitable may obtain the
- 7 required weekly direct supervisor contact via two-way, real-time
- 8 videoconferencing. The supervisor shall be responsible for ensuring
- 9 that client confidentiality is upheld.
- 10 (7) All experience gained by a trainee shall be monitored by the
- 11 supervisor as specified by regulation.
- 12 (d) (1) A trainee may be credited with supervised experience
- 13 completed in any setting that meets all of the following:
- 14 (A) Lawfully and regularly provides mental health counseling
- 15 or psychotherapy.
- 16 (B) Provides oversight to ensure that the trainee’s work at the
- 17 setting meets the experience and supervision requirements set forth
- 18 in this chapter and is within the scope of practice for the profession
- 19 as defined in Section 4980.02.
- 20 (C) Is not a private practice owned by a licensed marriage and
- 21 family therapist, a licensed psychologist, a licensed clinical social
- 22 worker, a licensed physician and surgeon, or a professional
- 23 corporation of any of those licensed professions.
- 24 (2) Experience may be gained by the trainee solely as part of
- 25 the position for which the trainee volunteers or is employed.
- 26 (e) (1) An intern may be credited with supervised experience
- 27 completed in any setting that meets both of the following:
- 28 (A) Lawfully and regularly provides mental health counseling
- 29 or psychotherapy.
- 30 (B) Provides oversight to ensure that the intern’s work at the
- 31 setting meets the experience and supervision requirements set forth
- 32 in this chapter and is within the scope of practice for the profession
- 33 as defined in Section 4980.02.
- 34 (2) An applicant shall not be employed or volunteer in a private
- 35 practice, as defined in subparagraph (C) of paragraph (1) of
- 36 subdivision (d), until registered as an intern.
- 37 (3) While an intern may be either a paid employee or a
- 38 volunteer, employers are encouraged to provide fair remuneration
- 39 to interns.

1 (4) Except for periods of time during a supervisor’s vacation or
2 sick leave, an intern who is employed or volunteering in private
3 practice shall be under the direct supervision of a licensee that has
4 satisfied the requirements of subdivision (g) of Section 4980.03.
5 The supervising licensee shall either be employed by and practice
6 at the same site as the intern’s employer, or shall be an owner or
7 shareholder of the private practice. Alternative supervision may
8 be arranged during a supervisor’s vacation or sick leave if the
9 supervision meets the requirements of this section.

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

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

15 (g) Except when employed in a private practice setting, all
16 postdegree hours of experience shall be credited toward licensure
17 so long as the applicant applies for the intern registration within
18 90 days of the granting of the qualifying master’s or doctoral
19 degree and is thereafter granted the intern registration by the board.

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

23 (i) Trainees, interns, and applicants shall only perform services
24 at the place where their employers regularly conduct business,
25 which may include performing services at other locations, so long
26 as the services are performed under the direction and control of
27 their employer and supervisor, and in compliance with the laws
28 and regulations pertaining to supervision. Trainees and interns
29 shall have no proprietary interest in their employers’ businesses
30 and shall not lease or rent space, pay for furnishings, equipment
31 or supplies, or in any other way pay for the obligations of their
32 employers.

33 (j) Trainees, interns, or applicants who provide volunteered
34 services or other services, and who receive no more than a total,
35 from all work settings, of five hundred dollars (\$500) per month
36 as reimbursement for expenses actually incurred by those trainees,
37 interns, or applicants for services rendered in any lawful work
38 setting other than a private practice shall be considered an
39 employee and not an independent contractor. The board may audit
40 applicants who receive reimbursement for expenses, and the

1 applicants shall have the burden of demonstrating that the payments
2 received were for reimbursement of expenses actually incurred.

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

14 *SEC. 38.5. Section 4980.43 of the Business and Professions*
15 *Code is amended to read:*

16 4980.43. (a) Prior to applying for licensure examinations, each
17 applicant shall complete experience that shall comply with the
18 following:

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

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

22 (3) Not less than 1,700 hours of supervised experience
23 completed subsequent to the granting of the qualifying master's
24 or ~~doctor's~~ *doctoral* degree.

25 (4) Not more than 1,300 hours of supervised experience obtained
26 prior to completing a master's or ~~doctor's~~ *doctoral* degree.

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

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

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

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

1 (A) Direct supervisor contact.

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

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

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

15 (C) Client centered advocacy.

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

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

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

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

29 *(12) It is anticipated and encouraged that hours of experience*
30 *will include working with elders and dependent adults who have*
31 *physical or mental limitations that restrict their ability to carry*
32 *out normal activities or protect their rights.*

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 ~~doctor's~~
10 *doctoral* degree and is thereafter granted the intern registration by
11 the board.

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

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

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

35 (k) Each educational institution preparing applicants for
36 licensure pursuant to this chapter shall consider requiring, and
37 shall encourage, its students to undergo individual, marital or
38 conjoint, family, or group counseling or psychotherapy, as
39 appropriate. Each supervisor shall consider, advise, and encourage
40 his or her interns and trainees regarding the advisability of

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

6 SEC. 39. Section 4980.80 of the Business and Professions
7 Code 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. 40. Section 4982.2 of the Business and Professions Code
2 is repealed.

3 SEC. 41. Section 4982.25 of the Business and Professions
4 Code is amended to read:

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

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

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

21 SEC. 42. Section 4984.6 of the Business and Professions Code
22 is repealed.

23 SEC. 43. Section 4984.8 of the Business and Professions Code
24 is amended to read:

25 4984.8. (a) A licensee may apply to the board to request that
26 his or her license be placed on inactive status.

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

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

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

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

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

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

9 SEC. 44. Section 4989.54 of the Business and Professions
10 Code is amended to read:

11 4989.54. The board may deny a license or may suspend or
12 revoke the license of a licensee if he or she has been guilty of
13 unprofessional conduct. Unprofessional conduct includes, but is
14 not limited to, the following:

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

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

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

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

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

37 (b) Securing a license by fraud, deceit, or misrepresentation on
38 an application for licensure submitted to the board, whether
39 engaged in by an applicant for a license or by a licensee in support
40 of an application for licensure.

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

11 (d) Failure to comply with the consent provisions in Section
12 2290.5.

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

15 (f) Violating, attempting to violate, or conspiring to violate any
16 of the provisions of this chapter or any regulation adopted by the
17 board.

18 (g) Commission of any dishonest, corrupt, or fraudulent act
19 substantially related to the qualifications, functions, or duties of a
20 licensee.

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

28 (i) Revocation, suspension, or restriction by the board of a
29 license, certificate, or registration to practice as a clinical social
30 worker, professional clinical counselor, or marriage and family
31 therapist.

32 (j) Failure to keep records consistent with sound clinical
33 judgment, the standards of the profession, and the nature of the
34 services being rendered.

35 (k) Gross negligence or incompetence in the practice of
36 educational psychology.

37 (l) Misrepresentation as to the type or status of a license held
38 by the licensee or otherwise misrepresenting or permitting
39 misrepresentation of his or her education, professional
40 qualifications, or professional affiliations to any person or entity.

- 1 (m) Intentionally or recklessly causing physical or emotional
2 harm to any client.
- 3 (n) Engaging in sexual relations with a client or a former client
4 within two years following termination of professional services,
5 soliciting sexual relations with a client, or committing an act of
6 sexual abuse or sexual misconduct with a client or committing an
7 act punishable as a sexually related crime, if that act or solicitation
8 is substantially related to the qualifications, functions, or duties of
9 a licensed educational psychologist.
- 10 (o) Prior to the commencement of treatment, failing to disclose
11 to the client or prospective client the fee to be charged for the
12 professional services or the basis upon which that fee will be
13 computed.
- 14 (p) Paying, accepting, or soliciting any consideration,
15 compensation, or remuneration, whether monetary or otherwise,
16 for the referral of professional clients.
- 17 (q) Failing to maintain confidentiality, except as otherwise
18 required or permitted by law, of all information that has been
19 received from a client in confidence during the course of treatment
20 and all information about the client that is obtained from tests or
21 other means.
- 22 (r) Performing, holding himself or herself out as being able to
23 perform, or offering to perform any professional services beyond
24 the scope of the license authorized by this chapter or beyond his
25 or her field or fields of competence as established by his or her
26 education, training, or experience.
- 27 (s) Reproducing or describing in public, or in any publication
28 subject to general public distribution, any psychological test or
29 other assessment device the value of which depends in whole or
30 in part on the naivete of the subject in ways that might invalidate
31 the test or device. An educational psychologist shall limit access
32 to the test or device to persons with professional interests who can
33 be expected to safeguard its use.
- 34 (t) Aiding or abetting an unlicensed person to engage in conduct
35 requiring a license under this chapter.
- 36 (u) When employed by another person or agency, encouraging,
37 either orally or in writing, the employer's or agency's clientele to
38 utilize his or her private practice for further counseling without
39 the approval of the employing agency or administration.

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

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

6 (x) Willful violation of Chapter 1 (commencing with Section
7 123100) of Part 1 of Division 106 of the Health and Safety Code.

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

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

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

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

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

34 SEC. 45. Section 4990.02 of the Business and Professions
35 Code is amended to read:

36 4990.02. "Board," as used in this chapter, Chapter 13
37 (commencing with Section 4980), Chapter 13.5 (commencing with
38 Section 4989.10), Chapter 14 (commencing with Section 4991),
39 and Chapter 16 (commencing with Section 4999.10) means the
40 Board of Behavioral Sciences.

1 SEC. 46. Section 4990.12 of the Business and Professions
2 Code is amended to read:

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

14 SEC. 47. Section 4990.18 of the Business and Professions
15 Code is amended to read:

16 4990.18. It is the intent of the Legislature that the board employ
17 its resources for each and all of the following functions:

18 (a) The licensure of marriage and family therapists, clinical
19 social workers, professional clinical counselors, and educational
20 psychologists.

21 (b) The development and administration of licensure
22 examinations and examination procedures consistent with
23 prevailing standards for the validation and use of licensing and
24 certification tests. Examinations shall measure knowledge and
25 abilities demonstrably important to the safe, effective practice of
26 the profession.

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

29 (d) Consumer education.

30 SEC. 48. Section 4990.22 of the Business and Professions
31 Code is amended to read:

32 4990.22. (a) The Behavioral Sciences Fund shall be used for
33 the purposes of carrying out and enforcing the provisions of this
34 chapter and the chapters listed in Section 4990.12. All moneys in
35 the fund shall be expended by the board for the purposes of the
36 programs under its jurisdiction.

37 (b) The board shall keep records that reasonably ensure that
38 funds expended in the administration of each licensure or
39 registration category shall bear a reasonable relation to the revenue

1 derived from each category and report to the department no later
2 than May 31 of each year on those expenditures.

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

8 SEC. 49. Section 4990.30 of the Business and Professions
9 Code is amended to read:

10 4990.30. (a) A licensed marriage and family therapist, marriage
11 and family therapist intern, licensed clinical social worker,
12 associate clinical social worker, licensed professional clinical
13 counselor, professional clinical counselor intern, or licensed
14 educational psychologist whose license or registration has been
15 revoked, suspended, or placed on probation, may petition the board
16 for reinstatement or modification of the penalty, including
17 modification or termination of probation. The petition shall be on
18 a form provided by the board and shall state any facts and
19 information as may be required by the board including, but not
20 limited to, proof of compliance with the terms and conditions of
21 the underlying disciplinary order. The petition shall be verified by
22 the petitioner who shall file an original and sufficient copies of
23 the petition, together with any supporting documents, for the
24 members of the board, the administrative law judge, and the
25 Attorney General.

26 (b) The licensee or registrant may file the petition on or after
27 the expiration of the following timeframes, each of which
28 commences on the effective date of the decision ordering the
29 disciplinary action or, if the order of the board, or any portion of
30 it, is stayed by the board itself or by the superior court, from the
31 date the disciplinary action is actually implemented in its entirety:

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

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

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

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

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

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

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

14 (g) The board, when it is hearing the petition itself, or an
15 administrative law judge sitting for the board, may consider all
16 activities of the petitioner since the disciplinary action was taken,
17 the offense for which the petitioner was disciplined, the petitioner's
18 activities during the time his or her license or registration was in
19 good standing, and the petitioner's rehabilitative efforts, general
20 reputation for truth, and professional ability.

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

25 (i) The board itself, or the administrative law judge if one is
26 designated by the board, shall hear the petition and shall prepare
27 a written decision setting forth the reasons supporting the decision.
28 In a decision granting a petition reinstating a license or modifying
29 a penalty, the board itself, or the administrative law judge, may
30 impose any terms and conditions that the agency deems reasonably
31 appropriate, including those set forth in Sections 823 and 4990.40.
32 If a petition is heard by an administrative law judge sitting alone,
33 the administrative law judge shall prepare a proposed decision and
34 submit it to the board. The board may take action with respect to
35 the proposed decision and petition as it deems appropriate.

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

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

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

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

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

20 SEC. 50. Section 4990.38 of the Business and Professions
21 Code is amended to read:

22 4990.38. The board may deny an application or may suspend
23 or revoke a license or registration issued under the chapters it
24 administers and enforces for any disciplinary action imposed by
25 another state or territory or possession of the United States, or by
26 a governmental agency on a license, certificate or registration to
27 practice marriage and family therapy, clinical social work,
28 educational psychology, professional clinical counseling, or any
29 other healing art. The disciplinary action, which may include denial
30 of licensure or revocation or suspension of the license or imposition
31 of restrictions on it, constitutes unprofessional conduct. A certified
32 copy of the disciplinary action decision or judgment shall be
33 conclusive evidence of that action.

34 SEC. 51. Section 4992.36 of the Business and Professions
35 Code is amended to read:

36 4992.36. The board may deny an application, or may suspend
37 or revoke a license or registration issued under this chapter, for
38 any of the following:

39 (a) Denial of licensure, revocation, suspension, restriction, or
40 any other disciplinary action imposed by another state or territory

1 of the United States, or by any other governmental agency, on a
2 license, certificate, or registration to practice clinical social work
3 or any other healing art shall constitute grounds for disciplinary
4 action for unprofessional conduct. A certified copy of the
5 disciplinary action decision or judgment shall be conclusive
6 evidence of that action.

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

12 SEC. 52. Article 3 (commencing with Section 4994) of Chapter
13 14 of Division 2 of the Business and Professions Code is repealed.

14 SEC. 53. Section 4996.17 of the Business and Professions
15 Code is amended to read:

16 4996.17. (a) Experience gained outside of California shall be
17 accepted toward the licensure requirements if it is substantially
18 the equivalent of the requirements of this chapter.

19 (b) The board may issue a license to any person who, at the time
20 of application, holds a valid active clinical social work license
21 issued by a board of clinical social work examiners or
22 corresponding authority of any state, if the person passes the board
23 administered licensing examinations as specified in Section 4996.1
24 and pays the required fees. Issuance of the license is conditioned
25 upon all of the following:

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

31 (2) Completion of the following coursework or training in or
32 out of this state:

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

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

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

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

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

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

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

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

24 (c) The board may issue a license to any person who, at the time
25 of application, holds a valid, active clinical social work license
26 issued by a board of clinical social work examiners or a
27 corresponding authority of any state, if the person has held that
28 license for at least four years immediately preceding the date of
29 application, the person passes the board administered licensing
30 examinations as specified in Section 4996.1, and the person pays
31 the required fees. Issuance of the license is conditioned upon all
32 of the following:

33 (1) Completion of the following coursework or training in or
34 out of state:

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

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

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

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

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

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

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

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

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

27 *SEC. 53.5. Section 4996.17 of the Business and Professions*
28 *Code 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, ~~has held~~ *holds* a valid, active clinical social work
37 license ~~for a minimum of four years~~, issued by a board of clinical
38 social work examiners or a corresponding authority of any state,
39 if the person *has held that license for at least four years*
40 *immediately preceding the date of application, the person passes*

1 the board administered licensing examinations as specified in
2 Section 4996.1, and *the person* pays the required fees. Issuance of
3 the license is conditioned upon all 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 *(d) This section shall become inoperative on the date that*
39 *Section 4996.1, as added by Section 4 of Assembly Bill No. 2167*
40 *of the 2009–10 Regular Session, becomes operative.*

1 (e) This section is repealed as of the January 1 following the
2 date that it becomes inoperative.

3 SEC. 53.7. Section 4996.17 is added to the Business and
4 Professions Code, to read:

5 4996.17. (a) Experience gained outside of California shall be
6 accepted toward the licensure requirements if it is substantially
7 the equivalent of the requirements of this chapter.

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

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

20 (2) Completion of the following coursework or training in or
21 out of this state:

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

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

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

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

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

36 (4) The applicant is not currently under investigation in any
37 other state, and has not been charged with an offense for any act
38 substantially related to the practice of social work by any public
39 agency, entered into any consent agreement or been subject to an
40 administrative decision that contains conditions placed by an

1 agency upon an applicant's professional conduct or practice,
2 including any voluntary surrender of license, or been the subject
3 of an adverse judgment resulting from the practice of social work
4 that the board determines constitutes evidence of a pattern of
5 incompetence or negligence.

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

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

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

19 (1) Completion of the following coursework or training in or
20 out of state:

21 (A) A minimum of seven contact hours of training or coursework
22 in child abuse assessment and reporting as specified in Section
23 28, and any regulations promulgated thereunder.

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

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

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

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

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

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

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

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

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

13 (d) This section shall become operative on the date that Section
14 4996.1, as added by Section 4 of Assembly Bill No. 2167 of the
15 2009–10 Regular Session, becomes operative.

16 SEC. 54. Section 4996.23 of the Business and Professions
17 Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (d) The supervisor and the associate shall develop a supervisory
40 plan that describes the goals and objectives of supervision. These

1 goals shall include the ongoing assessment of strengths and
2 limitations and the assurance of practice in accordance with the
3 laws and regulations. The associate shall submit to the board the
4 initial original supervisory plan upon application for licensure.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (m) An associate, whether employed or volunteering, may obtain
39 supervision from a person not employed by the associate's
40 employer if that person has signed a written agreement with the

1 employer to take supervisory responsibility for the associate's
2 social work services.

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

7 SEC. 55. Section 4999.46 of the Business and Professions
8 Code is amended to read:

9 4999.46. (a) To qualify for licensure, applicants shall complete
10 clinical mental health experience under the general supervision of
11 an approved supervisor as defined in Section 4999.12.

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

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

17 (2) Not less than 1,750 hours of direct counseling with
18 individuals or groups in a setting described in Section 4999.44
19 using a variety of psychotherapeutic techniques and recognized
20 counseling interventions within the scope of practice of licensed
21 professional clinical counselors.

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

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

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

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

30 (A) Direct supervisor contact.

31 (B) Client centered advocacy.

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

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

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

4 (d) An applicant shall register with the board as an intern in
5 order to be credited for postdegree hours of experience toward
6 licensure. Postdegree hours of experience shall be credited toward
7 licensure, provided that the applicant applies for intern registration
8 within 90 days of the granting of the qualifying degree and is
9 registered as an intern by the board.

10 (e) All applicants and interns shall be at all times under the
11 supervision of a supervisor who shall be responsible for ensuring
12 that the extent, kind, and quality of counseling performed is
13 consistent with the training and experience of the person being
14 supervised, and who shall be responsible to the board for
15 compliance with all laws, rules, and regulations governing the
16 practice of professional clinical counseling.

17 (f) Experience obtained under the supervision of a spouse or
18 relative by blood or marriage shall not be credited toward the
19 required hours of supervised experience. Experience obtained
20 under the supervision of a supervisor with whom the applicant has
21 had or currently has a personal, professional, or business
22 relationship that undermines the authority or effectiveness of the
23 supervision shall not be credited toward the required hours of
24 supervised experience.

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

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

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

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

39 (4) Notwithstanding paragraph (3), an intern working in a
40 governmental entity, a school, a college, or a university, or an

1 institution that is both nonprofit and charitable, may obtain the
2 required weekly direct supervisor contact via two-way, real-time
3 videoconferencing. The supervisor shall be responsible for ensuring
4 that client confidentiality is upheld.

5 *SEC. 55.1. Section 4999.54 of the Business and Professions*
6 *Code is amended to read:*

7 4999.54. (a) Notwithstanding Section 4999.50, the board may
8 issue a license to any person who submits an application for a
9 license between January 1, 2011, and June 30, 2011, provided that
10 all documentation is submitted within 12 months of the board's
11 evaluation of the application, and provided he or she meets one of
12 the following sets of criteria:

13 (1) He or she meets all of the following requirements:

14 (A) Has a master's or doctoral degree from a school, college,
15 or university as specified in Section 4999.32, that is counseling or
16 psychotherapy in content. If the person's degree does not include
17 all the graduate coursework in all nine core content areas as
18 required by paragraph (1) of subdivision (c) of Section 4999.32,
19 a person shall provide documentation that he or she has completed
20 the required coursework prior to licensure pursuant to this chapter.
21 *Except as specified in clause (ii), a qualifying degree must*
22 *include the supervised practicum or field study experience as*
23 *required in paragraph (3) of subdivision (c) of Section 4999.32.*

24 (i) A counselor educator whose degree contains at least seven
25 of the nine required core content areas shall be given credit for
26 coursework not contained in the degree if the counselor educator
27 provides documentation that he or she has taught the equivalent
28 of the required core content areas in a graduate program in
29 counseling or a related area.

30 (ii) Degrees issued prior to 1996 shall include a minimum of
31 30 semester units or 45 quarter units and at least six of the nine
32 required core content areas specified in paragraph (1) of subdivision
33 (c) of Section 4999.32 *and three semester units or four and*
34 *one-half quarter units of supervised practicum or field study*
35 *experience.* The total number of units shall be no less than 48
36 semester units or 72 quarter units.

37 (iii) Degrees issued in 1996 and after shall include a minimum
38 of 48 semester units or 72 quarter units and at least seven of the
39 nine core content areas specified in paragraph (1) of subdivision
40 (c) of Section 4999.32.

- 1 (B) Has completed all of the coursework or training specified
2 in subdivision (e) of Section 4999.32.
- 3 (C) Has at least two years, full-time or the equivalent, of
4 postdegree counseling experience, that includes at least 1,700 hours
5 of experience in a clinical setting supervised by a licensed marriage
6 and family therapist, a licensed clinical social worker, a licensed
7 psychologist, a licensed physician and surgeon specializing in
8 psychiatry, or a master's level counselor or therapist who is
9 certified by a national certifying or registering organization,
10 including, but not limited to, the National Board for Certified
11 Counselors or the Commission on Rehabilitation Counselor
12 Certification.
- 13 (D) Has a passing score on the following examinations:
- 14 (i) The National Counselor Examination for Licensure and
15 Certification or the Certified Rehabilitation Counselor
16 Examination.
- 17 (ii) The National Clinical Mental Health Counselor Examination.
- 18 (iii) A California jurisprudence and ethics examination, when
19 developed by the board.
- 20 (2) Is currently licensed as a marriage and family therapist in
21 the State of California, meets the coursework requirements
22 described in subparagraph (A) of paragraph (1), and passes the
23 examination described in subdivision (b).
- 24 (3) Is currently licensed as a clinical social worker in the State
25 of California, meets the coursework requirements described in
26 subparagraph (A) of paragraph (1), and passes the examination
27 described in subdivision (b).
- 28 (b) (1) The board and the Office of Professional Examination
29 Services shall jointly develop an examination on the differences,
30 if any differences exist, between the following:
- 31 (A) The practice of professional clinical counseling and the
32 practice of marriage and family therapy.
- 33 (B) The practice of professional clinical counseling and the
34 practice of clinical social work.
- 35 (2) If the board, in consultation with the Office of Professional
36 Examination Services, determines that an examination is necessary
37 pursuant to this subdivision, an applicant described in paragraphs
38 (2) and (3) of subdivision (a) shall pass the examination as a
39 condition of licensure.

1 (c) Nothing in this section shall be construed to expand or
2 constrict the scope of practice of professional clinical counseling,
3 as defined in Section 4999.20.

4 SEC. 56. Section 4999.57 is added to the Business and
5 Professions Code, to read:

6 4999.57. (a) This section applies to a person who applies for
7 examination eligibility or registration between January 1, 2011,
8 and December 31, 2013, inclusive, who does not hold a license
9 described in subdivision (a) of Section 4999.58.

10 (b) Experience gained outside of California shall be accepted
11 toward the licensure requirements if it is substantially equivalent
12 to that required by this chapter, if the applicant complies with
13 Section 4999.40, if applicable, and if the applicant has gained a
14 minimum of 250 hours of supervised experience in direct
15 counseling within California while registered as an intern with the
16 board.

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

34 (d) For purposes of this section, the board may, in its discretion,
35 accept education as substantially equivalent if the applicant's
36 education meets the requirements of Section 4999.32. If the
37 applicant's degree does not contain the content or the overall units
38 required by Section 4999.32, the board may, in its discretion, accept
39 the applicant's education as substantially equivalent if the following
40 criteria are satisfied:

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

4 (2) The applicant remediates his or her specific deficiency by
5 completing the course content and units required by Section
6 4999.32.

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

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

11 SEC. 57. Section 4999.58 of the Business and Professions
12 Code is amended to read:

13 4999.58. (a) This section applies to a person who applies for
14 examination eligibility between January 1, 2011, and December
15 31, 2013, inclusive, and who meets both of the following
16 requirements:

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

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

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

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

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

30 (3) The person successfully completes the examinations required
31 by the board pursuant to paragraph (3) of subdivision (a) of Section
32 4999.50.

33 (4) The person pays the required fees.

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

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

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

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

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

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

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

35 SEC. 58. Section 4999.59 is added to the Business and
36 Professions Code, to read:

37 4999.59. (a) This section applies to a person who applies for
38 examination eligibility or registration between January 1, 2011,
39 and December 31, 2013, inclusive, who meets both of the following
40 requirements:

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

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

5 (b) Experience gained outside of California shall be accepted
6 toward the licensure requirements if it is substantially equivalent
7 to that required by this chapter, if the applicant complies with
8 Section 4999.40, if applicable, and if the applicant has gained a
9 minimum of 250 hours of supervised experience in direct
10 counseling within California while registered as an intern with the
11 board. The board shall consider hours of experience obtained in
12 another state during the six-year period immediately preceding the
13 applicant's initial licensure in that state as a professional clinical
14 counselor.

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

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

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

4 (2) The applicant remediates his or her specific deficiency by
5 completing the course content and units required by Section
6 4999.32.

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

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

11 SEC. 59. Section 4999.90 of the Business and Professions
12 Code is amended to read:

13 4999.90. The board may refuse to issue any registration or
14 license, or may suspend or revoke the registration or license of
15 any intern or licensed professional clinical counselor, if the
16 applicant, licensee, or registrant has been guilty of unprofessional
17 conduct. Unprofessional conduct includes, but is not limited to,
18 the following:

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

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

6 (c) Administering to himself or herself any controlled substance
7 or using any of the dangerous drugs specified in Section 4022, or
8 any alcoholic beverage to the extent, or in a manner, as to be
9 dangerous or injurious to the person applying for a registration or
10 license or holding a registration or license under this chapter, or
11 to any other person, or to the public, or, to the extent that the use
12 impairs the ability of the person applying for or holding a
13 registration or license to conduct with safety to the public the
14 practice authorized by the registration or license, or the conviction
15 of more than one misdemeanor or any felony involving the use,
16 consumption, or self-administration of any of the substances
17 referred to in this subdivision, or any combination thereof. The
18 board shall deny an application for a registration or license or
19 revoke the license or registration of any person, other than one
20 who is licensed as a physician and surgeon, who uses or offers to
21 use drugs in the course of performing licensed professional clinical
22 counseling services.

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

25 (e) Violating, attempting to violate, or conspiring to violate any
26 of the provisions of this chapter or any regulation adopted by the
27 board.

28 (f) Misrepresentation as to the type or status of a license or
29 registration held by the person, or otherwise misrepresenting or
30 permitting misrepresentation of his or her education, professional
31 qualifications, or professional affiliations to any person or entity.

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

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

39 (i) Intentionally or recklessly causing physical or emotional
40 harm to any client.

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

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

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

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

20 (n) Prior to the commencement of treatment, failing to disclose
21 to the client or prospective client the fee to be charged for the
22 professional services, or the basis upon which that fee will be
23 computed.

24 (o) Paying, accepting, or soliciting any consideration,
25 compensation, or remuneration, whether monetary or otherwise,
26 for the referral of professional clients. All consideration,
27 compensation, or remuneration shall be in relation to professional
28 clinical counseling services actually provided by the licensee.
29 Nothing in this subdivision shall prevent collaboration among two
30 or more licensees in a case or cases. However, no fee shall be
31 charged for that collaboration, except when disclosure of the fee
32 has been made in compliance with subdivision (n).

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

35 (q) Reproduction or description in public, or in any publication
36 subject to general public distribution, of any psychological test or
37 other assessment device, the value of which depends in whole or
38 in part on the naivete of the subject, in ways that might invalidate
39 the test or device.

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

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

10 (t) Permitting a clinical counselor trainee or intern under one's
11 supervision or control to perform, or permitting the clinical
12 counselor trainee or intern to hold himself or herself out as
13 competent to perform, professional services beyond the clinical
14 counselor trainee's or intern's level of education, training, or
15 experience.

16 (u) The violation of any statute or regulation of the standards
17 of the profession, and the nature of the services being rendered,
18 governing the gaining and supervision of experience required by
19 this chapter.

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

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

25 (x) Failing to comply with the elder and dependent adult abuse
26 reporting requirements of Section 15630 of the Welfare and
27 Institutions Code.

28 (y) Repeated acts of negligence.

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

37 (2) The Legislature hereby finds and declares that protection of
38 the public, and in particular minors, from sexual misconduct by a
39 licensee is a compelling governmental interest, and that the ability
40 to suspend or revoke a license for sexual conduct with a minor

1 occurring prior to the effective date of this section is equally
2 important to protecting the public as is the ability to refuse a license
3 for sexual conduct with a minor occurring prior to the effective
4 date of this section.

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

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

11 (ac) Failing to comply with the procedures set forth in Section
12 2290.5 when delivering health care via telemedicine.

13 *SEC. 60. Section 6.5 of this bill incorporates amendments to*
14 *Section 2177 of the Business and Professions Code proposed by*
15 *both this bill and SB 1410. It shall only become operative if (1)*
16 *both bills are enacted and become effective on or before January*
17 *1, 2011, (2) each bill amends Section 2177 of the Business and*
18 *Professions Code, and (3) this bill is enacted after SB 1410, in*
19 *which case Section 6 of this bill shall not become operative.*

20 *SEC. 61. (a) Section 11.5 of this bill incorporates amendments*
21 *to Section 2570.19 of the Business and Professions Code proposed*
22 *by both this bill and SB 294. It shall only become operative if (1)*
23 *both bills are enacted and become effective on or before January*
24 *1, 2011, (2) each bill amends Section 2570.19 of the Business and*
25 *Professions Code, and (3) SB 999 is not enacted or as enacted*
26 *does not amend that section, and (4) this bill is enacted after SB*
27 *294, in which case Sections 11, 11.7, and 11.9 of this bill shall not*
28 *become operative.*

29 *(b) Section 11.7 of this bill incorporates amendments to Section*
30 *2570.19 of the Business and Professions Code proposed by both*
31 *this bill and SB 999. It shall only become operative if (1) both bills*
32 *are enacted and become effective on or before January 1, 2011,*
33 *(2) each bill amends Section 2570.19 of the Business and*
34 *Professions Code, (3) SB 294 is not enacted or as enacted does*
35 *not amend that section, and (4) this bill is enacted after SB 999 in*
36 *which case Sections 11, 11.5, and 11.9 of this bill shall not become*
37 *operative.*

38 *(c) Section 11.9 of this bill incorporates amendments to Section*
39 *2570.19 of the Business and Professions Code proposed by this*
40 *bill, SB 294, and SB 999. It shall only become operative if (1) all*

1 *three bills are enacted and become effective on or before January*
2 *1, 2011, (2) all three bills amend Section 2570.19 of the Business*
3 *and Professions Code, and (3) this bill is enacted after SB 294*
4 *and SB 299, in which case Sections 11, 11.5, and 11.7 of this bill*
5 *shall not become operative.*

6 *SEC. 62. Section 38.5 of this bill incorporates amendments to*
7 *Section 4980.43 of the Business and Professions Code proposed*
8 *by both this bill and AB 2435. It shall only become operative if (1)*
9 *both bills are enacted and become effective on or before January*
10 *1, 2011, (2) each bill amends Section 4980.43 of the Business and*
11 *Professions Code, and (3) this bill is enacted after AB 2435, in*
12 *which case Section 38 of this bill shall not become operative.*

13 *SEC. 63. Sections 53.5 and 53.7 of this bill incorporate*
14 *amendments to Section 4996.17 of the Business and Professions*
15 *Code proposed by both this bill and AB 2167. Sections 53.5 and*
16 *53.7 of this bill shall only become operative if (1) both bills are*
17 *enacted and become effective on or before January 1, 2011, (2)*
18 *each bill amends Section 4996.17 of the Business and Professions*
19 *Code, and (3) this bill is enacted after AB 2167, in which case*
20 *Section 53 of this bill shall not become operative.*

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