

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 628

Introduced by Senator Yee

February 18, 2011

An act to amend Sections 27, 101, 130, 144, 149, 205, 730.5, 800, 4925, 4927, 4928, 4928.1, 4935, 4937, 4955, 4955.1, 4955.2, 4956, 4959, 4960.2, 4961, 4965, 4966, 4967, 4969, 4970, 4974, and 4975 of, to add Section 4964.5 to, and to add Article 3 (commencing with Section 4950) to Chapter 12 of Division 2 of, the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as amended, Yee. Acupuncture: regulation.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture is a crime.

This bill would retitle the act as the Traditional Chinese Medicine Licensure Act, would change the designation of "acupuncturist" to "Traditional Chinese Medicine Practitioner," and would define the term "Traditional Chinese Medicine" to be identical to the term "acupuncture." The bill would expand the scope of authorized activities for these practitioners under their license to include the performance of traumatology, as defined. The bill would also ~~create a process for the certification of traumatologists who would be authorized to practice~~

~~traumatology without a license as an acupuncturist if practicing traumatology on or before a specified date, and would create a subcommittee within the board to implement the certification of traumatologists, subject to specified criteria. The bill would set forth procedures for the renewal of an unexpired or expired certificate to practice traumatology, and set forth provisions related to unprofessional conduct and disciplinary action of a traumatologist., commencing May 1, 2012, require the board to issue a certificate for certified traumatology, as defined, to applicants who meet certain training and clinical experience, pass an examination, and pay a specified fee. The bill would limit the submittal of applications to the period between January 1, 2012, until December 15, 2012, and would prohibit the board from issuing a certificate after December 15, 2012. The bill would require the board to establish the traumatology advisory committee to advise the board about the certification processes for traumatologists. The bill would set forth procedures for the renewal of an unexpired or expired certificate to perform traumatology and would establish specified fees in that regard. The bill would provide that the practice of traumatology without a certificate to practice traumatology or a license to practice acupuncture is a crime make it a crime to use the title of “certified traumatologist” without meeting these certification requirements and to fraudulently buy or sell a certificate for traumatology, thereby imposing a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Traditional Chinese Medicine (TCM) comprises a system
- 4 of health care that originated in China more than 5,000 years ago
- 5 and has been provided in the United States for more than 150 years.
- 6 TCM is a comprehensive system for the assessment and treatment

1 of acute and chronic disorders, as well as preventative health care
2 and maintenance.

3 (b) The first written documentation on TCM is the Hung-Di
4 Nei-Jing, known as the Yellow Emperor’s Canon of Internal
5 Medicine. Hung-Di Nei-Jing is the oldest medical textbook in the
6 world; different opinions date the book back to between 800 BCE
7 and 200 BCE. The Yellow Emperor’s Canon of Internal Medicine
8 lays a primary foundation for the theories of Chinese medicine,
9 which extensively summarizes and systematizes the previous
10 experience of treatment and theories of medicine, such as the
11 meridian theory, as well as many other issues, including, but not
12 limited to, physiology, pathology, prevention, diagnosis, treatment,
13 acupuncture, moxibustion, and tui na.

14 (c) The Chinese medical text that first describes acupuncture
15 was in this book. Forms of acupuncture also include Chimsul,
16 which is part of traditional Korean medicine, and Kampo, which
17 is part of traditional Japanese medicine. Ancient Chinese text also
18 reveals that the medical benefits of massage therapy were
19 recognized early on. The tradition of massage therapy in China
20 evolved from the knowledge and approaches of doctors practicing
21 TCM to include the beliefs of martial artists, Buddhists, and
22 Taoists.

23 (d) Traditional Chinese Medicine was formally systemized in
24 the 1950s under the People’s Republic of China. Government
25 researchers were sent throughout China to collect and document
26 the practices and theories of TCM. The Traditional Chinese
27 Medicine we know today is the official Chinese medicine practice
28 that was derived from this research.

29 (e) Currently in California, practitioners of TCM are recognized
30 as licensed acupuncturists. Acupuncture is one of the many
31 modalities within TCM. This nomenclature is misleading and
32 problematic as the scope of practice of a licensed acupuncturist
33 includes other modalities of TCM and not just acupuncture.

34 (f) Further, traumatology is one of the modalities that constitutes
35 TCM. It is a very important part of TCM science with a complete
36 theoretical system. Traumatology, like orthopedics, includes a
37 range of treatments to address both acute and chronic
38 musculoskeletal conditions, as well as many nonmusculoskeletal
39 conditions.

1 (g) Before China systemized its health care system, individuals
2 acquired their mastery of traumatology through a master-apprentice
3 relationship. Individuals learned from a master through hands-on
4 training. Although highly skilled, it is extremely difficult for these
5 practitioners to obtain proof of their training to qualify for the
6 existing requirement for licensure as an acupuncturist. A group of
7 these practitioners reside in the State of California.

8 (h) Accordingly, it is the intent of the Legislature in enacting
9 this measure to do the following:

10 (1) Change the name of the Acupuncture Board to the
11 Traditional Chinese Medicine Board and change the designation
12 of an individual who achieves licensure as an acupuncturist as a
13 licensed Traditional Chinese Medicine Practitioner.

14 (2) Create a process by which a currently practicing
15 traumatologist is able to obtain ~~licensure~~ *certification* as a
16 traumatologist by demonstrating expertise in traumatology in
17 accordance with established standards and criteria, to be
18 administered by ~~a subcommittee under~~ the Traditional Chinese
19 Medicine Board.

20 SEC. 2. Section 27 of the Business and Professions Code is
21 amended to read:

22 27. (a) Each entity specified in subdivision (b) shall provide
23 on the Internet information regarding the status of every license
24 issued by that entity in accordance with the California Public
25 Records Act (Chapter 3.5 (commencing with Section 6250) of
26 Division 7 of Title 1 of the Government Code) and the Information
27 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
28 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
29 information to be provided on the Internet shall include information
30 on suspensions and revocations of licenses issued by the entity
31 and other related enforcement action taken by the entity relative
32 to persons, businesses, or facilities subject to licensure or regulation
33 by the entity. In providing information on the Internet, each entity
34 shall comply with the Department of Consumer Affairs Guidelines
35 for Access to Public Records. The information may not include
36 personal information, including home telephone number, date of
37 birth, or social security number. Each entity shall disclose a
38 licensee's address of record. However, each entity shall allow a
39 licensee to provide a post office box number or other alternate
40 address, instead of his or her home address, as the address of

1 record. This section shall not preclude an entity from also requiring
2 a licensee, who has provided a post office box number or other
3 alternative mailing address as his or her address of record, to
4 provide a physical business address or residence address only for
5 the entity's internal administrative use and not for disclosure as
6 the licensee's address of record or disclosure on the Internet.

7 (b) Each of the following entities within the Department of
8 Consumer Affairs shall comply with the requirements of this
9 section:

10 (1) The Traditional Chinese Medicine Board shall disclose
11 information on its licensees.

12 (2) The Board of Behavioral Sciences shall disclose information
13 on its licensees, including marriage and family therapists, licensed
14 clinical social workers, and licensed educational psychologists.

15 (3) The Dental Board of California shall disclose information
16 on its licensees.

17 (4) The State Board of Optometry shall disclose information
18 regarding certificates of registration to practice optometry,
19 statements of licensure, optometric corporation registrations, branch
20 office licenses, and fictitious name permits of its licensees.

21 (5) The Board for Professional Engineers and Land Surveyors
22 shall disclose information on its registrants and licensees.

23 (6) The Structural Pest Control Board shall disclose information
24 on its licensees, including applicators, field representatives, and
25 operators in the areas of fumigation, general pest and wood
26 destroying pests and organisms, and wood roof cleaning and
27 treatment.

28 (7) The Bureau of Automotive Repair shall disclose information
29 on its licensees, including auto repair dealers, smog stations, lamp
30 and brake stations, smog check technicians, and smog inspection
31 certification stations.

32 (8) The Bureau of Electronic and Appliance Repair shall disclose
33 information on its licensees, including major appliance repair
34 dealers, combination dealers (electronic and appliance), electronic
35 repair dealers, service contract sellers, and service contract
36 administrators.

37 (9) The Cemetery and Funeral Bureau shall disclose information
38 on its licensees, including cemetery brokers, cemetery salespersons,
39 cemetery managers, crematory managers, cemetery authorities,

1 crematories, cremated remains disposers, embalmers, funeral
2 establishments, and funeral directors.

3 (10) The Professional Fiduciaries Bureau shall disclose
4 information on its licensees.

5 (11) The Contractors' State License Board shall disclose
6 information on its licensees in accordance with Chapter 9
7 (commencing with Section 7000) of Division 3. In addition to
8 information related to licenses as specified in subdivision (a), the
9 board shall also disclose information provided to the board by the
10 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

11 (12) The Board of Psychology shall disclose information on its
12 licensees, including psychologists, psychological assistants, and
13 registered psychologists.

14 (13) The Bureau for Private Postsecondary Education shall
15 disclose information on private postsecondary institutions under
16 its jurisdiction, including disclosure of notices to comply issued
17 pursuant to Section 94935 of the Education Code.

18 (c) "Internet" for the purposes of this section has the meaning
19 set forth in paragraph (6) of subdivision (e) of Section 17538.

20 SEC. 3. Section 101 of the Business and Professions Code is
21 amended to read:

22 101. The department is comprised of:

- 23 (a) The Dental Board of California.
- 24 (b) The Medical Board of California.
- 25 (c) The State Board of Optometry.
- 26 (d) The California State Board of Pharmacy.
- 27 (e) The Veterinary Medical Board.
- 28 (f) The California Board of Accountancy.
- 29 (g) The California Architects Board.
- 30 (h) The Bureau of Barbering and Cosmetology.
- 31 (i) The Board for Professional Engineers and Land Surveyors.
- 32 (j) The Contractors' State License Board.
- 33 (k) The Bureau for Private Postsecondary Education.
- 34 (l) The Bureau of Electronic and Appliance Repair, Home
35 Furnishings, and Thermal Insulation.
- 36 (m) The Board of Registered Nursing.
- 37 (n) The Board of Behavioral Sciences.
- 38 (o) The State Athletic Commission.
- 39 (p) The Cemetery and Funeral Bureau.
- 40 (q) The State Board of Guide Dogs for the Blind.

- 1 (r) The Bureau of Security and Investigative Services.
- 2 (s) The Court Reporters Board of California.
- 3 (t) The Board of Vocational Nursing and Psychiatric
- 4 Technicians.
- 5 (u) The Landscape Architects Technical Committee.
- 6 (v) The Division of Investigation.
- 7 (w) The Bureau of Automotive Repair.
- 8 (x) The Respiratory Care Board of California.
- 9 (y) The Traditional Chinese Medicine Board.
- 10 (z) The Board of Psychology.
- 11 (aa) The California Board of Podiatric Medicine.
- 12 (ab) The Physical Therapy Board of California.
- 13 (ac) The Arbitration Review Program.
- 14 (ad) The Physician Assistant Committee.
- 15 (ae) The Speech-Language Pathology and Audiology Board.
- 16 (af) The California Board of Occupational Therapy.
- 17 (ag) The Osteopathic Medical Board of California.
- 18 (ah) The Naturopathic Medicine Committee.
- 19 (ai) The Dental Hygiene Committee of California.
- 20 (aj) The Professional Fiduciaries Bureau.
- 21 (ak) Any other boards, offices, or officers subject to its
- 22 jurisdiction by law.
- 23 SEC. 4. Section 130 of the Business and Professions Code is
- 24 amended to read:
- 25 130. (a) Notwithstanding any other provision of law, the term
- 26 of office of any member of an agency designated in subdivision
- 27 (b) shall be for a term of four years expiring on June 1.
- 28 (b) Subdivision (a) applies to the following boards or
- 29 committees:
- 30 (1) The Medical Board of California.
- 31 (2) The California Board of Podiatric Medicine.
- 32 (3) The Physical Therapy Board of California.
- 33 (4) The Board of Registered Nursing.
- 34 (5) The Board of Vocational Nursing and Psychiatric
- 35 Technicians.
- 36 (6) The State Board of Optometry.
- 37 (7) The California State Board of Pharmacy.
- 38 (8) The Veterinary Medical Board.
- 39 (9) The California Architects Board.
- 40 (10) The Landscape Architect Technical Committee.

- 1 (11) The Board for Professional Engineers and Land Surveyors.
- 2 (12) The Contractors' State License Board.
- 3 (13) The State Board of Guide Dogs for the Blind.
- 4 (14) The Board of Behavioral Sciences.
- 5 (15) The Court Reporters Board of California.
- 6 (16) The State Athletic Commission.
- 7 (17) The Osteopathic Medical Board of California.
- 8 (18) The Respiratory Care Board of California.
- 9 (19) The Traditional Chinese Medicine Board.
- 10 (20) The Board of Psychology.

11 SEC. 5. Section 144 of the Business and Professions Code is
12 amended to read:

13 144. (a) Notwithstanding any other provision of law, an agency
14 designated in subdivision (b) shall require an applicant to furnish
15 to the agency a full set of fingerprints for purposes of conducting
16 criminal history record checks. Any agency designated in
17 subdivision (b) may obtain and receive, at its discretion, criminal
18 history information from the Department of Justice and the United
19 States Federal Bureau of Investigation.

20 (b) Subdivision (a) applies to the following:

- 21 (1) California Board of Accountancy.
- 22 (2) State Athletic Commission.
- 23 (3) Board of Behavioral Sciences.
- 24 (4) Court Reporters Board of California.
- 25 (5) State Board of Guide Dogs for the Blind.
- 26 (6) California State Board of Pharmacy.
- 27 (7) Board of Registered Nursing.
- 28 (8) Veterinary Medical Board.
- 29 (9) Registered Veterinary Technician Committee.
- 30 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 31 (11) Respiratory Care Board of California.
- 32 (12) Hearing Aid Dispensers Advisory Commission.
- 33 (13) Physical Therapy Board of California.
- 34 (14) Physician Assistant Committee of the Medical Board of
35 California.
- 36 (15) Speech-Language Pathology and Audiology Board.
- 37 (16) Medical Board of California.
- 38 (17) State Board of Optometry.
- 39 (18) Traditional Chinese Medicine Board.
- 40 (19) Cemetery and Funeral Bureau.

- 1 (20) Bureau of Security and Investigative Services.
- 2 (21) Division of Investigation.
- 3 (22) Board of Psychology.
- 4 (23) The California Board of Occupational Therapy.
- 5 (24) Structural Pest Control Board.
- 6 (25) Contractors' State License Board.
- 7 (26) Bureau of Naturopathic Medicine.
- 8 (27) The Professional Fiduciaries Bureau.

9 (c) The provisions of paragraph (24) of subdivision (b) shall
10 become operative on July 1, 2004. The provisions of paragraph
11 (25) of subdivision (b) shall become operative on the date on which
12 sufficient funds are available for the Contractors' State License
13 Board and the Department of Justice to conduct a criminal history
14 record check pursuant to this section or on July 1, 2005, whichever
15 occurs first.

16 SEC. 6. Section 149 of the Business and Professions Code is
17 amended to read:

18 149. (a) If, upon investigation, an agency designated in
19 subdivision (e) has probable cause to believe that a person is
20 advertising in a telephone directory with respect to the offering or
21 performance of services, without being properly licensed by or
22 registered with the agency to offer or perform those services, the
23 agency may issue a citation under Section 148 containing an order
24 of correction that requires the violator to do both of the following:

- 25 (1) Cease the unlawful advertising.
- 26 (2) Notify the telephone company furnishing services to the
27 violator to disconnect the telephone service furnished to any
28 telephone number contained in the unlawful advertising.

29 (b) This action is stayed if the person to whom a citation is
30 issued under subdivision (a) notifies the agency in writing that he
31 or she intends to contest the citation. The agency shall afford an
32 opportunity for a hearing, as specified in Section 125.9.

33 (c) If the person to whom a citation and order of correction is
34 issued under subdivision (a) fails to comply with the order of
35 correction after that order is final, the agency shall inform the
36 Public Utilities Commission of the violation and the Public Utilities
37 Commission shall require the telephone corporation furnishing
38 services to that person to disconnect the telephone service furnished
39 to any telephone number contained in the unlawful advertising.

1 (d) The good faith compliance by a telephone corporation with
2 an order of the Public Utilities Commission to terminate service
3 issued pursuant to this section shall constitute a complete defense
4 to any civil or criminal action brought against the telephone
5 corporation arising from the termination of service.

6 (e) Subdivision (a) shall apply to the following boards, bureaus,
7 committees, commissions, or programs:

- 8 (1) The Bureau of Barbering and Cosmetology.
- 9 (2) The Cemetery and Funeral Bureau.
- 10 (3) The Veterinary Medical Board.
- 11 (4) The Landscape Architects Technical Committee.
- 12 (5) The California Board of Podiatric Medicine.
- 13 (6) The Respiratory Care Board of California.
- 14 (7) The Bureau of Electronic and Appliance Repair, Home
15 Furnishings, and Thermal Insulation.
- 16 (8) The Bureau of Security and Investigative Services.
- 17 (9) The Bureau of Automotive Repair.
- 18 (10) The California Architects Board.
- 19 (11) The Speech-Language Pathology and Audiology Board.
- 20 (12) The Board for Professional Engineers and Land Surveyors.
- 21 (13) The Board of Behavioral Sciences.
- 22 (14) The Structural Pest Control Board within the Department
23 of Pesticide Regulation.
- 24 (15) The Traditional Chinese Medicine Board.
- 25 (16) The Board of Psychology.
- 26 (17) The California Board of Accountancy.
- 27 (18) The Naturopathic Medicine Committee.
- 28 (19) The Physical Therapy Board of California.
- 29 (20) The Bureau for Private Postsecondary Education.

30 SEC. 7. Section 205 of the Business and Professions Code is
31 amended to read:

32 205. (a) There is in the State Treasury the Professions and
33 Vocations Fund. The fund shall consist of the following special
34 funds:

- 35 (1) Accountancy Fund.
- 36 (2) California Architects Board Fund.
- 37 (3) Athletic Commission Fund.
- 38 (4) Barbering and Cosmetology Contingent Fund.
- 39 (5) Cemetery Fund.
- 40 (6) Contractors' License Fund.

- 1 (7) State Dentistry Fund.
- 2 (8) State Funeral Directors and Embalmers Fund.
- 3 (9) Guide Dogs for the Blind Fund.
- 4 (10) Home Furnishings and Thermal Insulation Fund.
- 5 (11) California Architects Board-Landscape Architects Fund.
- 6 (12) Contingent Fund of the Medical Board of California.
- 7 (13) Optometry Fund.
- 8 (14) Pharmacy Board Contingent Fund.
- 9 (15) Physical Therapy Fund.
- 10 (16) Private Investigator Fund.
- 11 (17) Professional Engineers' and Land Surveyors' Fund.
- 12 (18) Consumer Affairs Fund.
- 13 (19) Behavioral Sciences Fund.
- 14 (20) Licensed Midwifery Fund.
- 15 (21) Court Reporters' Fund.
- 16 (22) Veterinary Medical Board Contingent Fund.
- 17 (23) Vocational Nurses Account of the Vocational Nursing and
- 18 Psychiatric Technicians Fund.
- 19 (24) Electronic and Appliance Repair Fund.
- 20 (25) Geology and Geophysics Fund.
- 21 (26) Dispensing Opticians Fund.
- 22 (27) Traditional Chinese Medicine Fund.
- 23 (28) Physician Assistant Fund.
- 24 (29) Board of Podiatric Medicine Fund.
- 25 (30) Psychology Fund.
- 26 (31) Respiratory Care Fund.
- 27 (32) Speech-Language Pathology and Audiology Fund.
- 28 (33) Board of Registered Nursing Fund.
- 29 (34) Psychiatric Technician Examiners Account of the
- 30 Vocational Nursing and Psychiatric Technicians Fund.
- 31 (35) Animal Health Technician Examining Committee Fund.
- 32 (36) State Dental Hygiene Fund.
- 33 (37) State Dental Assistant Fund.
- 34 (38) Hearing Aid Dispensers Account of the Speech-Language
- 35 Pathology and Audiology Fund.
- 36 (b) For accounting and recordkeeping purposes, the Professions
- 37 and Vocations Fund shall be deemed to be a single special fund,
- 38 and each of the several special funds therein shall constitute and
- 39 be deemed to be a separate account in the Professions and
- 40 Vocations Fund. Each account or fund shall be available for

1 expenditure only for the purposes as are now or may hereafter be
2 provided by law.

3 SEC. 8. Section 730.5 of the Business and Professions Code
4 is amended to read:

5 730.5. (a) It is unprofessional conduct and a crime, as provided
6 in Section 4935, for a physician and surgeon, osteopathic physician,
7 dentist, or podiatrist to direct or supervise the performance of
8 acupuncture involving the application of a needle to the body of
9 a human being by a person licensed under this division who is not
10 licensed pursuant to the Traditional Chinese Medicine Licensure
11 Act established by Chapter 12 (commencing with Section 4925).

12 (b) It is unprofessional conduct and a crime, as provided in
13 Section 4935, for a person licensed under this division who is not
14 licensed pursuant to the Traditional Chinese Medicine Licensure
15 Act established by Chapter 12 (commencing with Section 4925)
16 to perform acupuncture involving the application of a needle to
17 the body of a human being at the direction or under the supervision
18 of a physician and surgeon, osteopathic physician, dentist, or
19 podiatrist.

20 SEC. 9. Section 800 of the Business and Professions Code is
21 amended to read:

22 800. (a) The Medical Board of California, the Board of
23 Psychology, the Dental Board of California, the Osteopathic
24 Medical Board of California, the State Board of Chiropractic
25 Examiners, the Board of Registered Nursing, the Board of
26 Vocational Nursing and Psychiatric Technicians, the State Board
27 of Optometry, the Veterinary Medical Board, the Board of
28 Behavioral Sciences, the Physical Therapy Board of California,
29 the California State Board of Pharmacy, the Speech-Language
30 Pathology and Audiology and Hearing Aid Dispensers Board, the
31 California Board of Occupational Therapy, and the Traditional
32 Chinese Medicine Board shall each separately create and maintain
33 a central file of the names of all persons who hold a license,
34 certificate, or similar authority from that board. Each central file
35 shall be created and maintained to provide an individual historical
36 record for each licensee with respect to the following information:

37 (1) Any conviction of a crime in this or any other state that
38 constitutes unprofessional conduct pursuant to the reporting
39 requirements of Section 803.

1 (2) Any judgment or settlement requiring the licensee or his or
2 her insurer to pay any amount of damages in excess of three
3 thousand dollars (\$3,000) for any claim that injury or death was
4 proximately caused by the licensee’s negligence, error or omission
5 in practice, or by rendering unauthorized professional services,
6 pursuant to the reporting requirements of Section 801 or 802.

7 (3) Any public complaints for which provision is made pursuant
8 to subdivision (b).

9 (4) Disciplinary information reported pursuant to Section 805,
10 including any additional exculpatory or explanatory statements
11 submitted by the licensee pursuant to subdivision (f) of Section
12 805. If a court finds, in a final judgment, that the peer review
13 resulting in the 805 report was conducted in bad faith and the
14 licensee who is the subject of the report notifies the board of that
15 finding, the board shall include that finding in the central file. For
16 purposes of this paragraph, “peer review” has the same meaning
17 as defined in Section 805.

18 (5) Information reported pursuant to Section 805.01, including
19 any explanatory or exculpatory information submitted by the
20 licensee pursuant to subdivision (b) of that section.

21 (b) Each board shall prescribe and promulgate forms on which
22 members of the public and other licensees or certificate holders
23 may file written complaints to the board alleging any act of
24 misconduct in, or connected with, the performance of professional
25 services by the licensee.

26 If a board, or division thereof, a committee, or a panel has failed
27 to act upon a complaint or report within five years, or has found
28 that the complaint or report is without merit, the central file shall
29 be purged of information relating to the complaint or report.

30 Notwithstanding this subdivision, the Board of Psychology, the
31 Board of Behavioral Sciences, and the Respiratory Care Board of
32 California shall maintain complaints or reports as long as each
33 board deems necessary.

34 (c) The contents of any central file that are not public records
35 under any other provision of law shall be confidential except that
36 the licensee involved, or his or her counsel or representative, shall
37 have the right to inspect and have copies made of his or her
38 complete file except for the provision that may disclose the identity
39 of an information source. For the purposes of this section, a board
40 may protect an information source by providing a copy of the

1 material with only those deletions necessary to protect the identity
2 of the source or by providing a comprehensive summary of the
3 substance of the material. Whichever method is used, the board
4 shall ensure that full disclosure is made to the subject of any
5 personal information that could reasonably in any way reflect or
6 convey anything detrimental, disparaging, or threatening to a
7 licensee's reputation, rights, benefits, privileges, or qualifications,
8 or be used by a board to make a determination that would affect
9 a licensee's rights, benefits, privileges, or qualifications. The
10 information required to be disclosed pursuant to Section 803.1
11 shall not be considered among the contents of a central file for the
12 purposes of this subdivision.

13 The licensee may, but is not required to, submit any additional
14 exculpatory or explanatory statement or other information that the
15 board shall include in the central file.

16 Each board may permit any law enforcement or regulatory
17 agency when required for an investigation of unlawful activity or
18 for licensing, certification, or regulatory purposes to inspect and
19 have copies made of that licensee's file, unless the disclosure is
20 otherwise prohibited by law.

21 These disclosures shall effect no change in the confidential status
22 of these records.

23 SEC. 10. Section 4925 of the Business and Professions Code
24 is amended to read:

25 4925. (a) This chapter constitutes the chapter on acupuncture
26 of the Business and Professions Code.

27 This chapter shall be known and may be cited as the Traditional
28 Chinese Medicine Licensure Act. Whenever a reference is made
29 to the Traditional Chinese Medicine Licensure Act or the
30 Acupuncture Licensure Act by the provisions of any statute, it is
31 to be construed as referring to the provisions of this chapter.

32 (b) Any reference in this chapter, or to the regulations pertaining
33 thereto, to "certificate" or "certification" shall hereafter mean
34 "license" or "licensure."—*Any Except as to a certified*
35 *traumatologist, any reference to the term "certifying" means*
36 *"licensing," and the term "certificate holder" means—"licensee."*
37 ~~Any reference to "licensee" in Article 4 (commencing with Section~~
38 ~~4955) shall also mean a traumatologist who holds a certificate~~
39 ~~pursuant to Article 3 (commencing with Section 4950). "licensee."~~

1 Any reference to the “Acupuncture Committee” or “committee”
2 means the “Traditional Chinese Medicine Board” or “board.”

3 (c) The title “acupuncturist,” as applied to an individual to whom
4 a license has been issued to practice acupuncture pursuant to this
5 chapter that is in effect and is not suspended or revoked, is renamed
6 Traditional Chinese Medicine Practitioner. Any reference by the
7 provisions of this chapter, this code or other codes, or in any statute
8 or regulation to an acupuncturist shall be deemed a reference to a
9 Traditional Chinese Medicine Practitioner.

10 SEC. 11. Section 4927 of the Business and Professions Code
11 is amended to read:

12 4927. As used in this chapter, unless the context otherwise
13 requires:

14 (a) “Board” means the Traditional Chinese Medicine Board.

15 (b) “Person” means any individual, organization, or corporate
16 body, except that only individuals may be licensed under this
17 chapter.

18 (c) “Acupuncturist” means an individual to whom a license has
19 been issued to practice acupuncture pursuant to this chapter, which
20 is in effect and is not suspended or revoked. Any reference to
21 “acupuncturist” in this chapter, this code or other codes, or in any
22 statute or regulation shall be deemed to mean a Traditional Chinese
23 Medicine Practitioner.

24 (d) “Acupuncture” or “the practice of Traditional Chinese
25 Medicine” means the stimulation of a certain point or points on or
26 near the surface of the body by the insertion of needles to prevent
27 or modify the perception of pain or to normalize physiological
28 functions, including pain control, for the treatment of certain
29 diseases or dysfunctions of the body and includes the techniques
30 of electroacupuncture, cupping, and moxibustion.

31 SEC. 12. Section 4928 of the Business and Professions Code
32 is amended to read:

33 4928. The board, which consists of seven members, shall
34 enforce and administer this chapter.

35 This section shall remain in effect only until January 1, 2013,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2013, deletes or extends that date.

38 The repeal of this section renders the board subject to the review
39 required by Article 7.5 (commencing with Section 9147.7) of
40 Chapter 1.5 of Part 1 of Division 2 of the Government Code.

1 SEC. 13. Section 4928.1 of the Business and Professions Code
2 is amended to read:

3 4928.1. Protection of the public shall be the highest priority
4 for the board in exercising its licensing, regulatory, and disciplinary
5 functions. Whenever the protection of the public is inconsistent
6 with other interests sought to be promoted, the protection of the
7 public shall be paramount.

8 SEC. 14. Section 4935 of the Business and Professions Code
9 is amended to read:

10 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
11 less than one hundred dollars (\$100) and not more than two
12 thousand five hundred dollars (\$2,500), or by imprisonment in a
13 county jail not exceeding one year, or by both that fine and
14 imprisonment, for any person who does not hold a current and
15 valid license to practice acupuncture under this chapter ~~or to hold~~
16 ~~himself or herself out as practicing or engaging in the practice of~~
17 ~~acupuncture, or to engage in the practice of traumatology without~~
18 ~~a current or valid certificate as a traumatologist or a current or~~
19 ~~valid license as an acupuncturist or to hold himself or herself out~~
20 ~~as practicing or engaging in the practice of traumatology without~~
21 ~~a certificate or license under this chapter. acupuncture, or to hold~~
22 ~~himself or herself out as a certified traumatologist or use the title~~
23 ~~of "certified traumatologist" without meeting the requirements of~~
24 ~~this chapter.~~

25 (2) It is a misdemeanor, punishable by a fine of not less than
26 one hundred dollars (\$100) and not more than two thousand five
27 hundred dollars (\$2,500), or by imprisonment in a county jail not
28 exceeding one year, or by both that fine and imprisonment, for
29 any person to fraudulently buy, sell, or obtain a license to practice
30 acupuncture or a certificate ~~to practice for~~ traumatology, or to
31 violate the provisions of this chapter.

32 (b) Notwithstanding any other provision of law, any person,
33 other than a physician and surgeon, a dentist, or a podiatrist, who
34 is not licensed under this article but is licensed under Division 2
35 (commencing with Section 500), who practices acupuncture ~~or~~
36 ~~traumatology~~ involving the application of a needle to the human
37 body, performs any acupuncture ~~or traumatology~~ technique or
38 method involving the application of a needle to the human body,
39 or directs, manages, or supervises another person in performing

1 acupuncture or traumatology involving the application of a needle
2 to the human body is guilty of a misdemeanor.

3 (c) A person holds himself or herself out as engaging in the
4 practice of acupuncture by the use of any title or description of
5 services incorporating the words “acupuncture,” “acupuncturist,”
6 “certified acupuncturist,” “licensed acupuncturist,” “Asian
7 medicine,” “oriental medicine,” “Traditional Chinese Medicine,”
8 or any combination of those words, phrases, or abbreviations of
9 those words or phrases, by representing that he or she is trained,
10 experienced, or an expert in the field of acupuncture, Asian
11 medicine, or Chinese medicine, or by representing that he or she
12 is trained, experienced, or an expert in the field of traumatology.

13 (d) Subdivision (a) shall not prohibit a person from
14 administering acupuncture treatment as part of his or her
15 educational training if he or she:

16 (1) Is engaged in a course or tutorial program in acupuncture,
17 as provided in this chapter; or

18 (2) Is a graduate of a school of acupuncture approved by the
19 board and participating in a postgraduate review course that does
20 not exceed one year in duration at a school approved by the board.

21 SEC. 15. Section 4937 of the Business and Professions Code
22 is amended to read:

23 4937. (a) An acupuncturist’s license authorizes the holder
24 thereof:

25 (1) To engage in the practice of acupuncture.

26 (2) To perform or prescribe the use of Asian massage,
27 acupressure, breathing techniques, exercise, heat, cold, magnets,
28 nutrition, diet, herbs, plant, animal, and mineral products, and
29 dietary supplements to promote, maintain, and restore health.
30 Nothing in this section prohibits any person who does not possess
31 an acupuncturist’s license or another license as a healing arts
32 practitioner from performing, or prescribing the use of any modality
33 listed in this subdivision.

34 (3) To ~~practice~~ *perform* traumatology. ~~Traumatology, which~~
35 includes a range of treatments to address both acute and chronic
36 musculoskeletal conditions, as well as many nonmusculoskeletal
37 conditions. Techniques include, but are not limited to, brushing,
38 kneading, rolling, pressing, and rubbing the areas between each
39 of the joints to open the body’s defensive chi and stimulate the
40 energy movement in both meridians and the muscles so that the

1 licensee is able to use range of motion, traction, and massage with
2 the stimulation of acupuncture points.

3 (b) For purposes of this section, a “magnet” means a mineral
4 or metal that produces a magnetic field without the application of
5 an electric current.

6 (c) For purposes of this section, “plant, animal, and mineral
7 products” means naturally occurring substances of plant, animal,
8 or mineral origin, except that it does not include synthetic
9 compounds, controlled substances or dangerous drugs as defined
10 in Sections 4021 and 4022, or a controlled substance listed in
11 Chapter 2 (commencing with Section 11053) of Division 10 of the
12 Health and Safety Code.

13 (d) For purposes of this section, “dietary supplement” has the
14 same meaning as defined in subsection (ff) of Section 321 of Title
15 21 of the United States Code, except that dietary supplement does
16 not include controlled substances or dangerous drugs as defined
17 in Section 4021 or 4022, or a controlled substance listed in Chapter
18 2 (commencing with Section 11053) of Division 10 of the Health
19 and Safety Code.

20 SEC. 16. Article 3 (commencing with Section 4950) is added
21 to Chapter 12 of Division 2 of the Business and Professions Code,
22 to read:

23
24 Article 3. Traumatologists
25

26 ~~4950. (a) On or before February 1, 2012, the board shall~~
27 ~~establish a traumatology subcommittee within the board.~~

28 ~~(b) The traumatology subcommittee shall consist of six members~~
29 ~~composed of representatives from the clinical and academic settings~~
30 ~~of traumatology.~~

31 ~~(c) The traumatology subcommittee shall, on or before March~~
32 ~~1, 2012, review the scope of practice of traumatology and shall~~
33 ~~create a certification process for the certification of individuals as~~
34 ~~traumatologists, on and after March 1, 2012, who meet a minimum~~
35 ~~level of training and expertise.~~

36 ~~(d) (1) The standards and criteria the subcommittee shall utilize~~
37 ~~in determining whether an individual may be issued a certificate~~
38 ~~pursuant to subdivision (c) shall be based upon training and~~
39 ~~expertise in traumatology that includes, but is not limited to, the~~
40 ~~following:~~

1 ~~(A) Knowledge of the practice and theories of traumatology.~~

2 ~~(B) Experience in practicing traumatology.~~

3 ~~(C) Clinical or practical experience in treating fractures,~~
4 ~~dislocations, injuries of muscles and tendons, and internal traumatic~~
5 ~~syndrome.~~

6 ~~(D) Treatment of qi injuries.~~

7 ~~(E) Treatment through the use of therapeutic principles of~~
8 ~~motion and quiescence.~~

9 ~~(F) Treatment in orthopedics through the use of traumatology.~~

10 ~~(G) Treatment through manipulation or fixation and functional~~
11 ~~exercise.~~

12 ~~(H) Competent use of topically applied medicines in orthopedics~~
13 ~~and traumatology.~~

14 ~~(I) Basic manipulations in tendon-smoothing, such as deep~~
15 ~~massage, kneading manipulation, scrubbing manipulation, rolling~~
16 ~~manipulation, striking manipulation, or grasping and pinching~~
17 ~~manipulation.~~

18 ~~(2) The subcommittee shall also take into consideration whether~~
19 ~~the applicant was trained through an apprenticeship program and~~
20 ~~how long the individual has practiced traumatology.~~

21 ~~(e) On and after March 1, 2012, the traumatology subcommittee~~
22 ~~shall issue a certificate to practice traumatology only to a person~~
23 ~~who satisfies the standards set forth in subdivisions (c) and (d) and~~
24 ~~who was engaged in the practice of traumatology on or before~~
25 ~~January 1, 2012.~~

26 ~~(f) An applicant for certification as a traumatologist under this~~
27 ~~section shall apply for certification on a form to be developed by~~
28 ~~the board, and shall pay an application fee in the amount of~~
29 ~~seventy-five dollars (\$75) when submitting his or her application~~
30 ~~to the subcommittee.~~

31 ~~(g) Moneys received under this section shall be deposited into~~
32 ~~the Traditional Chinese Medicine Fund for purposes of this chapter.~~

33 ~~(h) An applicant engaged in the practice of traumatology on or~~
34 ~~before January 1, 2012, shall have until March 1, 2013, to file an~~
35 ~~application for a certificate to lawfully practice traumatology in~~
36 ~~this state. On and after March 1, 2013, the subcommittee shall not~~
37 ~~issue an initial license to any applicant. On and after March 1,~~
38 ~~2013, the subcommittee may issue only a renewal of a certificate~~
39 ~~under this section or as specified. An individual who is not~~
40 ~~qualified to receive a certificate under this section, or who fails to~~

1 apply for certification under this section by March 1, 2013, shall
2 be required to be licensed as an acupuncturist in order to practice
3 traumatology.

4 (i) ~~(1) Pursuant to Section 4965, the renewal of an unexpired~~
5 ~~certificate issued under this section shall be required every five~~
6 ~~years and the same application requirements and applicant fee~~
7 ~~described under subdivision (f), and the same criteria and standards~~
8 ~~specified in subdivisions (c) and (d), shall apply to renewal of an~~
9 ~~unexpired certificate.~~

10 (2) ~~Renewal of an expired certificate shall be governed by the~~
11 ~~procedures specified in Sections 4966, 4967, and 4969.~~

12 (j) ~~An applicant who is denied a certificate under this section~~
13 ~~may appeal that denial to the board pursuant to the same procedures~~
14 ~~that apply to an applicant for licensure as an acupuncturist.~~

15 (k) ~~A licensee under this section shall be subject to the~~
16 ~~disciplinary provisions set forth in Article 4 (commencing with~~
17 ~~Section 4955), subject to enforcement by the board.~~

18 (l) ~~For purposes of this section, “traumatology” has the same~~
19 ~~meaning as used in Section 4937.~~

20 (m) ~~The practice of traumatology without a certificate issued~~
21 ~~pursuant to this section or a license to practice acupuncture is the~~
22 ~~unlawful practice of acupuncture as set forth in Section 4935.~~

23 (n) ~~The subcommittee from time to time, and no less than every~~
24 ~~five years, shall review and update or modify the standards that~~
25 ~~apply for renewal of a certificate with regard to the standards set~~
26 ~~forth in subdivisions (c) and (d).~~

27 4950. (a) *On or before March 1, 2012, the board shall*
28 *establish a Traumatology Advisory Committee within the board.*

29 (b) *The committee shall consist of six members composed of*
30 *representatives from the clinical settings of traumatology.*

31 (c) (1) *Subject to subdivision (d), the committee shall determine*
32 *the certification standards, including the level of experience and*
33 *training needed for an individual to qualify for traumatology*
34 *certification.*

35 (2) *The committee shall advise the board in developing the*
36 *application form and the written examination for certification.*

37 (d) *Commencing May 1, 2012 until December 15, 2012, the*
38 *board shall issue a certificate for certified traumatology to any*
39 *person who makes an application and meets all of the following*
40 *requirements:*

1 (1) *Is at least 18 years of age.*

2 (2) *Furnishes satisfactory evidence of training and clinical*
3 *experience which meets the standards established by the committee*
4 *and confirmed by the board.*

5 (3) *Passes a written examination administered by the board*
6 *that tests the applicant's ability, competency, and knowledge of*
7 *traumatology. The written examination shall be developed by the*
8 *Office of Professional Examination Services of the Department of*
9 *Consumer Affairs.*

10 (4) *Is not subject to denial pursuant to Division 1.5 (commencing*
11 *with Section 475).*

12 (e) *An applicant for traumatology certification shall,*
13 *commencing January 1, 2012, until December 15, 2012, file an*
14 *application for a certificate for traumatology in this state. On and*
15 *after December 15, 2012, the board shall not issue an initial license*
16 *to any applicant. On and after December 15, 2012, the board may*
17 *issue only a renewal of a certificate under this section. An*
18 *individual who is not qualified to receive a certificate under this*
19 *section, or who fails to apply for certification under this section*
20 *by December 15, 2012, shall not hold himself or herself out as a*
21 *certified traumatologist pursuant to this section.*

22 (f) *Traumatology is defined as treating both acute and chronic*
23 *musculoskeletal conditions through stimulation of acupressure*
24 *points using a range of hands-on body treatment, including traction*
25 *and massage. Traumatology addresses pain associated with the*
26 *muscles, joints, and skeletal system. Traumatology involves*
27 *manipulation techniques to realign the musculoskeletal and*
28 *ligamentous relationships, a technique called bone-setting.*

29 (g) *A certified traumatologist shall maintain a relationship with*
30 *an orthopedic surgeon when involved in manipulation techniques*
31 *to realign the musculoskeletal and ligamentous relationships, a*
32 *technique called bone setting. The extent of the relationship*
33 *between a traumatologist and orthopedic surgeon in the case of*
34 *bone-setting shall be determined by the board in consultation with*
35 *the Medical Board of California.*

36 (h) *An applicant for certification as a traumatologist shall pay*
37 *an application fee in the amount of seventy-five dollars (\$75) when*
38 *submitting his or her application to the board.*

39 (i) *A certified traumatologist shall renew his or her certificate*
40 *every five years.*

1 (j) *An expired certificate may be renewed at any time within*
2 *three years after its expiration. The holder of the certificate shall*
3 *pay all accrued and unpaid renewal fees, plus a delinquency fee.*

4 (1) *The renewal fee shall be seventy-five dollars (\$75).*

5 (2) *The delinquency fee shall be twenty-five dollars (\$25).*

6 (3) *The fee for a duplicate or replacement engraved wall*
7 *certificate shall be fifteen dollars (\$15).*

8 (4) *The fee for a duplicate or replacement renewal*
9 *receipt/pocket certificate shall be ten dollars (\$10).*

10 (k) *Moneys received under this section shall be deposited in the*
11 *Traditional Chinese Medicine Fund for purposes of this chapter.*

12 (l) *It is an unfair business practice for any person to hold himself*
13 *or herself out as a certified traumatologist or use the title of*
14 *“certified traumatologist” without meeting the requirements of*
15 *this chapter.*

16 SEC. 17. Section 4955 of the Business and Professions Code
17 is amended to read:

18 4955. The board may deny, suspend, or revoke, or impose
19 probationary conditions upon, the license of any acupuncturist or
20 *certificate of any* traumatologist if he or she is guilty of
21 unprofessional conduct.

22 Unprofessional conduct shall include, but not be limited to, the
23 following:

24 (a) Using or possessing any controlled substance as defined in
25 Division 10 (commencing with Section 11000) of the Health and
26 Safety Code, or dangerous drug or alcoholic beverage to an extent
27 or in a manner dangerous to himself or herself, or to any other
28 person, or to the public, and to an extent that the use impairs his
29 or her ability to engage in the practice of acupuncture or
30 traumatology with safety to the public.

31 (b) Conviction of a crime substantially related to the
32 qualifications, functions, or duties of an acupuncturist or *certified*
33 *traumatologist*, the record of conviction being conclusive evidence
34 thereof.

35 (c) False or misleading advertising.

36 (d) Aiding or abetting in, or violating or conspiring in, directly
37 or indirectly, the violation of the terms of this chapter or any
38 regulation adopted by the board pursuant to this chapter.

39 (e) Except for good cause, the knowing failure to protect patients
40 by failing to follow infection control guidelines of the board,

1 thereby risking transmission of blood-borne infectious diseases
2 from licensee to patient, from patient to patient, and from patient
3 to licensee. In administering this subdivision, the board shall
4 consider referencing the standards, regulations, and guidelines of
5 the State Department of Health Services developed pursuant to
6 Section 1250.11 of the Health and Safety Code and the standards,
7 regulations, and guidelines pursuant to the California Occupational
8 Safety and Health Act of 1973 (Part 1 (commencing with Section
9 6300) of Division 5 of the Labor Code) for preventing the
10 transmission of HIV, hepatitis B, and other blood-borne pathogens
11 in health care settings. As necessary, the board shall consult with
12 the Medical Board of California, the California Board of Podiatric
13 Medicine, the Dental Board of California, the Board of Registered
14 Nursing, and the Board of Vocational Nursing and Psychiatric
15 Technicians, to encourage appropriate consistency in the
16 implementation of this subdivision.

17 The board shall seek to ensure that licensees are informed of the
18 responsibility of licensees and others to follow infection control
19 guidelines, and of the most recent scientifically recognized
20 safeguards for minimizing the risk of transmission of blood-borne
21 infectious diseases.

22 (f) The use of threats or harassment against any patient or
23 licensee for providing evidence in a disciplinary action, other legal
24 action, or in an investigation contemplating a disciplinary action
25 or other legal action.

26 (g) Discharging an employee primarily for attempting to comply
27 with the terms of this chapter.

28 (h) Disciplinary action taken by any public agency for any act
29 substantially related to the qualifications, functions, or duties of
30 an acupuncturist, *certified* traumatologist, or any professional
31 health care licensee.

32 (i) Any action or conduct that would have warranted the denial
33 of the acupuncture license or the traumatology certificate.

34 (j) The violation of any law or local ordinance on an
35 acupuncturist's or *certified* traumatologist's business premises by
36 an acupuncturist's or *certified* traumatologist's employee or a
37 person who is working under the acupuncturist's or *certified*
38 traumatologist's professional license or business permit, that is
39 substantially related to the qualifications, functions, or duties of
40 an acupuncturist or *certified* traumatologist. These violations shall

1 subject the acupuncturist or *certified* traumatologist who employed
2 the individuals, or under whose acupuncture license or
3 traumatology certificate the employee is working, to disciplinary
4 action.

5 (k) The abandonment of a patient by the licensee or *certified*
6 *traumatologist* without written notice to the patient that treatment
7 is to be discontinued and before the patient has had a reasonable
8 opportunity to secure the services of another practitioner.

9 (l) The failure to notify the board of the use of any false,
10 assumed, or fictitious name other than the name under which he
11 or she is licensed as an individual to practice acupuncture or *as an*
12 *individual certified in* traumatology.

13 SEC. 18. Section 4955.1 of the Business and Professions Code
14 is amended to read:

15 4955.1. The board may deny, suspend, revoke, or impose
16 probationary conditions upon the license of any acupuncturist or
17 *certified* traumatologist if he or she is guilty of committing a
18 fraudulent act, including, but not limited to, any of the following:

19 (a) Securing a license by fraud or deceit.

20 (b) Committing a fraudulent or dishonest act as an acupuncturist
21 or *certified* traumatologist.

22 (c) Committing any act involving dishonesty or corruption with
23 respect to the qualifications, functions, or duties of an acupuncturist
24 or *certified* traumatologist.

25 (d) Altering or modifying the medical record of any person,
26 with fraudulent intent, or creating any false medical record.

27 (e) Failing to maintain adequate and accurate records relating
28 to the provision of services to his or her patients.

29 SEC. 19. Section 4955.2 of the Business and Professions Code
30 is amended to read:

31 4955.2. The board may deny, suspend, revoke, or impose
32 probationary conditions upon the license of any acupuncturist or
33 *certified* traumatologist if he or she is guilty of committing any
34 one of the following:

35 (a) Gross negligence.

36 (b) Repeated negligent acts.

37 (c) Incompetence.

38 SEC. 20. Section 4956 of the Business and Professions Code
39 is amended to read:

1 4956. A plea or verdict of guilty or a conviction following a
2 plea of nolo contendere made to a charge that is substantially
3 related to the qualifications, functions, or duties of an acupuncturist
4 or *certified* traumatologist is deemed to be a conviction within the
5 meaning of this chapter.

6 The board may order a license suspended or revoked, or may
7 deny a license, or may impose probationary conditions upon a
8 license, when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal, or when an order granting
10 probation is made suspending the imposition of sentence
11 irrespective of a subsequent order under Section 1203.4 of the
12 Penal Code allowing the person to withdraw his or her pleas of
13 guilty and to enter a plea of not guilty, or setting aside the verdict
14 of guilty, or dismissing the accusation, complaint, information, or
15 indictment.

16 SEC. 21. Section 4959 of the Business and Professions Code
17 is amended to read:

18 4959. (a) The board may request the administrative law judge,
19 under his or her proposed decision in resolution of a disciplinary
20 proceeding before the board, to direct any licensee found guilty
21 of unprofessional conduct to pay to the board a sum not to exceed
22 actual and reasonable costs of the investigation and prosecution
23 of the case.

24 (b) The costs to be assessed shall be fixed by the administrative
25 law judge and shall not in any event be increased by the board.
26 When the board does not adopt a proposed decision and remands
27 the case to an administrative law judge, the administrative law
28 judge shall not increase the amount of any costs assessed in the
29 proposed decision.

30 (c) When the payment directed in the board's order for payment
31 of costs is not made by the licensee, the board may enforce the
32 order for payment in the superior court in the county where the
33 administrative hearing was held. This right of enforcement shall
34 be in addition to any other rights the board may have as to any
35 licensee directed to pay costs.

36 (d) In any judicial action for the recovery of costs, proof of the
37 board's decision shall be conclusive proof of the validity of the
38 order of payment and the terms for payment.

1 (e) All costs recovered under this section shall be considered a
2 reimbursement for costs incurred and shall be deposited in the
3 Traditional Chinese Medicine Fund.

4 SEC. 22. Section 4960.2 of the Business and Professions Code
5 is amended to read:

6 4960.2. The board in all cases of revocation shall certify the
7 fact of the revocation, under the seal of the board, to the business
8 licensing entity of the cities or counties in which the license of the
9 acupuncturist or *certificate of the* traumatologist has been revoked.
10 The record of the revocation made by the county or city clerk shall
11 be sufficient evidence of the revocation, and of the regularity of
12 all proceedings of the board in the matter of the revocation.

13 SEC. 23. Section 4961 of the Business and Professions Code
14 is amended to read:

15 4961. (a) Every person who is now or hereafter licensed to
16 practice acupuncture or *certified in* traumatology in this state shall
17 register, on forms prescribed by the board, his or her place of
18 practice, or, if he or she has more than one place of practice, all
19 of the places of practice. If the licensee or *certificate holder* has
20 no place of practice, he or she shall notify the board of that fact.
21 A person licensed or *certified* by the board shall register within
22 30 days after the date of his or her licensure or *certification*.

23 (b) A licensee or *certificate holder* shall post his or her license
24 or *certificate* in a conspicuous location in his or her place of
25 practice at all times. If an acupuncturist or *certified* traumatologist
26 has more than one place of practice, he or she shall obtain from
27 the board a duplicate license or *certificate* for each additional
28 location and post the duplicate license or *certificate* at each
29 location.

30 (c) Any licensee or *certificate holder* that changes the location
31 of his or her place of practice shall register each change within 30
32 days of making that change. In the event a licensee or *certificate*
33 *holder* fails to notify the board of any change in the address of a
34 place of practice within the time prescribed by this section, the
35 board may deny renewal of licensure or *certification*. An applicant
36 for renewal of licensure or *certification* shall specify in his or her
37 application whether or not there has been a change in the location
38 of his or her place of practice and, if so, the date of that change.
39 The board may accept that statement as evidence of the change of
40 address.

1 SEC. 24. Section 4964.5 is added to the Business and
2 Professions Code, to read:

3 4964.5. The provisions of this article apply to both acupuncture
4 and ~~traumatology~~ licensees *certified traumatologists*.

5 SEC. 25. Section 4965 of the Business and Professions Code
6 is amended to read:

7 4965. (a) (1) A license to practice acupuncture issued pursuant
8 to this chapter shall expire on the last day of the birth month of
9 the licensee during the second year of a two-year term, if not
10 renewed.

11 (2) The board shall establish and administer a birth date renewal
12 program for purposes of this subdivision.

13 (3) To renew an unexpired license, the holder shall apply for
14 renewal on a form provided by the board and pay the renewal fee
15 fixed by the board.

16 ~~(b) A certificate to practice traumatology issued pursuant to~~

17 (b) *A certificate for traumatology issued pursuant to this chapter*
18 shall expire five years after the date of issuance, if not renewed.
19 To renew an unexpired certificate, the holder shall apply for
20 renewal on a form provided by the board and pay the renewal fee
21 set forth in Section 4950.

22 SEC. 26. Section 4966 of the Business and Professions Code
23 is amended to read:

24 4966. (a) Except as provided in Section 4969, a license to
25 practice acupuncture that has expired may be renewed at any time
26 within three years after its expiration by filing an application for
27 renewal on a form provided by the board, paying all accrued and
28 unpaid renewal fees, and providing proof of completing continuing
29 education requirements. If the license is not renewed prior to its
30 expiration, the acupuncturist, as a condition precedent to renewal,
31 shall also pay the prescribed delinquency fee.

32 (b) Except as provided in Section 4969, a certificate ~~to practice~~
33 *for traumatology* that has expired may be renewed at any time
34 within three years after its expiration by filing an application for
35 renewal on a form provided by the board, and paying all accrued
36 and unpaid renewal fees. If the certificate is not renewed prior to
37 its expiration, the traumatologist, as a condition precedent to
38 renewal, shall also pay a delinquency fee, to be set in accordance
39 with Section 163.5.

1 (c) Renewal under this section shall be effective on the date on
2 which the application is filed, on the date on which the renewal
3 fee is paid, or on the date the delinquency fee is paid, whichever
4 occurs last. If so renewed, the license or certificate shall continue
5 in effect through the expiration date provided in Section 4965,
6 after the effective date of the renewal, when it shall expire and
7 become invalid if it is not again renewed.

8 SEC. 27. Section 4967 of the Business and Professions Code
9 is amended to read:

10 4967. A person who fails to renew his or her license or
11 certificate within three years after its expiration may not renew it,
12 and it may not be restored, reissued, or reinstated thereafter, but
13 that person may apply for and obtain a new license or certificate
14 if he or she meets all of the following requirements:

15 (a) Has not committed any acts or crimes constituting grounds
16 for denial of licensure or certification under Division 1.5
17 (commencing with Section 475).

18 (b) If an acupuncturist, takes and passes the examination, if any,
19 which would be required of him or her if an initial application for
20 licensure was being made, or, if an acupuncturist or *certified*
21 traumatologist, otherwise establishes to the satisfaction of the board
22 that, with due regard for the public interest, he or she is qualified
23 to practice as an acupuncturist or *certified* traumatologist.

24 (c) Pays all of the fees that would be required if an initial
25 application for licensure or certification was being made.

26 (d) The board may provide for the waiver or refund of all or
27 any part of an examination fee in those cases in which a license
28 to practice acupuncture is issued without an examination pursuant
29 to this section.

30 SEC. 28. Section 4969 of the Business and Professions Code
31 is amended to read:

32 4969. (a) A suspended license or certificate is subject to
33 expiration and shall be renewed as provided in this article, but the
34 renewal does not entitle the acupuncturist or *certified*
35 traumatologist, while the license or certificate remains suspended,
36 and until it is reinstated, to engage in the practice of acupuncture
37 or traumatology, or in any other activity or conduct in violation
38 of the order or judgment by which the license or certificate was
39 suspended.

1 (b) A revoked license or certificate is subject to expiration as
2 provided in this article, but it may not be renewed. If it is reinstated
3 after its expiration, the former licensee or certificate holder, as a
4 condition to reinstatement, shall pay a reinstatement fee in an
5 amount equal to the renewal fee in effect on the last regular renewal
6 date before the date on which the license or certificate was
7 reinstated, plus the delinquency fee, if any, accrued at the time of
8 its expiration.

9 SEC. 29. Section 4970 of the Business and Professions Code
10 is amended to read:

11 4970. The amount of fees prescribed for licensed acupuncturists
12 shall be those set forth in this section unless a lower fee is fixed
13 by the board in accordance with Section 4972:

14 (a) The application fee shall be seventy-five dollars (\$75).

15 (b) The examination and reexamination fees shall be the actual
16 cost to the board for the development and writing of, grading, and
17 administering of each examination.

18 (c) The initial license fee shall be three hundred twenty-five
19 dollars (\$325), except that if the license will expire less than one
20 year after its issuance, then the initial license fee shall be an amount
21 equal to 50 percent of the initial license fee.

22 (d) The renewal fee shall be three hundred twenty-five dollars
23 (\$325) and in the event a lower fee is fixed by the board, shall be
24 an amount sufficient to support the functions of the board in the
25 administration of this chapter. The renewal fee shall be assessed
26 on an annual basis until January 1, 1996, and on and after that date
27 the board shall assess the renewal fee biennially.

28 (e) The delinquency fee shall be set in accordance with Section
29 163.5.

30 (f) The application fee for the approval of a school or college
31 under Section 4939 shall be three thousand dollars (\$3,000).

32 (g) The duplicate wall license fee is an amount equal to the cost
33 to the board for the issuance of the duplicate license.

34 (h) The duplicate renewal receipt fee is ten dollars (\$10).

35 (i) The endorsement fee is ten dollars (\$10).

36 (j) The fee for a duplicate license for an additional office
37 location as required under Section 4961 shall be fifteen dollars
38 (\$15).

39 SEC. 30. Section 4974 of the Business and Professions Code
40 is amended to read:

1 4974. The board shall report to the Controller at the beginning
2 of each month for the month preceding the amount and source of
3 all revenue received by it pursuant to this chapter, and shall pay
4 the entire amount thereof to the Treasurer for deposit in the
5 Traditional Chinese Medicine Fund, which fund is created to carry
6 out the provisions of this chapter.

7 SEC. 31. Section 4975 of the Business and Professions Code
8 is amended to read:

9 4975. An acupuncture corporation is a corporation that is
10 authorized to render professional services, as defined in Section
11 13401 of the Corporations Code, so long as that corporation and
12 its shareholders, officers, directors, and employees rendering
13 professional services who are acupuncturists are in compliance
14 with the Moscone-Knox Professional Corporation Act, this article
15 and all other statutes and regulations now or hereafter enacted or
16 adopted pertaining to that corporation and the conduct of its affairs.

17 With respect to an acupuncture corporation, the governmental
18 agency referred to in the Moscone-Knox Professional Corporation
19 Act is the board.

20 SEC. 32. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.