

Assembly Bill No. 3473

CHAPTER 829

An act to amend Sections 110, 2467, 2601, 2602, 2603, 2604, 2604.5, 2605, 2606, 2607, 2607.5, 2608.5, 2609, 2611, 2612, 2613, 2614, 2615, 2620.3, 2620.5, 2630, 2632, 2633, 2634, 2636, 2636.1, 2636.5, 2637, 2638, 2639, 2650, 2650.1, 2651, 2652, 2653, 2655, 2655.1, 2655.2, 2655.3, 2655.4, 2655.5, 2655.6, 2655.7, 2655.71, 2655.8, 2655.9, 2655.91, 2655.92, 2660, 2661, 2661.5, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2672, 2680, 2682, 2684, 2685, 2687, 2688, 2688.5, 2689, 2690, 2696, 2987.5, 3356, 3360, 3401, 3427.5, 3901, 3902, 3924, 3930.5, 4980.03, 4980.40, 4984.5, 4984.6, 4987.5, 4990.1, 4990.2, 4990.15, 4994, 4996.3, 4996.6, 4998, 6795.1, 8516, 8522, 8550, 8564.5, 8614, 8617, 8622, and 8675 of, to add Sections 8656 and 8666 to, and to repeal Sections 2490, 3924.5, 3930.1, 4940.1, 4940.2, 4940.3, and 4990.17 of, the Business and Professions Code, relating to businesses and professions.

[Approved by Governor September 22, 1996. Filed
with Secretary of State September 24, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3473, Committee on Consumer Protection, Governmental Efficiency, and Economic Development. Businesses and professions.

(1) Existing law prohibits the Department of Consumer Affairs from having possession and control of examination questions prior to submission to applicants at scheduled examinations.

This bill would create an exception to the prohibition if authorized by one of the boards within the department.

(2) Under existing law, the practice of podiatric medicine is regulated by the California Board of Podiatric Medicine, which is required to convene its annual meetings in or near either Sacramento, Los Angeles, or San Francisco, but is otherwise permitted to hold meetings at places and times the board deems necessary.

This bill would permit the board to convene any of its meetings at times it deems necessary.

Existing law places limitations on the frequency with which an applicant for a certificate to practice podiatric medicine who fails to pass the oral and practical examination after two examinations may be eligible for reexamination.

This bill would repeal that provision.

(3) Under existing law, known as the Physical Therapy Practice Act, the Physical Therapy Examination Committee of California regulates the licensure and practice of physical therapy.



This bill would change the name of the Physical Therapy Examination Committee of California to the Physical Therapy Board of California and make technical, conforming changes to the Physical Therapy Practice Act so that specific terms used in the act are consistent throughout.

(4) Under existing law, the Hearing Aid Dispensers Examining Committee oversees the licensing, and administers the regulation, of individuals who engage in the practice of fitting and selling hearing aids. Under existing law, the committee is required to administer both a written and practical examination of persons who apply for a license to fit or sell hearing aids and is required to hold examinations at least twice a year. In addition, the committee is authorized to issue temporary licenses to persons who are licensed in other states when the persons supply specified information. These persons are required to take the first licensing examination offered by the committee after they have held the license for 90 days.

This bill would require that the committee hold a practical examination twice a year.

The bill would require that persons who hold a temporary license on the basis of being licensed in another state take a written examination within 90 days after the date the temporary license is issued.

The bill would authorize the committee to deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for violation of any regulation adopted pursuant to the law regulating hearing aid dispensers.

(5) Under existing law, the State Board of Nursing Home Administrators administers the provisions of the Nursing Home Administrator's Licensing Act. Existing law provides that it is a misdemeanor for any person to act or serve in the capacity of nursing home administrator without a license. Existing law requires a holder of a license to reregister biennially. Under the act, the board is required, among other things, to establish standards for the operation of nursing homes, as defined, issue and revoke licenses for the administration of nursing homes, and submit reports to the Legislature concerning the administration of nursing homes. The act has required the board in the past to submit specified reports and studies to the Legislature by specified dates. The act also prohibits nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities.

This bill would change the name of the act to the Nursing Home Administrator's Act.

The bill would change the definition of "nursing home" for purposes of the act. By changing the definition of a crime, the bill would impose a state-mandated local program.



The bill would require license renewal instead of reregistration and would require the renewal application to contain a statement specifying whether the licensee was convicted of a crime during the preceding renewal period and a statement as to the veracity of the representations made in the renewal application.

The bill would repeal provisions of the act that require the board to submit reports to the Legislature that have since been submitted.

The bill would delete the provisions of the act that prohibit nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities and instead prohibit these persons from being employed as administrators of nursing homes.

(6) Under existing law, the Acupuncture Committee, which exists within the Division of Licensing of the Medical Board of California, administers the Acupuncture Licensing Act. Among other things, the Acupuncture Committee is required to conduct evaluations of acupuncture tutorial programs and to conduct evaluations and develop regulations that specify the requirements that must be met by foreign-trained applicants for licensure as acupuncturists.

This bill would repeal the provision that requires the Acupuncture Committee to conduct these evaluations and develop these regulations.

(7) Existing law establishes the Board of Behavioral Science Examiners and the Behavioral Science Examiners Fund.

This bill would change the names to the Board of Behavioral Sciences and the Behavioral Sciences Fund.

Existing law authorizes the board, in any order issued in resolution of a disciplinary proceeding before the board, to request the administrative law judge to direct any registrant or licensee found to have violated or to be in violation of certain charges to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution, as prescribed, and specifies procedures to enforce an order for payment. Existing law prohibits the board from renewing or reinstating the license or registration of, or from accepting any petition for reinstatement or modification of probation from, any licensee or registrant who has failed to pay all of the costs ordered, except under prescribed conditions where a financial hardship has been demonstrated. Existing law requires all costs recovered to be deposited into the Behavioral Science Examiners Fund, which is continuously appropriated to the board.

This bill would repeal these provisions.

(8) Under existing law, the State Board of Registration for Professional Engineers and Land Surveyors is required to send a second notice by certified or registered mail to a registrant's or authority holder's address if there is no response to the first notice regarding expiration of a certificate of registration or certificate of authority.



This bill would delete the requirement that the second notice be by certified or registered mail.

(9) Under existing law, persons who engage in various facets of structural pest control are required to be licensed and their activities in the area of structural pest control are regulated. Existing law provides that violation of the law governing structural pest control is subject to specified criminal penalties.

Among the persons licensed and regulated are applicators of specified types of chemical fumigants used in pest control. Under existing law, applicators, once licensed, are permitted to apply specified chemical fumigants for a period of 3 years, after which they are required to apply for renewal of their license and pass a written examination.

Existing law permits specified governmental agencies to levy fines for violations of the restrictions on structural pest control activities.

This bill would clarify that it is unlawful for an applicator to act in that capacity without being licensed and delete the requirement that applicators apply to renew their licenses and pass a written examination every 3 years.

The bill would place restrictions, as specified, on persons who fail to pay fines levied for violation of these provisions.

The bill would provide that it is unlawful for any licensee to recommend or perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.

The bill would make technical, conforming changes to the structural pest control laws.

The bill would impose a state-mandated local program by imposing criminal penalties on certain persons who violate the provisions of the bill.

(10) This bill would make other technical changes.

(11) This bill would incorporate additional changes to Section 8516 of the Business and Professions Code proposed by SB 1546, contingent upon the prior enactment of that bill.

The bill would incorporate additional changes in certain sections of the Business and Professions Code, proposed by SB 1962, to be operative only if SB 1962 and this bill are both chaptered and become effective on or before January 1, 1997, and this bill is chaptered last.

(12) 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.



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

SECTION 1. Section 110 of the Business and Professions Code is amended to read:

110. The department shall have possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations, land and other property—real or personal—now or hereafter held for the benefit or use of all of the bodies, offices or officers comprising the department. The title to all property held by any of these bodies, offices or officers for the use and benefit of the state, is vested in the State of California to be held in the possession of the department. Except as authorized by a board, the department shall not have the possession and control of examination questions prior to submission to applicants at scheduled examinations.

SEC. 2. Section 2467 of the Business and Professions Code is amended to read:

2467. (a) The board may convene from time to time as it deems necessary.

(b) Four members of the board constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, such members constituting at least a quorum, to pass any motion, resolution, or measure.

(d) The board shall annually elect one of its members to act as president and a member to act as vice president who shall hold their respective positions at the pleasure of the board. The president may call meetings of any duly appointed subcommittee at a specified time and place.

SEC. 3. Section 2490 of the Business and Professions Code is repealed.

SEC. 3.5. Section 2601 of the Business and Professions Code is amended to read:

2601. “Board” as used in this chapter means the Physical Therapy Board of California.

SEC. 4. Section 2602 of the Business and Professions Code is amended to read:

2602. There is hereby created within the jurisdiction of the Medical Board of California, a Physical Therapy Board of California, hereinafter referred to as the board. The board shall enforce and administer this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 2603 of the Business and Professions Code is amended to read:



2603. The members of the board consist of the following: three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board and three public members who shall not be licentiates of the board or of any other board under the Medical Board of California or of any board referred to in Sections 1000 and 3600.

SEC. 6. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the board shall be appointed for a term of four years, expiring on the first day of June of each year.

The Governor shall appoint one of the public members and the three physical therapist members of the board qualified as provided in Section 2603. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the board shall elect one of its members as president.

The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 7. Section 2604.5 of the Business and Professions Code is amended to read:

2604.5. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of California.

(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.

(c) Shall not be a licentiate of the Medical Board of California or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 8. Section 2605 of the Business and Professions Code is amended to read:

2605. It shall be the duty of the board to examine applicants for a license as provided by this chapter, at those places and times as shall be designated by the board in its discretion. It may employ physical therapists licensed pursuant to this chapter to aid it in that examination. The examination shall reasonably test the applicant's knowledge of physical therapy in areas such as: anatomy, pathology, kinesiology, physiology, psychology, physics, electrotherapy, radiation therapy, hydrotherapy, massage, therapeutic exercise, physical therapy as applied to medicine, neurology, orthopedics,



surgery, psychiatry, procedures of evaluation, testing, measuring, and technical procedures in the practice of physical therapy, consultation, and program planning.

SEC. 9. Section 2606 of the Business and Professions Code is amended to read:

2606. Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 10. Section 2607 of the Business and Professions Code is amended to read:

2607. The board may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

The board may as necessary select and contract with physical therapy consultants who are licensed physical therapists to assist it in its programs on an intermittent basis. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis. For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

SEC. 11. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 2608.5 of the Business and Professions Code is amended to read:

2608.5. Each member of the board, or any licensed physical therapist appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 13. Section 2609 of the Business and Professions Code is amended to read:

2609. The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.



SEC. 14. Section 2611 of the Business and Professions Code is amended to read:

2611. The board shall hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place as the board may designate.

SEC. 15. Section 2612 of the Business and Professions Code is amended to read:

2612. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 16. Section 2613 of the Business and Professions Code is amended to read:

2613. The board may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as a commissioner on examination. A commissioner on examination need not be a member of the board but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board.

SEC. 17. Section 2614 of the Business and Professions Code is amended to read:

2614. (a) The board shall hear all matters, including but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If a contested case is heard by the board the hearing officer who presided at the hearing shall be present during the board's consideration of the case and, if requested, shall assist and advise the board.

(b) At the conclusion of the hearing, the board shall deny an application for, or suspend or revoke, or impose probation conditions upon, a license or approval.

SEC. 18. Section 2615 of the Business and Professions Code is amended to read:

2615. The board shall from time to time adopt regulations that may be necessary to effectuate this chapter. In adopting regulations the board shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 19. Section 2620.3 of the Business and Professions Code is amended to read:

2620.3. A physical therapist licensed pursuant to this chapter may apply topical medications as part of the practice of physical therapy as defined in Section 2620 if he or she complies with regulations duly adopted by the board pursuant to this section and the Administrative



Procedure Act. The board shall adopt regulations implementing this section after meeting and conferring with the Medical Board of California and the California State Board of Pharmacy specifying those topical medications applicable to the practice of physical therapy and protocols for their use. Nothing in this section shall be construed to authorize a physical therapist to prescribe medications.

SEC. 20. Section 2620.5 of the Business and Professions Code is amended to read:

2620.5. A physical therapist may, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided the physical therapist is certified by the board to perform the tissue penetration and evaluation, and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained.

The board, after meeting and conferring with the Division of Licensing of the Medical Board of California, shall:

(a) Adopt standards and procedures for tissue penetration for the purpose of evaluating neuromuscular performance by certified physical therapists.

(b) Establish standards for the certification of physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

(c) Certify physical therapists meeting standards established by the board pursuant to this section.

SEC. 21. Section 2630 of the Business and Professions Code is amended to read:

2630. It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).

A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this



section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient's condition, or to further evaluate and monitor the patient's progress, and shall correspondingly document the patient's record.

The administration of massage, external baths, or normal exercise not a part of a physical therapy treatment shall not be prohibited by this section.

SEC. 22. Section 2632 of the Business and Professions Code is amended to read:

2632. All licenses for the practice of physical therapy in this state shall be issued by the board, and all applications for the licenses shall be filed with the board. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a "physical therapist licensed by the Physical Therapy Board of California."

Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

SEC. 23. Section 2633 of the Business and Professions Code is amended to read:

2633. A person holding a license as a physical therapist issued by the board may use the title "physical therapist" or the letters "P.T." or any other words, letters or figures which indicate that the person using same is a licensed physical therapist. No other person shall be so designated or shall use the term licensed or registered physical therapist, licensed or registered physiotherapist, licensed or registered physical therapy technician, or the letters "L.P.T.," "R.P.T.," or "P.T.". The license as a physical therapist shall not authorize the use of the prefix "Dr.," the word "doctor," or any suffix or affix indicating or implying that the licensed person is a doctor or a physician or surgeon.

Notwithstanding this section, a licentiate of this chapter may use an initial or other suffix indicating possession of a specific academic degree earned at, and issued by, an institution accredited by the Western Association of Schools and Colleges or any accrediting



agency recognized by the National Commission on Accrediting or the United States Department of Education which the board determines is equivalent, except that the initials "M.D." shall not be used unless the licentiate is licensed as a physician and surgeon in this state.

SEC. 24. Section 2634 of the Business and Professions Code is amended to read:

2634. The board may investigate each and every applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by this chapter.

SEC. 25. Section 2636 of the Business and Professions Code is amended to read:

2636. Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing an examination given under the direction of the board. The examination shall be in writing and shall be conducted by those persons and in the manner and under regulations as shall be prescribed by the board but shall be so conducted that the identity of each applicant taking an examination will be unknown to all of the examiners until all of the papers have been graded.

Applicants for licensure as a physical therapist shall be required to demonstrate knowledge of the laws and regulations related to the practice of physical therapy in California. The examination shall reasonably test the applicant's knowledge of these laws and regulations.

SEC. 26. Section 2636.1 of the Business and Professions Code is amended to read:

2636.1. Examinations for a license as a physical therapist may be conducted by the board under a uniform examination system, and for that purpose the board may make any arrangements with organizations furnishing examination material as may in its discretion be desirable.

SEC. 27. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the board, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for licensing or registration that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist education program approved by the board, or has met the requirements of Section 2653.



(3) He or she files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state may be required to pass an oral examination given by the board and file a statement of past work activity.

(c) An applicant who has filed a physical therapy application under this section with the board may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.

During this period the applicant shall identify himself or herself only as a “physical therapist license applicant.”

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

SEC. 27.5. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the board, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for licensing or registration that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist education program approved by the board, or has met the requirements of Section 2653.

(3) He or she files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state may be required to pass an oral examination given by the board and file a statement of past work activity.

(c) An applicant who has filed a physical therapy application under this section with the board for the first time may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.



During this period the applicant shall identify himself or herself only as a “physical therapist license applicant.”

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall terminate upon notice by certified mail, return receipt requested. An applicant may only qualify once to perform as a physical therapist license applicant.

SEC. 28. Section 2637 of the Business and Professions Code is amended to read:

2637. Every applicant who is otherwise qualified as provided in this chapter and who receives a passing grade as established by the board on the examination shall be granted a license.

SEC. 29. Section 2638 of the Business and Professions Code is amended to read:

2638. Any applicant for licensure as a physical therapist who fails to pass the examination required by the board may take another examination and shall pay the reexamination fee.

SEC. 30. Section 2639 of the Business and Professions Code is amended to read:

2639. Every graduate of an approved physical therapist education program who has filed a complete application for licensure with the board may, between the date of receipt of a letter of authorization to perform as a “physical therapist license applicant” from the board and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state. During this period the applicant shall identify himself or herself only as a “physical therapist license applicant.”

A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internships required for graduation from the program.

If the applicant fails to take the next succeeding examination without due cause or fails to pass the examination or receive a license, all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

SEC. 30.5. Section 2639 of the Business and Professions Code is amended to read:

2639. Every graduate of an approved physical therapist education program who has filed a complete application for licensure with the board for the first time may, following receipt of a letter of authorization to perform as a “physical therapist license applicant” , perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state pending the results of the first licensing examination administered for which he or she is eligible following graduation from an approved physical therapist education program. During this period the applicant shall identify himself or herself only as a “physical therapist license



applicant.” If the applicant passes the examination, the physical therapist license applicant status shall remain in effect until a regular renewable license is issued, or licensure is denied, by the committee. If the applicant fails the licensing examination, or if he or she passes the examination but licensure is denied, the applicant shall be prohibited from performing as a physical therapist license applicant at any time in the future.

A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internships required for graduation from the program.

If the applicant fails to take the next succeeding examination without due cause or fails to pass the examination or receive a license, all privileges under this section shall terminate upon notice by certified mail, return receipt requested. An applicant may only qualify once to perform as a physical therapist license applicant.

SEC. 31. Section 2650 of the Business and Professions Code is amended to read:

2650. (a) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board, and shall have completed a professional education including academic coursework and clinical internship in physical therapy.

(b) As referenced in the evaluative criteria of the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association, the curriculum shall consist of a combination of didactic, clinical, and research experiences in physical therapy using critical thinking and weighing of evidence, and shall include, at a minimum, all of the following:

(1) The sciences basic to physical therapy including biomedical, physical, physiological, neurobiological, anatomical, social and behavioral sciences.

(2) Clinical sciences including laboratory or other practical experiences involving quantitative and qualitative evaluation within the scope of physical therapy practice including kinesiology, neuroscience, pathology, human development, and gerontology.

(3) Treatment that constitutes the practice of physical therapy.

(4) Learning experiences provided in the areas of administration, education, and consultation.

(5) Research methods including the review and critical analysis of research reports.

(6) Ethical, legal, and economical concepts of physical therapy practice.

(c) Each applicant shall have at least 18 weeks of full-time clinical experience with a variety of patients.

SEC. 32. Section 2650.1 of the Business and Professions Code is amended to read:



2650.1. During the period of clinical practice referred to in Section 2650 or in any similar period of observation or related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a “physical therapy student,” or as a “physical therapy intern” as authorized by the board in its regulations.

SEC. 33. Section 2651 of the Business and Professions Code is amended to read:

2651. The board may approve only those physical therapist education programs that prove to the satisfaction of the board that they comply with the minimum physical therapy educational requirements set forth in this chapter and adopted by the board pursuant to this chapter. Physical therapist education programs that are recognized by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association shall be deemed approved by the board unless the board determines otherwise.

SEC. 34. Section 2652 of the Business and Professions Code is amended to read:

2652. All physical therapist education programs, whether situated in this state or not, furnishing courses of study meeting the standards required by Sections 2650 and 2651 and the regulations of the board adopted pursuant to this chapter shall be approved by the board and shall be entitled to compel this approval, if it is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2087.

SEC. 35. Section 2653 of the Business and Professions Code is amended to read:

2653. (a) An applicant for a license as a physical therapist who was issued a diploma by a physical therapist education program that is not an approved program and is not located in the United States shall meet all of the following requirements in order to be licensed as a physical therapist:

(1) Furnish documentary evidence satisfactory to the board, that he or she has completed the equivalent professional degree to that issued by a United States accredited physical therapist education program in a physical therapist education program that entitles the applicant to practice as a physical therapist in the country where the diploma was issued. The physical therapy education received by the applicant shall meet the criteria set forth in subdivisions (b) and (c) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.

(2) Pass the written examination required by Section 2636. The requirements to pass the written examination shall not apply to an applicant who at the time of application has passed, to the satisfaction



of the board, an examination for licensure in another state, district, or territory of the United States, that is, in the opinion of the board, comparable to the examination given in this state.

(3) Complete a period of clinical service under the direct and immediate supervision of a physical therapist licensed by the board which does not exceed nine months in a location approved by the board, in a manner satisfactory to the board. The applicant shall have passed the written examination required in subdivision (b) prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service until he or she is issued a license as a physical therapist by the board, the applicant shall be identified as a “physical therapist license applicant.”

(4) An applicant for licensure under this subdivision, whose application is based on a certificate issued by a physical therapist licensing authority of another state, may be required to pass an oral examination given by the board, and to file a statement of past work activity.

(b) Nothing contained in this section shall prohibit the board from disapproving any foreign physical therapist education program or from denying the applicant if, in the opinion of the board, the instruction received by the applicant or the courses were not equivalent to that required by this chapter. If the applicant does not qualify to take the physical therapist examination, his or her education may be evaluated and the applicant may be eligible to take the physical therapist assistant examination.

SEC. 36. Section 2655 of the Business and Professions Code is amended to read:

2655. As used in this article:

(a) “Physical therapist” means a physical therapist licensed by the board.

(b) “Physical therapist assistant” means a person who meets the qualifications stated in Section 2655.3 and who is approved by the board to assist in the provision of physical therapy under the supervision of a physical therapist who shall be responsible for the extent, kind, and quality of the services provided by the physical therapist assistant.

(c) “Physical therapist assistant” and “physical therapy assistant” shall be deemed identical and interchangeable.

SEC. 37. Section 2655.1 of the Business and Professions Code is amended to read:

2655.1. The board shall adopt regulations that set forth standards and requirements for the adequate supervision of physical therapist assistants.



SEC. 38. Section 2655.2 of the Business and Professions Code is amended to read:

2655.2. A physical therapist shall not supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Two physical therapist assistants shall be the maximum number of physical therapist assistants supervised by a physical therapist at any one time, but the board may permit the supervision of a greater number by a physical therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case, however, shall the total number of physical therapist assistants exceed twice the number of physical therapists regularly employed by a facility at any one time.

SEC. 39. Section 2655.3 of the Business and Professions Code is amended to read:

2655.3. A person seeking approval as a physical therapist assistant shall make application to the board for that approval. Every person applying for approval as a physical therapist assistant shall have all of the following qualifications:

(a) Have graduated from a physical therapist assistant education program approved by the board pursuant to Section 2655.9, or have training or experience or a combination of training and experience which in the opinion of the board is equivalent to that obtained in an approved physical therapist assistant education program.

(b) Successfully pass the examination required under this article.

(c) Not be addicted to alcohol or any controlled substance.

(d) Not have committed acts or crimes constituting grounds for denial of approval under Section 480.

SEC. 40. Section 2655.4 of the Business and Professions Code is amended to read:

2655.4. Except as otherwise provided in this chapter, no person shall receive approval as a physical therapist assistant without first successfully passing an examination given under the direction of the board. The examination shall be in writing and shall be conducted by those persons and in the manner and under regulations as shall be prescribed by the board, but shall be so conducted that the identity of each applicant taking an examination will be unknown to all of the examiners until all of the papers have been graded.

SEC. 40.5. Section 2655.4 of the Business and Professions Code is amended to read:

2655.4. Except as otherwise provided in this chapter, no person shall receive approval as a physical therapist assistant without first successfully passing an examination given under the direction of the board. The examination shall be in writing and shall be conducted by those persons and in the manner and under regulations as shall be prescribed by the board, but shall be so conducted that the identity



of each applicant taking an examination will be unknown to all of the examiners until all of the papers have been graded.

Applicants for approval as a physical therapist assistant shall be required to demonstrate knowledge of the laws and regulations related to the practice of physical therapy in California by successfully passing an examination that reasonably tests the applicant's knowledge of these laws and regulations.

SEC. 41. Section 2655.5 of the Business and Professions Code is amended to read:

2655.5. Every applicant for approval as a physical therapist assistant who is otherwise qualified as provided in this chapter, and who receives a passing grade, as established by the board, on the examination shall be issued a certificate of approval.

SEC. 42. Section 2655.6 of the Business and Professions Code is amended to read:

2655.6. Any applicant for approval as a physical therapist assistant who fails to pass the examination given by the board may take another examination and shall pay the reexamination fee.

SEC. 43. Section 2655.7 of the Business and Professions Code is amended to read:

2655.7. Notwithstanding Section 2630, a physical therapist assistant may assist in the provision of physical therapy service provided the assistance is rendered under the supervision of a physical therapist licensed by the board.

SEC. 44. Section 2655.71 of the Business and Professions Code is amended to read:

2655.71. (a) An applicant may be issued an approval as a physical therapist assistant without written examination if he or she meets all of the following requirements:

(1) He or she is at the time of application approved, licensed, or registered as a physical therapist assistant in a state, district, or territory of the United States having, in the opinion of the board, requirements for approval, licensing, or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for that approval, licensing or registration that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist assistant education program approved by the board or has graduated from a program determined by the board to be equivalent, or as meeting the evaluative criteria for accreditation by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

(3) He or she files an application as provided in Section 2655.3.

(b) An applicant who has filed a physical therapist assistant application may assist in the provision of physical therapy in accordance with Section 2655.91.



SEC. 44.5. Section 2655.71 of the Business and Professions Code is amended to read:

2655.71. (a) An applicant may be issued an approval as a physical therapist assistant without written examination if he or she meets all of the following requirements:

(1) He or she is at the time of application approved, licensed, or registered as a physical therapist assistant in a state, district, or territory of the United States having, in the opinion of the board, requirements for approval, licensing, or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for that approval, licensing or registration that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist assistant education program approved by the board or has graduated from a program determined by the board to be equivalent, or as meeting the evaluative criteria for accreditation by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

(3) He or she files an application as provided in Section 2655.3.

(b) An applicant who has filed a physical therapist assistant application for the first time may assist in the provision of physical therapy in accordance with Section 2655.91.

SEC. 45. Section 2655.8 of the Business and Professions Code is amended to read:

2655.8. Any person, other than one who has been approved by the board, who holds himself or herself out as a “physical therapist assistant” or who uses any other term indicating or implying that he or she is a physical therapist assistant, is guilty of a misdemeanor.

SEC. 46. Section 2655.9 of the Business and Professions Code is amended to read:

2655.9. (a) The board shall approve each physical therapist assistant education program that proves to the satisfaction of the board that it complies with criteria for approval of those programs set forth in this section and established by the board. These criteria may be based upon the standards and curriculum guidelines for a physical therapist assistant education program as promulgated by the American Physical Therapy Association or an essentially equivalent organization.

(b) Except as otherwise provided in this chapter, each applicant for approval as a physical therapist assistant shall be a graduate of an accredited postsecondary institution or institutions and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded the associate degree.

(c) The curriculum shall consist of a combination of basic sciences, applied clinical sciences, and progressive application through clinical



experience. The curriculum shall reflect education in the skills and judgment required of the physical therapist assistant in the contemporary performance of physical therapy through an organized sequence of integrated learning experiences.

(1) The basic sciences shall include, at a minimum, human anatomy and physiology, physical or health sciences, and social or behavioral sciences.

(2) The applied clinical sciences shall include neurology, normal and pathological kinesiology, normal and abnormal growth and development, gerontology, orthopedic disorders, and fundamentals of physical therapy including the economic, legal, and ethical aspects of practice. Clinical studies shall also provide laboratory experiences in simulated patient treatment including the observation, measurement, and reporting of a patient's physiologic state and effectiveness of the treatment relative to the goals established by the physical therapist's evaluation.

(3) The clinical experience shall include physical therapy treatments of patients of varying ages, disabilities, and diseases. This experience shall occur in a variety of practice settings allowing for interaction with health care professionals. Clinical experience shall include daily written and verbal communication with the supervising physical therapist to report each patient's treatment program relative to the treatment goals and to discuss adjustments in the treatment program and discharge plan.

SEC. 47. Section 2655.91 of the Business and Professions Code is amended to read:

2655.91. Every graduate of an approved physical therapist assistant education program who has filed a complete physical therapist assistant application with the board may, between the date of receipt of a letter of authorization to perform as a "physical therapist assistant applicant" from the board and the date of receipt of approval, assist in the provision of physical therapy under the direct and immediate supervision of a licensed physical therapist.

During this period the applicant shall identify himself or herself only as a "physical therapist assistant applicant."

If a person assisting in the provision of physical therapy pursuant to this section fails to take the next succeeding examination without due cause or fails to pass the examination or receive approval, all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

A student is not eligible to work as a physical therapist assistant applicant until successful completion of the clinical experience required for graduation from the program.

SEC. 47.5. Section 2655.91 of the Business and Professions Code is amended to read:

2655.91. Every graduate of an approved physical therapist assistant education program who has filed a complete physical



therapist assistant application with the board for the first time may, following receipt of a letter of authorization to perform as a “physical therapist assistant applicant” from the board, assist in the provision of physical therapy under the direct and immediate supervision of a licensed physical therapist pending the results of the first examination administered for which he or she is eligible following graduation from an approved physical therapist assistant education program. If the applicant passes the examination, the physical therapist assistant applicant status shall remain in effect until a regular renewable approval is issued, or approval is denied, by the committee. If the applicant fails the examination, or if he or she passes the examination but approval is denied, the applicant shall be prohibited from performing as a physical therapist assistant applicant at any time in the future.

During this period the applicant shall identify himself or herself only as a “physical therapist assistant applicant.”

If a person assisting in the provision of physical therapy pursuant to this section fails to take the next succeeding examination without due cause or fails to pass the examination or receive approval, all privileges under this section shall terminate upon notice by certified mail, return receipt requested. An applicant may only qualify once to perform as a physical therapist assistant applicant.

A student is not eligible to work as a physical therapist assistant applicant until successful completion of the clinical experience required for graduation from the program.

SEC. 48. Section 2655.92 of the Business and Professions Code is amended to read:

2655.92. The board may adopt regulations as reasonably necessary to carry out the purposes of this article. The board shall adopt a regulation formulating a definition of the term “adequate supervision” as used in this article.

SEC. 49. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.



(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his or her practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.

(m) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Dental Examiners of California, the Board of Registered Nursing, and the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

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

SEC. 50. Section 2661 of the Business and Professions Code is amended to read:

2661. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended



or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 51. Section 2661.5 of the Business and Professions Code is amended to read:

2661.5. (a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

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

(c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

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

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license or approval of any person who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

SEC. 52. Section 2662 of the Business and Professions Code is amended to read:

2662. It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physical therapists and



physical therapist assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of physical therapy in a manner which will not endanger the public health and safety.

SEC. 53. Section 2663 of the Business and Professions Code is amended to read:

2663. The board shall establish and administer a diversion program for the rehabilitation of physical therapists and physical therapist assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article.

SEC. 54. Section 2664 of the Business and Professions Code is amended to read:

2664. (a) Any diversion evaluation committee established by the board shall have at least three members. In making appointments to a diversion evaluation committee, the board shall consider the appointment of persons who are either recovering from substance abuse and have been free from substance abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a diversion evaluation committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a diversion evaluation committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each diversion evaluation committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), relating to public meetings, a diversion evaluation committee may convene in closed session to consider matters relating to any physical therapist or physical therapist assistant applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A diversion evaluation committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a diversion evaluation committee shall



receive a per diem and shall be reimbursed for expenses as provided in Section 103.

SEC. 55. Section 2665 of the Business and Professions Code is amended to read:

2665. Each diversion evaluation committee has the following duties and responsibilities:

(a) The evaluation of physical therapists and physical therapist assistants who request participation in the program and the consideration of any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) The review and designation of treatment facilities to which physical therapists and physical therapist assistants in the diversion program may be referred.

(c) The receipt and review of information concerning physical therapists and physical therapist assistants participating in the program.

(d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) The consideration of whether each participant in the diversion program may with safety continue or resume the practice of physical therapy.

(f) Setting forth in writing a treatment program for each participant in the diversion program with requirements for supervision and surveillance.

(g) Holding a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the committee, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a diversion evaluation committee shall be considered a public employee. No board or diversion evaluation committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

SEC. 56. Section 2666 of the Business and Professions Code is amended to read:

2666. (a) Criteria for acceptance into the diversion program shall include all of the following:

(1) The applicant shall be licensed as a physical therapist or approved as a physical therapist assistant by the board and shall be a resident of California.



(2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice physical therapy safely or competently.

(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.

(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.

(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.

(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

Any applicant may be denied participation in the program if the board, its designee, or a diversion evaluation committee, as the case may be, determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(b) A participant may be terminated from the program for any of the following reasons:

(1) The participant has successfully completed the treatment program.

(2) The participant has failed to comply with the treatment program designated for him or her.

(3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).

(4) It is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physical therapist or physical therapy assistant who requests participation in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The diversion evaluation committee shall inform each participant in the program of the procedures followed in the program, of the



rights and responsibilities of a physical therapist or physical therapist assistant in the program, and the possible results of noncompliance with the program.

(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

SEC. 57. Section 2667 of the Business and Professions Code is amended to read:

2667. All board and diversion evaluation committee records and records of proceedings and participation of a physical therapist or physical therapist assistant in a program shall be confidential and are not subject to discovery or subpoena.

SEC. 58. Section 2668 of the Business and Professions Code is amended to read:

2668. (a) A fee not to exceed one hundred dollars (\$100) may be charged for participation in the program.

(b) If the board contracts with any other entity to carry out this section, the executive officer of the board, or his or her designee, shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

SEC. 59. Section 2669 of the Business and Professions Code is amended to read:

2669. Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physical therapist or physical therapist assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

SEC. 60. Section 2672 of the Business and Professions Code is amended to read:

2672. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the Medical Board of California, the board, or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 61. Section 2680 of the Business and Professions Code is amended to read:



2680. The board shall keep a record of its proceedings under this chapter, and a register of all persons licensed under it. The register shall show the name of every living licensee, his or her last known place of residence, and the date and number of his or her license as a physical therapist. The board shall compile a list of physical therapists authorized to practice physical therapy in the state. Any interested person is entitled to obtain a copy of that list upon application to the board and payment of such amount as may be fixed by the board which amount shall not exceed the cost of the list so furnished.

SEC. 62. Section 2682 of the Business and Professions Code is amended to read:

2682. There is in the State Treasury the Physical Therapy Fund. All collections from persons licensed or approved or seeking to be licensed or approved shall be paid by the board into the fund after reporting to the Controller at the beginning of each month the amount and source of the collections. All money in the Physical Therapy Fund is appropriated to carry out the purposes of this chapter.

SEC. 63. Section 2684 of the Business and Professions Code is amended to read:

2684. (a) Notwithstanding Section 2422, any license or approval for the practice of physical therapy shall expire at 12 midnight on the last day of the birth month of the licensee or holder of an approval during the second year of a two-year term, if not renewed.

(b) To renew an unexpired license or approval, the licensee or the holder of an approval shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

SEC. 64. Section 2685 of the Business and Professions Code is amended to read:

2685. At least 60 days before the expiration of any license or approval, the board shall mail to each licensee under this chapter, at the latest address furnished by the licensee to the executive officer, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to pay it on or before the due date will result in expiration of the license.

SEC. 65. Section 2687 of the Business and Professions Code is amended to read:

2687. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time, the entire amount of these collections shall be paid into the State Treasury and shall be credited to the Physical Therapy Fund.

This fund shall be for the uses of the board and is continuously appropriated to the board to pay all salaries and all other expenses



necessarily incurred in carrying into effect the provisions of this chapter.

SEC. 66. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees provided in connection with licenses or approvals for the practice of physical therapy is as follows:

(a) The application fee for a physical therapist's license shall be established by the board at not more than fifty dollars (\$50). The application fee for an applicant under Section 2653 shall be established by the board at not more than one hundred dollars (\$100).

(b) The examination and reexamination fees for the physical therapist examination and the physical therapist assistant examination shall be the actual cost to the board of the purchase and grading of each written examination, plus the actual cost to the board of administering each examination.

(c) The initial license fee for a physical therapist license shall be eighty dollars (\$80), unless a lower fee is established by the board.

(d) The renewal fee for a physical therapist license shall be eighty dollars (\$80), unless a lower fee is established by the board.

(e) A fee to be set by the board of not more than fifty dollars (\$50) shall be charged for each application for approval as a physical therapist assistant.

(f) A fee of eighty dollars (\$80) shall be charged for the issuance of and for the renewal of each approval as a physical therapist assistant, unless a lower fee is established by the board.

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) The duplicate wall certificate fee shall not exceed twenty dollars (\$20). The duplicate renewal receipt fee shall not exceed twenty dollars (\$20).

(i) The endorsement or letter of good standing fee is thirty dollars (\$30).

SEC. 66.5. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees provided in connection with licenses or approvals for the practice of physical therapy is as follows:

(a) The application fee for a physical therapist's license shall be established by the board at not more than seventy-five dollars (\$75). The application fee for an applicant under Section 2653 shall be established by the board at not more than one hundred twenty-five dollars (\$125).

(b) The examination and reexamination fees for the physical therapist examination, physical therapist assistant examination, and the examination to demonstrate knowledge of the rules and regulations related to the practice of physical therapy shall be the actual cost to the board of the development and writing of, or



purchase of the examination, and grading of each written examination, plus the actual cost of administering each examination.

(c) The initial license fee for a physical therapist license shall be one hundred twenty dollars (\$120), unless a lower fee is established by the board after January 1, 1997.

(d) The renewal fee for a physical therapist license shall be one hundred twenty dollars (\$120), unless a lower fee is established by the board after January 1, 1997.

(e) A fee to be set by the board of not more than seventy-five dollars (\$75) shall be charged for each application for approval as a physical therapist assistant.

(f) A fee of one hundred twenty dollars (\$120) shall be charged for the issuance of and for the renewal of each approval as a physical therapist assistant, unless a lower fee is established by the board after January 1, 1997.

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) The duplicate wall certificate fee shall not exceed twenty dollars (\$20). The duplicate renewal receipt fee shall not exceed twenty dollars (\$20).

(i) The endorsement or letter of good standing fee is thirty dollars (\$30).

(j) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 67. Section 2688.5 of the Business and Professions Code is amended to read:

2688.5. The board shall submit a report to the fiscal and appropriate policy committees of the legislature whenever the board increases any fee. The report shall specify the justification for the increase and the percentage of the fee increase to be used for enforcement purposes.

SEC. 68. Section 2689 of the Business and Professions Code is amended to read:

2689. (a) The board may establish by regulation suitable application and renewal fees of not more than two hundred dollars (\$200), for persons certified to perform electromyographical testing pursuant to Section 2620.5, based upon the cost of operating the certification program. The application fee shall be paid by the applicant at the time the application is filed and the renewal fee shall be paid as provided in Section 2683.

(b) The board shall charge an examination and reexamination fee of five hundred dollars (\$500) to applicants who are examined and who have been found to otherwise meet the board's standards for certification.

SEC. 69. Section 2690 of the Business and Professions Code is amended to read:



2690. A physical therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physical therapists are in compliance with the Moscone-Knox Professional Corporation Act, this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a physical therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Physical Therapy Board of California.

SEC. 70. Section 2696 of the Business and Professions Code is amended to read:

2696. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physical therapy corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a physical therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 71. Section 2987.5 of the Business and Professions Code is amended to read:

2987.5. Every person licensed under this chapter is exempt from the payment of the renewal fee in any one of the following instances:

While engaged in full-time active service in the Army, Navy, Air Force or Marines, or in the United States Public Health Service, or while a volunteer in the Peace Corps or Vista.

Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for the fee for the current renewal period upon the completion of his or her period of full-time active service and shall have a period of 60 days after becoming liable within which to pay the fee before the delinquency fee becomes applicable. Any person who completes his or her period of full-time active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period.

The time spent in that full-time active service or full-time training and active service shall not be included in the computation of the three-year period for renewal of a license provided in Section 2986.

The exemption provided by this section shall not be applicable if the person engages in any practice for compensation other than full-time service in the Army, Navy, Air Force or Marines or in the United States Public Health Service or the Peace Corps or Vista.



SEC. 72. Section 3356 of the Business and Professions Code is amended to read:

3356. An applicant who has fulfilled the requirements of Section 3352 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the committee that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years prior to application. An individual licensed under this section shall take the written license examination within 90 days after the date on which the temporary license was issued. If the temporary licensee does not take either examination or fails either examination, then he or she shall renew the temporary license under the provisions of Section 3357, subject to the requirements of that section.

SEC. 73. Section 3360 of the Business and Professions Code is amended to read:

3360. Practical examinations shall be held by the committee at least twice a year. The time and place of any practical examination shall be fixed by the committee at least 45 days prior to the date it is to be held.

SEC. 74. Section 3401 of the Business and Professions Code is amended to read:

3401. The committee may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

- (a) Gross incompetency which includes, but is not limited to, the improper or unnecessary fitting of a hearing aid.
- (b) Gross negligence.
- (c) Repeated negligent acts.
- (d) Conviction of any crime substantially related to the qualifications, functions and duties of a hearing aid dispenser.
- (e) Obtaining a license by fraud or deceit.
- (f) Use of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, unless authorized by law.
- (g) Fraud or misrepresentation in the fitting or selling of a hearing aid.
- (h) The employment, to perform any act covered by the provisions of this chapter, of any person whose license has been suspended, revoked, or who does not possess a valid license issued under this chapter.
- (i) The use or causing the use, of any advertising or promotional literature in a manner as to have the capacity or tendency to mislead or deceive purchasers or prospective purchasers.
- (j) Habitual intemperance in the use of alcohol or any controlled substance.



(k) The licensee's permitting another to use his or her license for any purpose.

(l) Violation of any provision of this chapter or of any regulation adopted pursuant to this chapter.

(m) Any cause which would be grounds for denial of an application for a license.

SEC. 75. Section 3427.5 of the Business and Professions Code is amended to read:

3427.5. It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

(a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.

(b) Conducts a direct observation of the purchaser's ear canals.

(c) Informs the purchaser of the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

SEC. 76. Section 3901 of the Business and Professions Code is amended to read:

3901. This chapter may be known and cited as the "Nursing Home Administrator's Act."

SEC. 77. Section 3902 of the Business and Professions Code is amended to read:

3902. (a) For purposes of this chapter, "nursing home" means any institution, facility, place, building or agency, or portion thereof, licensed as a skilled nursing facility, intermediate care facility, or intermediate care facility/developmentally disabled, as defined in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(b) In addition, for purposes of this chapter, "nursing home" means an intermediate care facility/developmentally disabled-habilitative, intermediate care facility/developmentally disabled-nursing, or congregate living health facility, as defined in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, if a licensed nursing home administrator, as defined in Section 3903, is charged with the general administration of the facility.

(c) Nothing in the section shall be construed to allow the board to have jurisdiction over an administrator of an intermediate care facility/developmentally disabled-nursing or an intermediate care facility/developmentally disabled-habilitative if the administrator of the facility is not using licensure under this chapter to qualify as an administrator in accordance with subdivision (d) of Section 1276.5 of the Health and Safety Code.

(d) In addition, nothing in this section shall be construed to define an intermediate care facility/developmentally disabled-nursing or an intermediate care facility/developmentally disabled-habilitative



as a nursing home for purposes other than the licensure of nursing home administrators under this chapter.

SEC. 78. Section 3924 of the Business and Professions Code is amended to read:

3924. (a) Every holder of a nursing home administrator's license shall renew the license biennially, on dates specified by the board, by submitting a renewal form and the appropriate renewal fee. In the event that the license of an individual is not renewed within three years from the date of expiration, and all accrued and unpaid renewal fees and delinquent penalties required by this chapter are not paid, the license shall be cancelled and that individual shall again apply for licensure and meet all requirements of this chapter as if a new applicant.

(b) The renewal form shall include a statement specifying whether the licensee was convicted of a crime during the preceding renewal period.

(c) A condition of licensure renewal shall be the presentation of proof by the licensee that he or she has attended the number of classroom hours of approved continuing educational programs, classes, seminars, or proceedings required by the regulations promulgated by the board, at least 25 percent of which shall be in the area of aging and patient care. The board, at its discretion, may except from continuing education requirements, the licensees who for reasons of health, military service, or other good cause cannot meet those requirements. Each waiver granted shall be for the current licensure period only.

(d) A licensee may renew his or her license pursuant to this chapter, although he or she may not currently be actively engaged in nursing home administration.

(e) The renewal application shall contain a statement that representations made therein by the applicant are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant.

SEC. 79. Section 3924.5 of the Business and Professions Code is repealed.

SEC. 80. Section 3930.1 of the Business and Professions Code is repealed.

SEC. 81. Section 3930.5 of the Business and Professions Code is amended to read:

3930.5. Any nursing home administrator whose license has been suspended shall not be employed as an administrator of a nursing home, or engage in any activities for which a license is issued by the board, during the period of suspension.

SEC. 82. Section 4940.1 of the Business and Professions Code is repealed.

SEC. 83. Section 4940.2 of the Business and Professions Code is repealed.



SEC. 84. Section 4940.3 of the Business and Professions Code is repealed.

SEC. 85. Section 4980.03 of the Business and Professions Code is amended to read:

4980.03. (a) “Board,” as used in this chapter, means the Board of Behavioral Sciences.

(b) “Intern,” as used in this chapter, means an unlicensed person who has earned his or her master’s or doctor’s degree qualifying him or her for licensure and is registered with the board.

(c) “Trainee,” as used in this chapter, means an unlicensed person who is currently enrolled in a master’s or doctor’s degree program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(d) “Advertise,” as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

SEC. 86. Section 4980.40 of the Business and Professions Code, as amended by Section 6.5 of Chapter 758 of the Statutes of 1995, is amended to read:

4980.40. To qualify for a license an applicant shall have all the following qualifications:

(a) Applicants applying for licensure on or after January 1, 1988, shall possess a doctor’s or master’s degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency, as determined by the board, or approved by the Council for Private Postsecondary and Vocational Education, pursuant to any of Sections 94770 to 94774, inclusive, of the Education Code. For purposes of this chapter, the term “approved by the Council for Private Postsecondary and Vocational Education” shall not include temporary, conditional, or any other type of interim approval. In order to qualify for licensure pursuant to this subdivision, any doctor’s or master’s degree program shall contain no less than 48 semester or



72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage, family, and child counseling, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board may, by regulation, further define the content requirements of required courses specified in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage, family, and child counselor.

(2) On and after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) (A) Supervised practicum hours, as specified in this subdivision, shall be evaluated, accepted, and credited as hours for trainee experience by the board.

(B) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.



(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years' experience that meets the requirements of this chapter in interpersonal relationships, marriage, family, and child counseling and psychotherapy under the supervision of a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, or a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology. Experience shall not be gained under the supervision of an individual who has provided therapeutic services to that applicant. For those supervisory relationships in effect on or before December 31, 1988, and which remain in continuous effect thereafter, experience may be gained under the supervision of a licensed physician who has completed a residency in psychiatry. Any person supervising another person pursuant to this subdivision shall have been licensed or certified for at least two years prior to acting as a supervisor, shall have a current and valid license that is not under suspension or probation, and shall meet the requirements established by regulations.

(g) The applicant shall pass a written examination and an oral examination conducted by the board or its designees.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in the United States that involves sexual abuse of children or who has been ordered to register as a mentally disordered sex offender or the equivalent in another state or territory.

(i) Applicants applying for licensure on or before December 31, 1987, shall possess all of the qualifications specified in subdivisions (e) to (h), inclusive, and shall possess a doctor's or master's degree in marriage, family, and child counseling, social work, clinical psychology, counseling, counseling psychology, child development and family studies, or a degree determined by the board to be equivalent, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board.

(j) For applicants applying for a license pursuant to subdivision (i), the board may make a determination that an applicant's master's or doctor's degree is an equivalent degree if it finds that the degree was issued upon completion of a course of academic study primarily designed to train persons as a marriage, family, and child counselor. The course of study completed by the applicant shall contain not less than 30 semester or 45 quarter units of coursework as follows: (1) human biological, psychological, and social development, (2) human sexuality, (3) psychopathology, (4) cross-cultural mores and values, (5) theories of marriage, family, and child counseling, (6)



professional ethics and law, (7) human communication, (8) research methodology, (9) theories and applications of psychological testing, and (10) not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, family, and child relationship dysfunctions. The applicant shall submit to the board satisfactory written verification by the chief academic officer of the accredited or approved school, or by an authorized designee, that the applicant has successfully completed courses, including the practicum required by the board. The verification shall include, but need not be limited to, descriptions of the completed courses. The board may request further written verification of course content and academic experience to determine that the applicant's training and experience is equivalent to the course of instruction required by this section.

(k) (1) An applicant applying for intern registration who, prior to December 31, 1987, met the qualifications for registration, but who failed to apply or qualify for intern registration may be granted an intern registration if the applicant meets all of the following criteria:

(A) The applicant possesses a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work obtained from a school, college, or university currently conferring that degree that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges, and where the degree conferred was, at the time it was conferred, specifically intended to satisfy the educational requirements for licensure by the Board of Behavioral Sciences.

(B) The applicant's degree and the course content of the instruction underlying that degree have been evaluated by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges to determine the extent to which the applicant's degree program satisfies the current educational requirements for licensure, and the chief academic officer certifies to the board the amount and type of instruction needed to meet the current requirements.

(C) The applicant completes a plan of instruction that has been approved by the board at a school, college, or university accredited by the Western Association of Schools and Colleges that the chief academic officer of the educational institution has, pursuant to subparagraph (B), certified will meet the current educational requirements when considered in conjunction with the original degree.

(2) A person applying under this subdivision shall be considered a trainee, as that term is defined in Section 4980.03, once he or she is



enrolled to complete the additional coursework necessary to meet the current educational requirements for licensure.

(l) This section shall become operative on January 1, 1997.

SEC. 87. Section 4984.5 of the Business and Professions Code is amended to read:

4984.5. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

SEC. 88. Section 4984.6 of the Business and Professions Code is amended to read:

4984.6. (a) The Behavioral Sciences Fund is continuously appropriated, without regard to fiscal years, to the Board of Behavioral Sciences for carrying out and enforcing the provisions of this chapter.

(b) The board shall keep any records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.

(c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

SEC. 89. Section 4987.5 of the Business and Professions Code is amended to read:

4987.5. A marriage, family, and child counseling corporation is a corporation which is registered with the Board of Behavioral Sciences and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, the marriage, family, and child counseling corporation is entitled to practice marriage, family, and child counseling. With respect to a marriage, family, and child counseling corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 90. Section 4990.1 of the Business and Professions Code is amended to read:

4990.1. There is in the Department of Consumer Affairs a Board of Behavioral Sciences which consists of 11 members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.



SEC. 91. Section 4990.2 of the Business and Professions Code is amended to read:

4990.2. Wherever “Board of Social Work Examiners of the State of California” or “Social Worker and Marriage Counselor Qualifications Board of the State of California” is used in any law or regulations of this state it shall mean the Board of Behavioral Sciences.

SEC. 92. Section 4990.15 of the Business and Professions Code is amended to read:

4990.15. The board shall have and use a seal bearing the words “The Board of Behavioral Sciences,” and shall otherwise conform to Section 107.5.

SEC. 93. Section 4990.17 of the Business and Professions Code is repealed.

SEC. 94. Section 4994 of the Business and Professions Code is amended to read:

4994. Notwithstanding Section 13340 of the Government Code and except as provided in Section 4984.6, all moneys in the Behavioral Sciences Fund are continuously appropriated to the board, to be expended by it for the purposes of the programs under its jurisdiction.

SEC. 95. Section 4996.3 of the Business and Professions Code is amended to read:

4996.3. (a) Each application for examination received on or after January 1, 1996, shall be accompanied by an application fee of one hundred dollars (\$100) and a fee of up to one hundred fifty dollars (\$150), including the examination fee and related administrative costs for the written examination and two hundred dollars (\$200) for the oral examination, that shall be deposited by the board into the State Treasury to the credit of the Behavioral Sciences Fund.

(b) The fee for rescoring a written examination shall be twenty dollars (\$20). The fee for an appeal of an oral examination shall be one hundred dollars (\$100).

(c) The fee for issuance of the initial license shall be a maximum of one hundred fifty-five dollars (\$155).

SEC. 96. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars (\$155) and shall be collected on a biennial basis by the board in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.

(b) If the license is renewed more than 30 days after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars (\$75).

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees that he or she



would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(c) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

(d) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

SEC. 97. Section 4998 of the Business and Professions Code is amended to read:

4998. “Licensed clinical social workers corporation” is a corporation that is registered with the Board of Behavioral Sciences and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act and this article. Subject to all applicable statutes, rules, and regulations, the licensed clinical social workers corporation is entitled to practice clinical social work. With respect to a licensed clinical social workers corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 98. Section 6795.1 of the Business and Professions Code is amended to read:

6795.1. Within 60 to 90 days prior to the expiration of a certificate of registration or certificate of authority, the board shall mail to the registrant or authority holder a notice of the pending expiration. That notice shall include application forms for renewal. If there is no response by the expiration date, the board shall provide a second notice to the registrant’s or authority holder’s address.

SEC. 98.5. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person’s designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the



inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:



“NOTICE: The Structural Pest Control Board encourages competitive business practices among registered companies. Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. Therefore, you may wish to seek a second opinion since there may be alternative methods of correcting the findings listed on this report that may be less costly.”

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection” in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company’s original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

- (1) The infestation or infection that is evident.
- (2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those



conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual “defects” or as actual “active” infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.



(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, “control service agreement” means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other



activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 98.7. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers,



exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection”



in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the



specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.



(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, “control service agreement” means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 99. Section 8522 of the Business and Professions Code is amended to read:

8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

Vacancies shall be filled by the appointing power for the unexpired term.

Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.



The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the member who is a licentiate of the board provided at the 1983 portion of the 1983–84 Regular Session of the Legislature on or before January 15, 1984, and that member's term shall expire on January 15, 1988. Each appointment thereafter shall be for a four-year term expiring on January 15th.

SEC. 100. Section 8550 of the Business and Professions Code is amended to read:

8550. (a) It is unlawful for any individual to engage or offer to engage in the business of, act in the capacity of, or advertise himself or herself as, or assume to act as, an operator or a field representative or an applicator, or to engage or offer to engage in the practice of structural pest control, unless he or she is licensed under this chapter. For purposes of this subdivision, "engage in the practice of structural pest control" shall not include price quotations given by unlicensed employees of a registered company in response to a request for that information.

(b) It is unlawful for any firm, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

SEC. 101. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. (a) Any individual 18 years of age or older may apply for a license as applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) The board shall ascertain by written examination that an applicant for a license as applicator in wood roof cleaning and treatment has sufficient knowledge of wood preservative application equipment, wood preservative application procedures, mixing and formulation and wood preservative label directions.

(d) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3 or any wood preservative as part of a roof restoration process.

(e) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering



the examination, provided, however, that the fee shall not exceed fifteen dollars (\$15).

(f) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 or wood preservative as part of a roof restoration process before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

SEC. 102. Section 8614 of the Business and Professions Code is amended to read:

8614. Any person, whether or not a party to a real property transaction, has a right to request and, upon payment of the required fee, to obtain directly from the board a certified copy of all inspection reports and completion notices prepared and filed by any structural pest control registered company on a particular property during the preceding two years. Notice of this right shall be prominently disclosed on every inspection report and work completion notice.

SEC. 103. Section 8617 of the Business and Professions Code is amended to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy a fine up to one thousand dollars (\$1,000) for each violation of this chapter, or any regulations adopted pursuant to this chapter, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to economic poisons. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) Before a suspension action is taken or a fine levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including, the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The person may appeal a fine or suspension to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(d) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the decision if no appeal is filed. If an appeal



pursuant to Section 8662 is filed, the order shall be stayed until 20 days after the committee has ruled on the appeal.

(e) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine.

Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any inspection stamps, notice of completion stamps, or pesticide use stamps until the assessed fine has been paid.

(f) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

SEC. 104. Section 8622 of the Business and Professions Code is amended to read:

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding



of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

SEC. 105. Section 8656 is added to the Business and Professions Code, to read:

8656. In addition to the remedies provided for in Section 125.9, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not sell to the registered company any inspection stamps, notice of completion stamps, or pesticide use stamps until the assessed fine has been paid.

SEC. 106. Section 8666 is added to the Business and Professions Code, to read:

8666. It shall be unlawful for any licensee under this chapter to recommend or to perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.

A violation of this section is a public offense and is punishable upon the first conviction by imprisonment in the county jail for not more than six months, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

SEC. 106.5. Section 8675 of the Business and Professions Code is amended to read:

8675. The delinquent penalty for a renewal of any license issued under this chapter applied for after the expiration date of the license shall be 50 percent of the fee required for the renewal of the license applied for before the expiration date but not more than one hundred dollars (\$100).

SEC. 107. Section 98.7 of this bill incorporates amendments to Section 8516 of the Business and Professions Code proposed by both this bill and SB 1546. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 8516 of the Business and Professions Code, and (3) this bill is enacted after SB 1546, in which case Section 98.5 of this bill shall not become operative.

SEC. 108. Section 27.5 of this bill incorporates amendments to Section 2636.5 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2636.5 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 27 of this bill shall not become operative.



SEC. 109. Section 30.5 of this bill incorporates amendments to Section 2639 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2639 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 30 of this bill shall not become operative.

SEC. 110. Section 40.5 of this bill incorporates amendments to Section 2655.4 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2655.4 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 40 of this bill shall not become operative.

SEC. 111. Section 44.5 of this bill incorporates amendments to Section 2655.71 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2655.71 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 44 of this bill shall not become operative.

SEC. 112. Section 47.5 of this bill incorporates amendments to Section 2655.91 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2655.91 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 47 of this bill shall not become operative.

SEC. 113. Section 66.5 of this bill incorporates amendments to Section 2688 of the Business and Professions Code proposed by both this bill and SB 1962. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 2688 of the Business and Professions Code, and (3) this bill is enacted after SB 1962, in which case Section 66 of this bill shall not become operative.

SEC. 114. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative



on the same date that the act takes effect pursuant to the California Constitution.

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