

AMENDED IN SENATE JULY 18, 2001

AMENDED IN SENATE JULY 3, 2001

AMENDED IN ASSEMBLY JUNE 4, 2001

AMENDED IN ASSEMBLY MAY 24, 2001

AMENDED IN ASSEMBLY APRIL 18, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL**No. 1409**

Introduced by Assembly Member Chan

February 23, 2001

An act to amend Sections 101, 144, and 205 of, and to repeal Chapter 8.5 (commencing with Section 3901) of Division 2 of, the Business and Professions Code, to add Chapter 2.35 (commencing with Section 1416) to Division 2 of, and to repeal Section 1429.5 of, the Health and Safety Code, relating to nursing homes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, as amended, Chan. Nursing home administrators.

Existing law, the Nursing Home Administrator's License law, which is contained in the Business and Professions Code, provides for the licensing and regulation of nursing home administrators by the State Board of Nursing Home Administrators of the State of California and specifies the duties of the board.

This bill would repeal these provisions. The bill, instead, would enact provisions in the Health and Safety Code, *designated as the Nursing*

Home Administrators' Act, that would establish in the State Department of Health Services a Nursing Home Administrator Program (NHAP) that would license and regulate nursing home administrators. In this regard, the bill would specify *the* duties and authority of the program, define various terms, specify licensing requirements, including application procedures, qualifications for and content of licensing examinations, and application and examination fee requirements, provide procedures for out-of-state nursing home administrator licensees to obtain a one-year provisional license, and require the department to develop a specified administrator-in-training program and establish a designated citation and administrative fine assessment system.

This bill would also require a nursing home administrator to notify, in writing, the department's office for licensing and certification upon the occurrence of specified acts affecting the administration of the nursing home.

The bill would make it a misdemeanor to engage in certain subversive activities related to the implementation of the nursing administrator licensing examination. Because the bill would create a new crime, it would impose a state-mandated local program.

Existing law provides for the Nursing Home Administrator's State License Examining Board Fund, a continuously appropriated fund, in the Professions and Vocations Fund in the State Treasury.

Existing law specifies a schedule of fees that are charged for the application and examination of applicants for licensure as nursing home administrators and requires those fees to be deposited in the Nursing Home Administrator's State License Examining Board Fund.

This bill would rename the fund the Nursing Home Administrator's State License Examining Fund and continue the fund in existence in the State Treasury. The bill would revise the fee schedule. The bill would also require that fines collected under the citation and administrative fine assessment system required under this bill be deposited in the Nursing Home Administrator's State License Examining Fund.

Because the bill would increase the amount deposited into the Nursing Home Administrator's State License Examining Fund, as renamed by this bill, which is a continuously appropriated fund, it would make an appropriation.

This bill would incorporate additional changes in Section 101 of the Business and Professions Code proposed by SB 26 that would become



operative only if SB 26 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

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

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

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 101 of the Business and Professions
- 2 Code is amended to read:
- 3 101. The department is comprised of:
- 4 (a) The Dental Board of California.
- 5 (b) The Medical Board of California.
- 6 (c) The State Board of Optometry.
- 7 (d) The California State Board of Pharmacy.
- 8 (e) The Veterinary Medical Board.
- 9 (f) The California Board of Accountancy.
- 10 (g) The California Architects Board.
- 11 (h) The Barbering and Cosmetology Program.
- 12 (i) The Board for Professional Engineers and Land Surveyors.
- 13 (j) The Contractors' State License Board.
- 14 (k) The Funeral Directors and Embalmers Program.
- 15 (l) The Structural Pest Control Board.
- 16 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 17 (n) The Board of Registered Nursing.
- 18 (o) The Board of Behavioral Sciences.
- 19 (p) The State Athletic Commission.
- 20 (q) The Cemetery Program.
- 21 (r) The State Board of Guide Dogs for the Blind.
- 22 (s) The Bureau of Security and Investigative Services.
- 23 (t) The Court Reporters Board of California.
- 24 (u) The Board of Vocational Nursing and Psychiatric
- 25 Technicians.
- 26 (v) The Landscape Architects Technical Committee.
- 27 (w) The Bureau of Electronic and Appliance Repair.

- 1 (x) The Division of Investigation.
2 (y) The Bureau of Automotive Repair.
3 (z) The State Board of Registration for Geologists and
4 Geophysicists.
5 (aa) The Respiratory Care Board of California.
6 (ab) The Acupuncture Board.
7 (ac) The Board of Psychology.
8 (ad) The California Board of Podiatric Medicine.
9 (ae) The Physical Therapy Board of California.
10 (af) The Arbitration Review Program.
11 (ag) The Committee on Dental Auxiliaries.
12 (ah) The Hearing Aid Dispensers Advisory Commission.
13 (ai) The Physician Assistant Committee.
14 (aj) The Speech-Language Pathology and Audiology Board.
15 (ak) The Tax Preparers Program.
16 (al) The California Board of Occupational Therapy.
17 (am) Any other boards, offices, or officers subject to its
18 jurisdiction by law.
19 SEC. 1.5. Section 101 of the Business and Professions Code
20 is amended to read:
21 101. The department is comprised of:
22 (a) The Dental Board of California.
23 (b) The Medical Board of California.
24 (c) The State Board of Optometry.
25 (d) The California State Board of Pharmacy.
26 (e) The Veterinary Medical Board.
27 (f) The California Board of Accountancy.
28 (g) The California Architects Board.
29 (h) The Bureau of Barbering and Cosmetology.
30 (i) The Board for Professional Engineers and Land Surveyors.
31 (j) The Contractors' State License Board.
32 (k) The Bureau for Private Postsecondary and Vocational
33 Education.
34 (l) The Structural Pest Control Board.
35 (m) The Bureau of Home Furnishings and Thermal Insulation.
36 (n) The Board of Registered Nursing.
37 (o) The Board of Behavioral Sciences.
38 (p) The State Athletic Commission.
39 (q) The Cemetery and Funeral Bureau.
40 (r) The State Board of Guide Dogs for the Blind.



- 1 (s) The Bureau of Security and Investigative Services.
- 2 (t) The Court Reporters Board of California.
- 3 (u) The Board of Vocational Nursing and Psychiatric
- 4 Technicians.
- 5 (v) The Landscape Architects Technical Committee.
- 6 (w) The Bureau of Electronic and Appliance Repair.
- 7 (x) The Division of Investigation.
- 8 (y) The Bureau of Automotive Repair.
- 9 (z) The State Board of Registration for Geologists and
- 10 Geophysicists.
- 11 (aa) The Respiratory Care Board of California.
- 12 (ab) The Acupuncture Board.
- 13 (ac) The Board of Psychology.
- 14 (ad) The California Board of Podiatric Medicine.
- 15 (ae) The Physical Therapy Board of California.
- 16 (af) The Arbitration Review Program.
- 17 (ag) The Committee on Dental Auxiliaries.
- 18 (ah) The Hearing Aid Dispensers Bureau.
- 19 (ai) The Physician Assistant Committee.
- 20 (aj) The Speech-Language Pathology and Audiology Board.
- 21 (ak) The California Board of Occupational Therapy.
- 22 (al) The Osteopathic Medical Board of California.
- 23 (am) Any other boards, offices, or officers subject to its
- 24 jurisdiction by law.
- 25 SEC. 2. Section 144 of the Business and Professions Code is
- 26 amended to read:
- 27 144. (a) Notwithstanding any other provision of law, an
- 28 agency designated in subdivision (b) shall require an applicant to
- 29 furnish to the agency a full set of fingerprints for purposes of
- 30 conducting criminal history record checks. Any agency
- 31 designated in subdivision (b) may obtain and receive, at its
- 32 discretion, criminal history information from the Department of
- 33 Justice and the United States Federal Bureau of Investigation.
- 34 (b) Subdivision (a) applies to the following boards or
- 35 committees:
- 36 (1) California Board of Accountancy.
- 37 (2) State Athletic Commission.
- 38 (3) Board of Behavioral Sciences.
- 39 (4) Court Reporters Board of California.
- 40 (5) State Board of Guide Dogs for the Blind.

- 1 (6) California State Board of Pharmacy.
- 2 (7) Board of Registered Nursing.
- 3 (8) Veterinary Medical Board.
- 4 (9) Registered Veterinary Technician Committee.
- 5 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 6 (11) Respiratory Care Board of California.
- 7 (12) Hearing Aid Dispensers Advisory Commission.
- 8 (13) Physical Therapy Board of California.
- 9 (14) Physician Assistant Committee of the Medical Board of
- 10 California.
- 11 (15) Speech-Language Pathology and Audiology Board.
- 12 (16) Medical Board of California.
- 13 (17) State Board of Optometry.
- 14 (18) Acupuncture Board.
- 15 (19) Cemetery and Funeral Programs.
- 16 (20) Bureau of Security and Investigative Services.
- 17 (21) Division of Investigation.
- 18 (22) Board of Psychology.
- 19 (23) The California Board of Occupational Therapy.
- 20 SEC. 3. Section 205 of the Business and Professions Code is
- 21 amended to read:
- 22 205. (a) There is in the State Treasury the Professions and
- 23 Vocations Fund. The fund shall consist of the following special
- 24 funds:
- 25 (1) Accountancy Fund.
- 26 (2) California Board of Architectural Examiners' Fund.
- 27 (3) Athletic Commission Fund.
- 28 (4) Barbering and Cosmetology Contingent Fund.
- 29 (5) Cemetery Fund.
- 30 (6) Contractors' License Fund.
- 31 (7) State Dentistry Fund.
- 32 (8) State Funeral Directors and Embalmers Fund.
- 33 (9) Guide Dogs for the Blind Fund.
- 34 (10) Bureau of Home Furnishings and Thermal Insulation
- 35 Fund.
- 36 (11) California Board of Architectural Examiners-Landscape
- 37 Architects Fund.
- 38 (12) Contingent Fund of the Medical Board of California.
- 39 (13) Optometry Fund.
- 40 (14) Pharmacy Board Contingent Fund.



- 1 (15) Physical Therapy Fund.
- 2 (16) Private Investigator Fund.
- 3 (17) Professional Engineers' and Land Surveyors' Fund.
- 4 (18) Consumer Affairs Fund.
- 5 (19) Behavioral Sciences Fund.
- 6 (20) Licensed Midwifery Fund.
- 7 (21) Court Reporters' Fund.
- 8 (22) Structural Pest Control Fund.
- 9 (23) Veterinary Medical Board Contingent Fund.
- 10 (24) Vocational Nurses Account of the Vocational Nursing and
- 11 Psychiatric Technicians Fund.
- 12 (25) State Dental Auxiliary Fund.
- 13 (26) Electronic and Appliance Repair Fund.
- 14 (27) Geology and Geophysics Fund.
- 15 (28) Dispensing Opticians Fund.
- 16 (29) Acupuncture Fund.
- 17 (30) Hearing Aid Dispensers Fund.
- 18 (31) Physician Assistant Fund.
- 19 (32) Board of Podiatric Medicine Fund.
- 20 (33) Psychology Fund.
- 21 (34) Respiratory Care Fund.
- 22 (35) Speech-Language Pathology and Audiology Fund.
- 23 (36) Board of Registered Nursing Fund.
- 24 (37) Psychiatric Technician Examiners Account of the
- 25 Vocational Nursing and Psychiatric Technicians Fund.
- 26 (38) Animal Health Technician Examining Committee Fund.
- 27 (39) Structural Pest Control Education and Enforcement Fund.
- 28 (40) Structural Pest Control Research Fund.
- 29 (b) For accounting and recordkeeping purposes, the
- 30 Professions and Vocations Fund shall be deemed to be a single
- 31 special fund, and each of the several special funds therein shall
- 32 constitute and be deemed to be a separate account in the
- 33 Professions and Vocations Fund. Each account or fund shall be
- 34 available for expenditure only for the purposes as are now or may
- 35 hereafter be provided by law.
- 36 SEC. 4. Chapter 8.5 (commencing with Section 3901) of
- 37 Division 2 of the Business and Professions Code is repealed.
- 38 SEC. 5. Chapter 2.35 (commencing with Section 1416) is
- 39 added to Division 2 of the Health and Safety Code, to read:
- 40

1 CHAPTER 2.35. NURSING HOME ADMINISTRATOR PROGRAM

2
3 Article 1. General Provisions
4

5 1416. *This chapter shall be known and may be cited as the*
6 *Nursing Home Administrators' Act.*

7 1416.1 There is hereby established in the State Department of
8 Health Services a Nursing Home Administrator Program
9 (NHAP), which shall license and regulate nursing home
10 administrators.

11 1416.2. (a) The following definitions shall apply to this
12 chapter:

13 (1) "Department" means the State Department of Health
14 Services.

15 (2) "NHAP" or "program" means the Nursing Home
16 Administrator Program.

17 (3) "State" means California, unless applied to the different
18 parts of the United States. In this latter case, "state" includes the
19 District of Columbia and the territories.

20 (4) "Nursing home" means any institution, facility, place,
21 building, or agency, or portion thereof, licensed as a skilled
22 nursing facility, intermediate care facility, or intermediate care
23 facility/developmentally disabled, as defined in Chapter 2
24 (commencing with Section 1250). "Nursing home" also means an
25 intermediate care facility/developmentally disabled habilitative,
26 intermediate care facility/developmentally disabled-nursing, or
27 congregate living health facility, as defined in Chapter 2
28 (commencing with Section 1250), if a licensed nursing home
29 administrator is charged with the general administration of the
30 facility.

31 (5) "Nursing home administrator" means an individual
32 educated and trained within the field of nursing home
33 administration who carries out the policies of the licensee of a
34 nursing home and is licensed in accordance with this chapter. The
35 nursing home administrator is charged with the general
36 administration of a nursing home, regardless of whether he or she
37 has an ownership interest and whether the administrator's function
38 or duties are shared with one or more other individuals.

39 (6) "Administrator-in-Training Program" or "AIT Program"
40 means a program that is approved by the NHAP in which qualified

1 persons participate under the coordination, supervision, and
2 teaching of a preceptor, as described in Section 1416.57, who has
3 obtained approval from the NHAP.

4 (b) Nothing in this section shall be construed to allow the
5 program to have jurisdiction over an administrator of an
6 intermediate care facility/developmentally disabled-nursing or an
7 intermediate care facility/developmentally disabled habilitative, if
8 the administrator of the facility is not using licensure under this
9 chapter to qualify as an administrator in accordance with
10 subdivision (d) of Section 1276.5.

11 (c) Nothing in this section shall be construed to define an
12 intermediate care facility/developmentally disabled-nursing or an
13 intermediate care facility/developmentally disabled habilitative as
14 a nursing home for purposes other than the licensure of nursing
15 home administrators under this chapter.

16 1416.4. The program shall adopt rules and regulations that are
17 reasonably necessary to carry out this chapter. The rules and
18 regulations shall be adopted, amended, and repealed in accordance
19 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
20 Division 3 of Title 2 of the Government Code. To the extent that
21 the regulations governing the nursing home administrator
22 program that are in effect prior to January 1, 2002, are not in
23 conflict with this chapter, they shall remain in effect until new
24 regulations are implemented for purposes of this chapter.

25 1416.6. (a) It shall be a misdemeanor for any person to act or
26 serve in the capacity of a nursing home administrator, unless he or
27 she is the holder of an active nursing home administrator's license
28 issued in accordance with this chapter. Persons carrying out
29 functions and duties delegated by a licensed nursing home
30 administrator shall not be acting in violation of this chapter.

31 (b) (1) This chapter shall not apply to any person who serves
32 as an acting administrator as provided in this subdivision when a
33 licensed administrator is not available because of death, illness, or
34 any other reason.

35 (2) A person who is acting as an administrator shall notify the
36 program in writing within five days of acting in this capacity and
37 provide factual information and specific circumstances
38 necessitating the use of an acting administrator.

39 (3) No person shall act as an administrator for more than 10
40 days unless arrangements have been made for part-time

1 supervision of his or her activities by a nursing home administrator
2 who holds a license or provisional license under this chapter.
3 Supervision shall include at least 8 hours per week of direct onsite
4 supervision by the licensed administrator. The program shall be
5 notified in writing of the nature of this arrangement. No person
6 shall act as an administrator for more than two months without the
7 written approval of the program. The program shall not approve
8 a person to act as an administrator for more than six months.

9 (4) If the acting administrator is an administrator in training,
10 then the supervision required by paragraph (3) may be counted
11 towards the total hours of supervised training required by
12 subdivision (f) of Section 1416.57.

13 (c) Notwithstanding subdivision (b), an individual acting as an
14 administrator for more than 10 days must have management
15 experience in a health facility.

16 Article 2. Administration

17
18
19 1416.10. In conformity with the requirements of Section
20 1908(c) of the Social Security Act (42 U.S.C. Sec. 1396g(c)), the
21 program shall have all of the following powers and duties:

22 (a) To develop, impose, and enforce standards that shall be met
23 by individuals in order to receive a license as a nursing home
24 administrator. At a minimum, the standards shall be designed to
25 ensure that nursing home administrators shall be individuals who
26 have not committed acts or crimes constituting grounds for denial
27 of licensure and who are qualified by training or experience in the
28 field of institutional administration to serve as nursing home
29 administrators.

30 (b) To develop and apply procedures, including examinations
31 and investigations, for determining whether an individual meets
32 the standards.

33 (c) To issue licenses to individuals who have been determined
34 to meet the standards, and to revoke or suspend licenses where
35 grounds exist for those actions.

36 (d) To establish and carry out procedures designed to ensure
37 that individuals licensed as nursing home administrators will,
38 during any period that they serve as an administrator, comply with
39 the required standards.

(e) To receive, investigate, and take appropriate action with respect to any charge or complaint filed with the program alleging that an individual licensed as a nursing home administrator has failed to comply with the required standards.

(f) To conduct studies of the administration of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of nursing home administrators, and of procedures and methods for the enforcement of standards with respect to administrators of nursing homes who have been licensed under this chapter.

(g) To receive and administer all funds and grants as are made available to the program in order to carry out the purposes of this chapter.

(h) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct training and instruction programs and courses that will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards set by the program for licensed nursing home administrators, and to enable licensed nursing home administrators to meet the continuing education requirements for the renewal of their licenses.

(i) To consult with and seek the recommendations of the appropriate statewide professional societies, associations, institutional organizations, and educational institutions in the development of educational programs.

(j) To give due consideration to the recommendations of the National Advisory Council on Nursing Home Administration, in accordance with the provisions of subdivision (f) of Section 1908 of Title XIX of the Social Security Act (42 U.S.C. Sec. 1396g(f)).

1416.12. The following enforcement actions taken by the department against a facility and the name of the licensed administrator of the facility shall be reported to the program.

(a) Temporary suspension orders.

(b) Final decertification from the Medi-Cal or Medicare programs based on failure to meet certification requirements.

(c) Service of an accusation to revoke a facility's license.

(d) All class "AA" citations and three class "A" citations issued to a facility with the same administrator within a one-calendar year period. The department shall notify the program

1 in the event that citations are overturned or modified in citation
2 review conference, through binding arbitration, or on appeal.

3
4 Article 3. Licensing
5

6 1416.20. (a) The nursing home administrator licensing
7 examination shall cover the broad aspects of nursing home
8 administration.

9 (b) Unless otherwise provided in this article, every applicant
10 for an initial license as a nursing home administrator shall pass a
11 nursing home administrator licensing examination, which shall
12 consist of a state and national examination. The state examination
13 shall be held at least four times a year, at a time and place
14 determined by the program. The national examination is
15 computer-based and shall be scheduled by the applicant after the
16 applicant is notified by the program of his or her eligibility to take
17 the examination.

18 (c) If an applicant for licensure under this article, submits an
19 endorsement certificate from another state indicating that he or she
20 scored at least 75 percent on the national examination, the
21 applicant shall be required to take only the California state part of
22 the licensing examination. If the applicant scored less than 75
23 percent on the national examination, he or she shall take both the
24 state and national examination.

25 1416.22. (a) To qualify for the licensing examination, an
26 applicant must be at least 18 years of age, be a citizen of the United
27 States, be of reputable and responsible character, demonstrate an
28 ability to comply with this chapter, and comply with at least one
29 of the following requirements:

30 (1) Have a master's degree in nursing home administration or
31 a related health administration field. The master's program in
32 which the degree was obtained must have included an internship
33 or residency of at least 480 hours in a skilled nursing facility or
34 intermediate care facility.

35 (2) (A) With regard to applicants who have a current valid
36 license as a nursing home administrator in another state and apply
37 for licensure in this state, meet the minimum education
38 requirements that existed in this state at the time the applicant was
39 originally licensed in the other state.

(B) The minimum education requirements that have existed in California are as follows:

Prior to 7/1/73	None
From 7/1/73 to 6/30/74	30 semester units
From 7/1/74 to 6/30/75	45 semester units
From 7/1/75 to 6/30/80	60 semester units
From 7/1/80 to 1/1/02	Baccalaureate degree

(3) A doctorate degree in medicine and a current valid license as a physician and surgeon with 10 years of recent work experience, and the completion of a program-approved AIT Program of at least 1,000 hours.

(4) A baccalaureate degree, and the completion of a program-approved AIT Program of at least 1,000 hours.

(5) Ten years of recent full-time work experience, and a current license, as a licensed registered nurse, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a supervisory or director of nursing position.

(6) Ten years of full-time work experience in any department of a skilled nursing facility, an intermediate care facility, or an intermediate care facility developmentally/disabled with at least 60 semester units (or 90 quarter units) of college or university courses, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a position as a department manager.

(7) Ten years of full-time hospital administration experience in an acute care hospital with at least 60 semester units (or 90 quarter units) of college or university courses, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a supervisory position.

(8) If the applicant and the preceptor provide compelling evidence that previous work experience of the applicant directly relates to nursing home administrator duties, the program may accept a waiver exception to a portion of the AIT program that requires 1,000 hours.

1 (b) The applicant shall submit an official transcript that
2 evidences the completion of required college and university
3 courses, degrees, or both. An applicant who applies for the
4 licensing examination on the basis of work experience shall submit
5 a declaration signed under penalty of perjury, verifying his or her
6 work experience. This declaration shall be signed by a licensed
7 nursing home administrator, physician and surgeon, chief of staff,
8 director of nurses, or registered nurse who can attest to the
9 applicant's work experience.

10 1416.24. (a) An application for a nursing home administrator
11 license shall be submitted to the program on a form provided by
12 the program, with the appropriate nonrefundable fee for any
13 required examination, the application, and licensure. The
14 application shall contain information the program deems
15 necessary to determine the applicant's qualifications and a
16 statement whether the individual has been convicted of any crime
17 other than a minor traffic violation. Each applicant shall meet the
18 current requirements for any required examination and licensure.
19 Applicants for licensure shall submit evidence of electronic
20 transmission of fingerprints or fingerprint cards to the program.

21 (b) A completed application package, together with the
22 examination application, and licensure fees must be received by
23 the program at least 30 days prior to the examination date.

24 (c) (1) The withdrawal of an application for a license after it
25 has been filed with the department shall not, unless the department
26 consents in writing to the withdrawal, deprive the department of
27 its authority to institute or continue a proceeding against the
28 applicant for the denial of the license upon any ground provided
29 by law or to enter an order denying the license upon that ground.

30 (2) The suspension, expiration, or forfeiture by operation of
31 law of a license issued by the department, the suspension,
32 forfeiture, or cancellation by order of the department or a court of
33 law of a license, or the surrender without the written consent of the
34 department of a license, shall not deprive the department of its
35 authority to institute or continue a disciplinary proceeding against
36 the licensee upon any ground provided by law or to enter an order
37 suspending or revoking the license or otherwise taking
38 disciplinary action against the licensee on any grounds.

39 (d) An application that is submitted to the program is valid for
40 only one year after the date of receipt. An applicant who fails to

1 meet all requirements for licensure, including successfully passing
2 the national and state examinations during that one-year period,
3 shall be required to submit another application and appropriate
4 application and examination fees to the program before attempting
5 further examinations.

6 (e) *The program may extend the one-year period described in*
7 *subdivision (d) upon a showing of good cause. For purposes of this*
8 *subdivision, good causes shall include, but shall not be limited to,*
9 *delays in the processing of the application, or delays in applying*
10 *for and taking the examination caused by illness, accident, or other*
11 *extenuating circumstances.*

12 (f) An applicant shall submit documentation and evidence to
13 the program of his or her eligibility for licensure.

14 ~~(f)~~

15 (g) At the time of the examination, the applicant shall read and
16 sign the Examination Security Agreement and comply with its
17 terms.

18 1416.26. (a) As part of the application process for a nursing
19 home administrator license, an applicant shall submit to the
20 department two sets of completed fingerprint cards for a criminal
21 record clearance through the Department of Justice and the Federal
22 Bureau of Investigation. As an alternative, the applicant may also
23 provide proof of electronic transmission of fingerprints to the
24 Department of Justice and the Federal Bureau of Investigation.
25 Upon receipt of the fingerprints, the Department of Justice and the
26 Federal Bureau of Investigation shall notify the department of the
27 criminal record information. If no criminal record information has
28 been recorded, the Department of Justice and the Federal Bureau
29 of Investigation shall provide the department with a statement of
30 that fact.

31 (b) This criminal record clearance shall be completed prior to
32 issuing a license. Applicants shall be responsible for any costs
33 associated with the criminal record clearance. The fee to cover the
34 processing costs of the Department of Justice, not including the
35 costs associated with rolling the fingerprint cards, shall not exceed
36 thirty-two dollars (\$32) per card for state fingerprints, and shall
37 not exceed twenty-four dollars (\$24) per card for federal
38 fingerprints.

39 1416.28. (a) Notwithstanding any other law, the program
40 shall at the time of application, issuance, or renewal of a nursing

1 home administrator license require that the applicant or licensee
2 provide his or her federal employer identification number or his or
3 her social security number.

4 (b) Any applicant or licensee failing to provide his or her
5 federal identification number or social security number shall be
6 reported by the program to the Franchise Tax Board and, if failing
7 to provide after notification pursuant to paragraph (1) of
8 subdivision (b) of Section 19528 of the Revenue and Taxation
9 Code, shall be subject to the penalty provided in paragraph (2) of
10 subdivision (b) of Section 19528 of the Revenue and Taxation
11 Code.

12 (c) In addition to the penalty specified in subdivision (b), the
13 program may not process any application, original license, or
14 renewal of a license unless the applicant or licensee provides his
15 or her federal employer identification number or social security
16 number where requested on the application.

17 (d) The program shall, upon request of the Franchise Tax
18 Board, furnish to the Franchise Tax Board the following
19 information with respect to every licensee:

20 (1) Name.

21 (2) Address or addresses of record.

22 (3) Federal employer identification number or social security
23 number.

24 (4) Type of license.

25 (5) Effective date of license or renewal.

26 (6) Expiration date of license.

27 (7) Whether license is active or inactive, if known.

28 (8) Whether license is new or a renewal.

29 (e) The reports required under this section shall be filed on
30 magnetic media or in other machine-readable form, according to
31 standards furnished by the Franchise Tax Board.

32 (f) The program shall provide to the Franchise Tax Board the
33 information required by this section at a time that the Franchise
34 Tax Board may require.

35 (g) Notwithstanding Chapter 3.5 (commencing with Section
36 6250) of Division 7 of Title 1 of the Government Code, the social
37 security number and federal employer identification number
38 furnished pursuant to this section shall not be deemed to be a public
39 record and shall not be open to the public for inspection.

1 (h) Any deputy, agent, clerk, officer, or employee of the
2 program described in this chapter, any former officer or employee,
3 or other individual who in the course of his or her employment or
4 duty has or has had access to the information required to be
5 furnished under this chapter, may not disclose or make known in
6 any manner that information, except as provided in this section to
7 the Franchise Tax Board or as provided in subdivision (j).

8 (i) It is the intent of the Legislature in enacting this section to
9 utilize the social security account number or federal employer
10 identification number for the purpose of establishing the
11 identification of persons affected by state tax laws and for purposes
12 of compliance with Section 17520 of the Family Code and, to that
13 end, the information furnished pursuant to this section shall be
14 used exclusively for those purposes.

15 (j) If the program utilizes a national examination to issue a
16 license, and if a reciprocity agreement or comity exists between
17 California and the state requesting release of the social security
18 number, any deputy, agent, clerk, officer, or employee of the
19 program described in this chapter may release a social security
20 number to an examination or licensing entity, only for the purpose
21 of verification of licensure or examination status.

22 1416.30. (a) The program shall require compliance with any
23 judgment or order for support prior to issuance or renewal of a
24 license.

25 (b) Each applicant for the issuance or renewal of a nursing
26 home administrator license, who is not in compliance with a
27 judgment or order for support shall be subject to Section 11350.6
28 of the Welfare and Institutions Code.

29 (c) “Compliance with a judgment or order of support” has the
30 same meaning as specified in paragraph (4) of subdivision (a) of
31 Section 11350.6 of the Welfare and Institutions Code.

32 1416.32. (a) Prior to admission to the licensing examination,
33 the applicant shall read and sign an examination security
34 agreement and comply with its terms.

35 (b) The program may deny, suspend, revoke, or otherwise
36 restrict the license of an applicant or a licensee for any of the
37 following acts:

38 (1) Having or attempting to have an impersonator take the
39 examination on one’s behalf.

1 (2) Impersonating or attempting to impersonate another to take
2 the examination on that person's behalf.

3 (3) Communicating or attempting to communicate about the
4 examination content with another examinee or with any person
5 other than the examination staff. This includes divulging the
6 content of specific written examination items to examination
7 preparation providers.

8 (4) Copying questions or making notes of examination
9 materials or revealing the content of the examination to others who
10 are preparing to take the NHAP examination or who are preparing
11 others to take such examination.

12 (5) Obstructing or attempting to obstruct the administration of
13 the examination in any way.

14 (c) It is a misdemeanor for any person to engage in any conduct
15 that subverts or attempts to subvert any licensing examination or
16 the administration of an examination, including, but not limited to,
17 the following conduct:

18 (1) Conduct that violates the security of the examination
19 materials, removing from the examination room any examination
20 materials without authorization, the unauthorized reproduction by
21 any means of any portion of the actual licensing examination,
22 aiding by any means the unauthorized reproduction of any portion
23 of the actual licensing examination, paying or using professional
24 or paid examination-takers for the purpose of reconstructing any
25 portion of the licensing examination, obtaining examination
26 questions or other examination material, except by specific
27 authorization either before, during, or after an examination, using
28 or purporting to use any examination questions or materials that
29 were improperly removed or taken from any examination for the
30 purpose of instructing or preparing any applicant for examination,
31 or selling, distributing, buying, receiving, or having unauthorized
32 possession of any portion of a future, current, or previously
33 administered licensing examination.

34 (2) Communicating with any other candidate during the
35 administration of a licensing examination, copying answers from
36 another examinee or permitting one's answers to be copied by
37 another examinee, having in one's possession during the
38 administration of the licensing examination any books,
39 equipment, notes, written or printed materials, or data of any kind,
40 other than the examination materials distributed, or otherwise



1 authorized to be in one's possession during the examination, or
2 impersonating any examinee or having an impersonator take the
3 licensing examination on one's behalf.

4 (d) Nothing in this section shall preclude prosecution under the
5 authority provided for in any other provision of law.

6 (e) In addition to any other penalties, a person found guilty of
7 violating this section, shall be liable for the actual damages
8 sustained by the agency administering the examination not to
9 exceed ten thousand dollars (\$10,000) and the costs of litigation.

10 (f) The proceedings under this section shall be governed by
11 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
12 the Code of Civil Procedure.

13 (g) The remedy provided for by this section shall be in addition
14 to, and not a limitation on, the authority provided for in any other
15 provision of law.

16 1416.34. (a) (1) In order to have a passing score on either the
17 national or state examination, an examinee shall earn a score of at
18 least 75 percent.

19 (2) An applicant who fails to pass either the national or state
20 examination shall retake the entire national or state examination.

21 (3) An applicant who fails to pass either the state or national
22 examination after three attempts shall receive additional training
23 as outlined by the program from a program-approved preceptor,
24 prior to participating in another examination.

25 (b) The examination shall be administered and evaluated by
26 either of the following:

27 (1) The department.

28 (2) A contractor or vendor pursuant to a written agreement with
29 the program or department.

30 (c) The results of the examination shall be provided to each
31 applicant in a timely manner, not to exceed 90 days from the date
32 of the examination.

33 (d) The program shall issue a license to an applicant who
34 successfully passes the required examination and has satisfied all
35 other requirements for licensure.

36 (e) A license shall be effective for a period of two years from
37 the date of issuance.

38 (f) The program shall issue a provisional license to candidates
39 who meet the provisional licensure requirements established by
40 this chapter.

(g) The program shall replace a lost, damaged, or destroyed license certificate upon receipt of a written request from a licensee and payment of the duplicate license fee. A licensee shall complete a request for a duplicate license on the required program form, and then submit it to the program.

(h) A licensee shall inform the program of the licensee's current home address, mailing address, and if employed by a nursing facility, the name and address of that employer. A licensee shall report a change in any of this information to the program within 30 calendar days. Failure of the licensee to provide timely notice to the program may result in a citation penalty. A licensee shall provide to the program an address to be included in the public files.

(i) A licensee shall display his or her license and show to anyone upon request in order to inform patients or the public as to the identity of the regulatory agency that they may contact if they have questions or complaints regarding the licensee.

1416.36. (a) The fees prescribed by this chapter are as follows:

(1) The application fee for reviewing an applicant's eligibility to take the examination shall be twenty-five dollars (\$25).

(2) The application fee for persons applying for reciprocity consideration licensure under Section 1416.40 shall be fifty dollars (\$50).

(3) The application fee for persons applying for the AIT Program shall be one hundred dollars (\$100).

(4) The examination fees shall be:

(A) Two hundred seventy-five dollars (\$275) for an automated national examination.

(B) Two hundred ten dollars (\$210) for an automated state examination or one hundred forty dollars (\$140) for a written state examination.

(5) The fee for an initial license shall be one hundred ninety dollars (\$190).

(6) The renewal fee for an active or inactive license shall be one hundred ninety dollars (\$190).

(7) The delinquency fee shall be fifty dollars (\$50).

(8) The duplicate license fee shall be twenty-five dollars (\$25).

(9) The fee for a provisional license shall be two hundred fifty dollars (\$250).

1 (10) The fee for endorsement of credentials to the licensing
2 authority of another state shall be twenty-five dollars (\$25).

3 (11) The preceptor certification fee shall be fifty dollars (\$50)
4 for each ~~two three-year periods~~ *three-year period*.

5 (12) The biennial fee for approval of a continuing education
6 provider shall be one hundred fifty dollars (\$150).

7 (13) The biennial fee for approval of a continuing education
8 course shall be not more than fifteen dollars (\$15).

9 (b) Commencing July 1, 2002, fees provided in this section
10 shall be adjusted annually, as directed by the Legislature in the
11 annual Budget Act. The proposed adjustment in the examination
12 fees shall not exceed the increase in the California Consumer Price
13 Index, except as provided in subdivision (d). The department shall
14 provide an annual fiscal year program fee report to the Legislature
15 each April 1, commencing on April 1, 2002.

16 (c) The department shall, by July 30 of each year, publish a list
17 of actual numerical fee charges as adjusted pursuant to this section.
18 This adjustment of fees and the publication of the fee list shall not
19 be subject to the requirements of Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
21 Code.

22 (d) If the revenue projected to be collected is less than the
23 projected costs for the budget year, the department may propose
24 that fees be adjusted by not more than twice the increase in the
25 Consumer Price Index.

26 1416.38. (a) The Nursing Home Administrator's State
27 License Examining Board Fund in the Professions and Vocations
28 Fund in the State Treasury is hereby renamed the Nursing Home
29 Administrator's State License Examining Fund and continued in
30 existence in the State Treasury.

31 (b) Within 10 days after the beginning of every month, all fees
32 collected by the program for the month preceding, under this
33 chapter, shall be paid into the Nursing Home Administrator's State
34 License Examining Fund.

35 (c) The funding paid into the Nursing Home Administrator's
36 State License Examining Fund shall be continuously appropriated
37 to the program for expenditures in the manner prescribed by law
38 to defray the expenses of the program and in carrying out and
39 enforcing the provisions of this chapter.

1 1416.40. (a) For purposes of this chapter, “reciprocity
2 applicant” means any applicant who holds a current license as a
3 nursing home administrator in another state has been licensed and
4 in good standing, has passed the national examination, and the
5 applicant is otherwise qualified.

6 (b) An applicant who holds a current valid license as a nursing
7 home administrator in another state may be issued a one-year
8 provisional license as a reciprocity applicant pursuant to this
9 section. The provisional license authorizes the holder to work in
10 this state at a licensed nursing facility during the one-year
11 licensure period.

12 (c) The applicant shall obtain an application form from the
13 program, complete the form accurately, and, under penalty of
14 perjury, certify the experience, education, and criminal record
15 history information supplied in the application. The applicant shall
16 submit the application to the program, along with any supporting
17 documents to substantiate the application and the applicable
18 provisional, examination, and licensure fees.

19 (d) The provisional license may be granted to a reciprocity
20 applicant who complies with all of the following informational
21 requirements:

22 (1) Provides a statement of health consistent with an ability to
23 perform the duties of a nursing home administrator.

24 (2) Discloses the fact of and the circumstances surrounding any
25 of the following:

26 (A) Conviction of any criminal law violation of any country,
27 state, or municipality, except minor traffic violations. The
28 applicant shall submit appropriate criminal record information for
29 purposes of this subparagraph.

30 (B) Any discipline affecting nursing home administrator
31 licensure in any state.

32 (C) Any pending investigations or disciplinary actions
33 concerning, or surrender of, nursing home administrator licensure
34 in any state. The applicant shall submit an endorsement certificate
35 to verify state licensure and substantiate if he or she has no pending
36 investigation, disciplinary action, or surrender under this
37 subparagraph.

38 (3) Submits official transcripts as evidence of completed
39 college or university courses and degrees.

1 (4) Provides satisfactory evidence of current or recent
2 employment experience within the last five years as a licensed
3 nursing home administrator.

4 (5) Submits proof that the applicant is at least 18 years of age.

5 (e) The reciprocity applicant who holds a provisional license as
6 authorized by this section shall be required to pass the state
7 examination. If the provisional licensee, fails to pass the state
8 examination within the one-year provisional licensure period, the
9 provisional license shall expire and no further reciprocity
10 accommodations shall be allowed. The provisional license may
11 not be renewed or extended. At the expiration of the provisional
12 license the applicant may seek licensure in this state through
13 standard procedures.

14 1416.42. (a) Except for provisional licenses issued pursuant
15 to Section 1416.40, each license issued pursuant to this chapter
16 shall expire 24 months from the date of issuance.

17 (b) To renew an unexpired license the licensee shall, at least 30
18 days prior to the expiration of the license, submit an application for
19 renewal on a form provided by the program, accompanied by the
20 renewal fee. An applicant may request either an active license or
21 an inactive license. If an applicant requests an active license, he or
22 she shall submit proof of completion of the required hours of
23 program-approved continuing education.

24 (c) A delinquency fee is payable for license renewals not
25 received by the program one day after the license expires.

26 (d) A license which has expired may be reinstated within three
27 years following the date of expiration. The licensee shall apply for
28 reinstatement on a form provided by the program and submit the
29 completed form together with the current fee for license renewal.
30 If the licensee requests an active license, he or she shall furnish
31 proof of completion of the required hours of continuing education.
32 The reinstatement shall be effective on the date that the completed
33 application, including required fees, is submitted and approved.

34 1416.44. (a) Notwithstanding any other provision of law, a
35 licensee who permitted his or her license to expire while serving
36 in any branch of the armed services of the United States during a
37 period of war, as defined in subdivision (e), may, upon application,
38 reinstate his or her license without examination or penalty if the
39 following conditions are met:

1 (1) His or her license was valid at the time he or she entered the
2 armed services.

3 (2) The application for reinstatement is made while serving in
4 the armed services, not later than one year from the date of
5 discharge from active service or return to inactive military status,
6 or within three years following the license date of expiration
7 whichever is the most recent time period.

8 (3) The application for reinstatement is accompanied by an
9 affidavit showing the date of entrance into the service, whether still
10 in the service or date of discharge, and the renewal fee for the
11 current renewal period in which the application is filed is paid.

12 (4) The application for reinstatement indicates no criminal
13 convictions while absent from the profession.

14 (b) If application for reinstatement is filed more than one year
15 after discharge or return to inactive status, the applicant, in the
16 discretion of the licensing program, may be required to pass an
17 examination and pay additional fees.

18 (c) Unless otherwise specifically provided by law, any licensee
19 who, either part time or full time, practices in this state the nursing
20 home administrator profession shall be required to maintain his or
21 her license in good standing even though he or she is in military
22 service.

23 (d) For the purposes in this section, time spent by a licensee in
24 receiving treatment or hospitalization in any veterans' facility
25 during which he or she is prevented from practicing his or her
26 profession or vocation shall be excluded in determining the
27 periods specified in paragraph (2) of subdivision (a).

28 (e) As used in this section, "war" means any of the following
29 circumstances:

30 (1) Whenever Congress has declared war and peace has not
31 formally been restored.

32 (2) Whenever the United States is engaged in active military
33 operations against any foreign power, whether or not war has been
34 formally declared.

35 (3) Whenever the United States is assisting the United Nations,
36 in actions involving the use of armed force, to restore international
37 peace and security.

38 1416.45. A licensee may not engage in licensed activity while
39 his or her license is suspended or revoked, or after it has expired.

40 1416.46. (a) A revoked license may not be renewed.

(b) A licensee whose license has been revoked may petition the program for reinstatement after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The petitioner shall be afforded an opportunity to present either oral or written argument before the program. The program shall decide the petition and the decision shall include the reasons therefor, and any terms and conditions that the program reasonably deems appropriate to impose as a condition of reinstatement.

1416.48. A licensee who does not intend to engage in activity requiring nursing home administrator licensure may file a request to place his or her license in inactive status. An inactive license is subject to all requirements for renewal, including payment of fees, but completion of continuing education is not required to renew an inactive license. However, proof of completion of 40 continuing education credits during the last two years shall be submitted together with an application for reinstatement of an active license.

1416.50. (a) For purposes of this chapter, “continuing education” means any course of study offered by an educational institution, association, professional society, or organization for the purpose of providing continuing education for nursing home administrators.

(b) This section shall govern the continuing education requirements needed by a nursing home administrator to renew his or her nursing home administrator license.

(c) In order to renew a license, the applicant shall provide evidence satisfactory to the program that he or she has completed 40 hours of program-approved continuing education courses, of which at least 10 total hours shall be specifically in the area of aging or patient care.

(d) The continuing education courses to be approved for credit toward the continuing education requirements may include the following subject areas offered by accredited colleges, universities, community colleges, or a training entity approved by the department.

- (1) Resident care.
- (2) Personnel management.
- (3) Financial management.
- (4) Environmental management.
- (5) Regulatory management.

1 (6) Organizational management.

2 (7) Patient care and aging.

3 (e) No continuing education credit shall be allowed for courses
4 failed according to the institution's grading determination.

5 (f) If the program finds that programs of training and
6 instruction conducted within the state are not sufficient in number
7 or content to enable nursing home administrators to meet
8 requirements established by law and this chapter, the program may
9 approve courses conducted within and without this state as
10 sufficient to meet educational requirements established by law and
11 this chapter. For the purposes of this subdivision, the program shall
12 have the authority to receive funds in a manner consistent with the
13 requirements of the federal government.

14
15 Article 4. Training

16
17 1416.55. (a) An Administrator-in-Training Program (AIT
18 Program) shall be developed by the NHAP, in consultation with
19 representatives from the long-term care industry and advocacy
20 groups. The AIT Program shall include, but not be limited to, all
21 of the following areas of instruction:

22 (1) Orientation.

23 (2) Administration and business office.

24 (3) State and federal regulations governing long-term care
25 facilities.

26 (4) Residents' rights and abuse prevention.

27 (5) Staffing requirements and workforce retention.

28 (6) Nursing services.

29 (7) Resident activities.

30 (8) Resident care.

31 (9) Social services.

32 (10) Dietary management.

33 (11) Environmental care, including housekeeping, laundry,
34 and maintenance.

35 (12) Financial management.

36 (13) General management.

37 (14) Government regulations.

38 (15) Legal management.

39 (16) Personnel management and training.

40 (17) Consultants and contracts.

1 (18) Medical records.

2 (19) Public relations and marketing.

3 (b) A person who seeks to satisfy requirements for admission
4 to licensure examinations through participation in an AIT
5 Program shall first receive approval to begin the AIT Program. An
6 applicant shall successfully complete the AIT Program in a
7 program-approved facility under the coordination, supervision,
8 and teaching of a preceptor who has obtained certification from the
9 program and continues to meet the qualifications set forth in the
10 rules and regulations of the program.

11 (c) In order to be eligible for the AIT Program, an applicant
12 shall submit an application package on forms provided by the
13 NHAP, and pay the applicable fees established by this chapter. The
14 applicant shall be at least 18 years of age.

15 (d) In addition to the requirements in subdivision (c), the
16 applicant shall meet one or a combination of the following
17 requirements to be eligible for the AIT Program:

18 (1) A doctorate degree in medicine and a current valid license
19 as a physician and surgeon with at least 10 years of recent work
20 experience.

21 (2) A baccalaureate degree.

22 (3) Ten years of full-time work experience and a current valid
23 license as a registered nurse. At least the most recent five years of
24 the 10 years of work experience shall be in a supervisory or
25 director of nursing position.

26 (4) Ten years of full-time work experience in any department
27 of a skilled nursing facility, an intermediate care facility, or an
28 intermediate care facility/developmentally disabled with at least
29 60 semester units (or 90 quarter units) of college or university
30 courses. At least the most recent five years of the 10 years of work
31 experience shall be in a position as a department manager.

32 (5) Ten years of full-time hospital administration experience in
33 an acute care hospital with at least 60 semester units (or 90 quarter
34 units) of college or university courses. At least the most recent five
35 years of the 10 years of work experience shall be in a supervisory
36 position.

37 (e) The applicant shall submit an official transcript that
38 evidences the completion of required college or university
39 courses, degrees, or both. An applicant who qualifies for the AIT
40 Program on the basis of work experience shall submit a declaration

1 signed under penalty of perjury verifying his or her work
2 experience. This declaration shall be signed by a licensed nursing
3 home administrator, physician and surgeon, chief of staff, director
4 of nurses, or registered nurse who can attest to the applicant's work
5 experience.

6 1416.57. (a) An individual may, upon compliance with the
7 requirements of this section, be approved by the program to be a
8 preceptor who is authorized to provide a training program in which
9 the preceptor coordinates, supervises, and teaches persons seeking
10 to meet specified requirements to qualify for the licensing
11 examination under this chapter. The approval obtained under this
12 section shall be effective for a period of two years, after which the
13 preceptor is required to renew his or her preceptor status and attend
14 a preceptor training course provided by the program.

15 (b) In order to qualify to be a preceptor, a person shall meet all
16 of the following conditions:

17 (1) Be a current active California licensed nursing home
18 administrator.

19 (2) Have no pending disciplinary actions.

20 (3) Have served for at least two years as the designated
21 administrator of a California licensed nursing home or for at least
22 four years as the designated assistant administrator of a California
23 licensed nursing home.

24 (4) Have gained experience in all administrative functions of a
25 nursing home.

26 (c) The applicant seeking approval to be a preceptor shall
27 submit an application form provided by the program that requires
28 the applicant's name, address, birth date, the states and dates of
29 issuance of all professional licenses, including those as a nursing
30 home administrator, and any other information required by the
31 program.

32 (d) At the time of application, for purposes of substantiating
33 that the conditions specified in subdivision (b) have been met, the
34 applicant shall provide satisfactory evidence of his or her
35 education, experience, and knowledge that qualifies him or her to
36 supervise the training of an AIT Program participant and
37 verification that the facilities at which the applicant has had direct
38 management control as an administrator had a continuous
39 operating history, free from major deficiencies, during the period
40 of the applicant's administration.

(e) An applicant shall not be approved as a preceptor until the applicant attends a preceptor's training seminar provided or approved by the program.

(f) (1) For purposes of this section, "AIT" means Administrator-in-Training.

(2) The following requirements shall apply to a preceptor approved pursuant to this section:

(A) The preceptor shall provide a directly supervised training program that will include a minimum of 20 hours per week and a maximum of 60 hours per week and be available at least by telephone at all other times. There shall be regular personal contact between the preceptor and the AIT during the training program. For purposes of this subparagraph, "a directly supervised training program" means supervision by a preceptor of an AIT during the performance of duties authorized by this section. The preceptor shall be available during the AIT's performance of those duties.

(B) The preceptor shall be the designated administrator of the facility where the training is conducted.

(C) The preceptor may not supervise more than two AIT trainees during the same time period.

(D) The preceptor shall inform the NHAP of any significant training program changes dealing with his or her specific AIT.

(E) The preceptor shall rate the AIT's training performance and complete an AIT evaluation report at the end of the AIT's training.

(F) The preceptor shall be evaluated by the program based on the examination success and failure history of his or her AIT trainees and the program may revoke or suspend preceptor certificates as appropriate.

Article 5. Enforcement

1416.60. Each licensee shall, within 30 days, after each appointment as the designated administrator of a nursing home and after any termination of that appointment, notify the program. Each notification shall include the name of the administrator, the nursing home administrator number assigned, the name and address of the facility or facilities involved, and the date of the appointment or termination. All information provided pursuant to this section shall be public information.

1 1416.62. The program shall maintain a current list of nursing
2 home administrators who have been placed on probation or had
3 their licenses suspended or revoked within the last three years. The
4 program shall provide the current list of these administrators to
5 licensed nursing homes and the department district offices every
6 six months. The current list shall also be available to the general
7 public upon request.

8 1416.64. (a) The program shall maintain a record of
9 enforcement actions reported to the program, pursuant to Section
10 1416.12. The program shall routinely review the citation logs and
11 files of nursing home administrators whose facilities have
12 received citations from the department to determine if remedial or
13 disciplinary action against the administrator is warranted based on
14 the administrator's involvement or culpability in the citations.
15 Regardless of the facility's performance record, the program may
16 initiate disciplinary action against an administrator who violates
17 any statute or regulation governing licensed nursing home
18 administrators.

19 (b) Following receipt of reports on temporary suspension
20 orders, service of an accusation for facility license revocations, or
21 final decertification of a facility from participation in the Medi-Cal
22 or Medicare programs, due to failure to meet certification
23 standards, the program shall make a determination as to whether
24 the evidence available warrants remedial or disciplinary action
25 against the administrator or constitutes grounds for denial,
26 suspension, or revocation pursuant to Section 1416.76.

27 (c) If the program determines that action against the
28 administrator is not warranted, the program shall document in the
29 file the reasons and specific circumstances for not taking remedial
30 or disciplinary action against the administrator's license.

31 (d) The program shall consider all of the following prior to
32 making a determination to initiate disciplinary action:

33 (1) Any information provided to the program by the
34 administrator pursuant to this section.

35 (2) Whether the administrator was in fact the designated
36 administrator of the facility when the violation occurred, or the
37 designated administrator of the facility during the period of time
38 the citation covered.

39 (3) Whether the administrator should have or could have
40 prevented the violation or violations that occurred.

1 (e) Prior to making a final determination to initiate action
2 against an administrator, the program shall notify the
3 administrator that the program is considering action and provide
4 the administrator with an opportunity to show just cause why
5 remedial or disciplinary action should not be initiated.

6 (f) If the program determines that grounds for remedial or
7 disciplinary action exist, the program may initiate either or both
8 of the following actions, as warranted:

9 (1) Remedial action, including, but not limited to, a conference
10 with the administrator, a letter of warning, or both.

11 (2) Disciplinary action, including, but not limited to, citations,
12 fines, formal letters of reprimand, probation, denial, suspension,
13 revocation of the administrator's license, or any combination of
14 these actions.

15 1416.66. (a) The program shall develop and make available
16 a form that may be utilized at the nursing home administrator's
17 option to provide the program with relevant information,
18 documentation, and background on any actions reported to the
19 program pursuant Section 1416.12.

20 (b) Any reports received pursuant to Section 1416.12 shall
21 remain in the administrator's file for five years, unless the program
22 is notified that the action has been modified or overturned. Any
23 modification of an action shall be noted and documented in the
24 administrator's file.

25 1416.68. (a) It is the responsibility of the nursing home
26 administrator as the managing officer of the facility to plan,
27 organize, direct, and control the day-to-day functions of a facility
28 and to maintain the facility's compliance with applicable laws,
29 rules, and regulations.

30 (b) The administrator shall be vested with adequate authority
31 to comply with the laws, rules, and regulations relating to the
32 management of the facility.

33 (c) No licensee shall be cited for any violation caused by any
34 person licensed pursuant to the Medical Practice Act (Chapter 5
35 (commencing with Section 2000) of Division 2 of the Business and
36 Professions Code) if the person is independent of, and not
37 connected with, the facility and the licensee shows that he or she
38 has exercised reasonable care and diligence in notifying these
39 persons of their duties to the patients in the nursing facility.

(d) The delegation of any authority by a licensee shall not diminish the responsibilities of that licensee.

1416.69. (a) Within 24 hours after the nursing home administrator acquires actual knowledge or credible information that any of the events specified in subdivision (b) has occurred, the nursing home administrator shall notify the department's district office for licensing and certification of that knowledge or information. This notification may be in written form if it is provided by telephone facsimile or overnight mail, or by telephone with a written confirmation within five calendar days. The information provided pursuant to this subdivision may not be released to the public by the department unless its release is needed to justify an action taken by the department or it otherwise becomes a matter of public record. A violation of this section may result in a citation.

(b) All of the following occurrences shall require notification pursuant to this section as long as the administrator has actual knowledge of the occurrence:

(1) The licensee of a facility receives notice that a judgment lien has been levied against the facility or any of the assets of the facility or the licensee.

(2) A financial institution refuses to honor a check or other instrument issued by the licensee to its employees for a regular payroll.

(3) The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified by any applicable statute or regulation.

(4) The financial resources of the licensee fall below the amount needed to operate the facility for a period of at least 45 days based on the current occupancy of the facility.

(5) The licensee fails to make timely payment of any premiums required to maintain required insurance policies or bonds in effect, or any tax lien levied by any government agency.

1416.70. (a) The program shall establish a system for the issuance of citations to licensees, examinees, or participants of any program activity offered or approved by the program. The citations may contain an order of abatement, an order to pay an administrative fine assessed by the program chief, or both, where the licensee, examinee, or participant is in violation of any state or

1 federal statute or regulation governing licensed nursing home
2 administrators.

3 (b) The system shall contain all of the following provisions:

4 (1) Citations shall be in writing and shall describe with
5 particularity the nature of the violation, including specific
6 reference to the provision of law determined to have been violated.

7 (2) Where appropriate, the citation shall contain an order of
8 abatement fixing reasonable time for abatement of the violation.

9 (3) (A) Administrative fines assessed by the program shall be
10 separate from and shall not preclude the levying of any other fines
11 or any civil or criminal penalty.

12 (B) In no event shall the administrative fine assessed by the
13 program be less than fifty dollars (\$50) or exceed two thousand
14 five hundred dollars (\$2,500) for each violation. The total
15 assessment shall not exceed ten thousand dollars (\$10,000) for
16 each investigation or for counts involving fraudulent billings
17 submitted to insurance companies, Medi-Cal, or Medicare
18 programs.

19 (4) In assessing a fine, the program shall give due consideration
20 to the appropriateness of the amount of the fine with respect to
21 factors such as the gravity of the violation, the good faith effort of
22 the licensee, examinee, or participant, the unprofessional conduct,
23 including, but not limited to, incompetence and negligence in the
24 performance of the duties and responsibilities of an administrator,
25 the extent to which the cited person has mitigated or attempted to
26 mitigate any damage or injury caused by his or her violation,
27 whether the violation was related to patient care, the history of any
28 previous violations, and other matters as may be appropriate.

29 (5) A citation or fine assessment issued pursuant to a citation
30 shall inform the licensee, examinee, or participant, that if he or she
31 desires a hearing to contest the finding of a violation, the hearing
32 shall be requested by written notice to the program within 30 days
33 after the date of issuance of the citation or assessment. A licensee
34 may, in lieu of contesting a citation pursuant to this section,
35 transmit to the state department 75 percent of the amount specified
36 in the citation for each violation within 15 business days after the
37 issuance of the citation.

38 (6) Failure of a licensee, examinee, or participant to pay a fine
39 within 30 days of the date of the assessment, unless the citation is
40 being appealed, may result in further disciplinary action being

1 taken by the program. Where a citation is not contested and a fine
2 is not paid, the full amount of the assessed fine, along with any
3 accrued penalty interest, shall be added to the fee for renewal of
4 the license. A license shall not be renewed without payment of the
5 renewal fee, fine, and accrued interest penalty. A citation may be
6 issued without the assessment of an administrative fine.

7 (c) Assessment of administrative fines may be limited to only
8 particular violations of the applicable licensing act.
9 Notwithstanding any other provisions of law, where a fine is paid
10 to satisfy an assessment based on the finding of a violation,
11 payment of the fine shall be represented as satisfactory resolution
12 of the matter for purposes of public disclosures. Administrative
13 fines collected pursuant to this section shall be deposited in the
14 Nursing Home Administrator's State License Examining Fund.

15 1416.72. (a) The program may issue a citation to any person
16 who holds a license from the program and who violates any statute
17 or regulation governing licensed nursing home administrators.

18 (b) Any licensee served with a citation may contest the citation
19 by appeal to the program within 30 days of service of the citation.
20 Appeals shall be conducted pursuant to Section 100171.

21 (c) In addition to requesting a hearing before an administrative
22 law judge, the licensee may, within 10 days after service of the
23 citation, notify the department in writing of his or her request for
24 an informal conference with the department regarding the
25 violations cited in the citation. At the time of requesting an
26 informal conference, the licensee shall inform the department
27 whether he or she shall be represented at the informal conference
28 by legal counsel. Failure to notify the department of legal
29 representation shall not result in forfeiture of the right to have legal
30 counsel present. Unless the request for an informal hearing is made
31 within the 10-day period, the licensee's right to an informal
32 hearing is deemed waived.

33 (d) The department shall hold an informal conference with the
34 licensee and, if applicable, his or her legal counsel or authorized
35 representatives. At the conclusion of the informal conference the
36 department may affirm, modify, or dismiss the citation, including
37 any administrative fine levied, or order of abatement issued.

38 (e) The licensee does not waive his or her request for a hearing
39 to contest a citation by requesting an informal conference. If the
40 citation is dismissed after the informal conference, the request for

1 a hearing on the matter of the citation shall be deemed to be
2 withdrawn. If the citation, including any administrative fine levied
3 or order of abatement, is modified or affirmed, the citation shall
4 be upheld and the licensee shall, within 15 working days from the
5 date the citation review conference decision was rendered, notify
6 the director or the director's designee that he or she wishes to
7 appeal the decision through the procedures set forth in Section
8 100171.

9 1416.74. (a) The time allowed for abatement of violation
10 shall begin the first day after the order of abatement has been
11 served or received. If a licensee who has been issued an order of
12 abatement is unable to complete the correction within the time set
13 forth in the citation because of conditions beyond his or her control
14 after the exercise of reasonable diligence, the licensee may request
15 from the program an extension of time in which to complete the
16 correction. The request shall be in writing and made within the
17 time set for abatement.

18 (b) An order of abatement shall either be personally served
19 upon the licensee or mailed by certified mail, return receipt
20 requested.

21 (c) When an order of abatement is not contested, or if the order
22 is appealed and the licensee does not prevail, failure to abate the
23 violation cited within the time specified in the citation shall
24 constitute a violation and failure to comply with the order of
25 abatement. Where a licensee has failed to correct a violation within
26 the time specified in the citation the department shall assess the
27 licensee a civil penalty in the amount of fifty dollars (\$50) for each
28 day that the violation continues beyond the date specified in the
29 citation. If the licensee disputes a determination by the department
30 regarding alleged failure to correct a violation or regarding the
31 reasonableness of the proposed deadline for correction, the
32 licensee may request an informal conference to contest the
33 determination.

34 (d) Any unpaid administrative fine shall begin accruing a
35 7-percent interest penalty on the unpaid balance due. This interest
36 shall continue to accrue until the administrative fine and interest
37 are paid in full.

38 1416.75. The program may deny, or may suspend or revoke,
39 a license upon any of the following grounds:

40 (a) Gross negligence.

1 (b) Incompetence.

2 (c) The conviction of any crime involving dishonesty or which
3 is substantially related to the qualifications, functions, or duties of
4 a nursing home administrator. A conviction following a plea of
5 nolo contendere is deemed to be a conviction within the meaning
6 of this section.

7 (d) Using fraud or deception in applying for a license or in
8 taking the examination provided for in this chapter.

9 (e) Treating or attempting to treat any physical or mental
10 condition without being currently licensed to do so.

11 (f) Violating Section 650 of the Business and Professions Code,
12 any provision of this chapter, or any rule or regulation of the
13 program adopted pursuant to this chapter.

14 (g) Lack of any qualification requirement for the license.

15 (h) Failure to report under Section 1416.60 to the program,
16 without just cause.

17 1416.76. (a) The program may deny a nursing home
18 administrator applicant or licensee, a license, based on one of the
19 following grounds:

20 (1) Conviction of a crime. A conviction within the meaning of
21 this section means a plea or verdict of guilty or a conviction
22 following a plea of nolo contendere. The program may take action
23 following the establishment of a conviction after the time for
24 appeal has elapsed, or the judgment of conviction has been
25 affirmed on appeal, or when an order granting probation is made
26 suspending the imposition of sentence, irrespective of a
27 subsequent order under Section 1203.4 of the Penal Code.

28 (2) Commits any act involving dishonesty, fraud, or deceit with
29 the intent to substantially benefit himself or herself or another, or
30 substantially injure another.

31 (3) Commits any act which, if done by a licensee, would be
32 grounds for suspension or revocation of license. The program may
33 deny a license pursuant to this subdivision only if the crime or act
34 is substantially related to the qualifications, functions, or duties of
35 a nursing home administrator.

36 (b) Notwithstanding any other provision of this chapter, no
37 person shall be denied a license solely on the basis that he or she
38 has been convicted of a felony if he or she has obtained a certificate
39 of rehabilitation under Section 4852.01 of the Penal Code, or that
40 he or she has been convicted of a misdemeanor and has met all

1 applicable requirements of the criteria of rehabilitation developed
2 by the program pursuant to subdivision (f).

3 (c) The program may deny a nursing home administrator
4 license on the ground that the applicant knowingly made a false
5 statement of fact required to be revealed in the application for the
6 license.

7 (d) The program may suspend or revoke a license on the ground
8 that the applicant or licensee has been convicted of a crime, as
9 defined in paragraph (1) of subdivision (a), if the crime is
10 substantially related to the qualifications, functions, or duties of a
11 nursing home administrator.

12 (e) The program shall develop criteria to use to determine
13 whether a crime or act is substantially related to the qualifications,
14 functions, or duties of a nursing home administrator, and shall use
15 the criteria when considering the denial, suspension, or revocation
16 of a license.

17 (f) The program shall develop criteria to be used by the ~~board~~
18 *program* to evaluate the rehabilitation of a person when
19 considering the denial, suspension, or revocation of a license under
20 this section.

21 (g) The program shall take into account all competent evidence
22 of rehabilitation furnished by the applicant or licensee pursuant to
23 the evaluation process set forth in subdivision (f).

24 1416.77. The program may deny, or may suspend or revoke,
25 a nursing home administrator license or participation in specific
26 training program areas under this chapter upon any of the
27 ~~following grounds:~~

28 ~~(a) Misappropriation of funds or property of following~~
29 ~~grounds:~~

30 ~~(a) Misappropriation of funds or property of~~ the facility, the
31 patients, or of others.

32 (b) Using fraud, deception, or misrepresentation in applying
33 for the AIT Program, the examination for licensure, or any other
34 program functions provided for in this chapter.

35 (c) Procuring a nursing home license by fraud, deception, or
36 misrepresentation.

37 (d) Impersonating any applicant or acting as a proxy for an
38 applicant in an examination.

39 (e) Impersonating any licensed nursing home administrator.

- 1 (f) Treating or attempting to treat any physical or mental
2 condition without having a valid license to do so.
- 3 (g) Violating Section 650 of the Business and Professions
4 Code, any provisions of this chapter, or any rule or regulation of
5 the program adopted pursuant to this chapter.
- 6 (h) Lack of any qualification requirement for a license,
7 participation in the AIT Program or preceptor program.
- 8 (i) A pattern of failure to report changes under Section 1416.60
9 to the program without just cause.
- 10 (j) Failure to comply with this chapter or the laws, rules, and
11 regulations relating to health facilities.
- 12 (k) The commission of any dishonest, corrupt, or fraudulent act
13 or any act of physical or mental, including sexual, abuse of any
14 person in connection with the administration of, or any patient in,
15 a nursing home.
- 16 (l) Violation by the licensee of any of the provisions of this
17 chapter or of the rules and regulations promulgated under this
18 chapter.
- 19 (m) Aiding, abetting, or conspiring with another person to
20 violate provisions of this chapter or of the rules and regulations
21 promulgated under this chapter.
- 22 (n) Violation of the examination security agreement.
- 23 1416.78. (a) The program may place a nursing home
24 administrator license on probation in lieu of formal action to
25 suspend or revoke the license if the department determines that
26 probation is the appropriate action. Upon successful completion of
27 the probation period, the license shall be restored to regular status.
- 28 (b) The probationary license shall be based upon an agreement
29 entered into between the licensee and the program that specifies
30 terms and conditions of licensure during the probationary period.
31 The terms and conditions shall be related to matters, including, but
32 not limited to, work performance, rehabilitation, training,
33 counseling, progress reports, and treatment programs.
- 34 (c) The term of the probationary license shall not exceed two
35 years. If the licensee successfully completes the term of probation,
36 as determined by the department, no further action shall be taken
37 upon the allegations that were the basis for the probationary
38 license. If the licensee fails to comply with the terms and
39 conditions of the probationary license agreement, the department
40 may proceed with a formal action to suspend or revoke the license.

1416.80. Upon the determination to deny application for licensure for grounds specified in Section 1416.77, the program shall immediately notify the applicant in writing by certified mail. A petition for an administrative hearing must be received by the program within 20 business days of receipt of notification. Upon receipt, the department shall set the matter for administrative hearing, pursuant to procedures specified in Section 100171.

1416.82. (a) Proceedings to suspend or revoke licensure for grounds specified in Section 1416.77 shall be conducted in accordance with Section 100171. In the event of conflict between this chapter and Section 100171, Section 100171 shall prevail.

(b) (1) The program may temporarily suspend any license prior to any hearing if the action is necessary to protect the public welfare. The program shall notify the licensee of the temporary suspension and the effective date. Upon receipt of a notice of defense by the licensee, the department shall set the matter within 15 days. The administrative hearing conducted in accordance with Section 100171 shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits of the action within 60 days after the original hearing has been completed. If the provisions of this chapter or the rules or regulations promulgated by the director are violated by a licensee, the director may suspend the license for the violation.

(2) If the program determines that the temporary suspension shall become an actual suspension, the department shall specify the period of the suspension, not to exceed two years. The program may determine that the suspension shall be stayed, and place the licensee on probation for a period that shall not exceed two years.

(c) The program may suspend or revoke a license prior to any hearing when immediate action is necessary in the judgment of the director to protect the public welfare. Proceedings for immediate revocation shall be conducted in accordance with Section 100171. The department shall set the matter for hearing within 15 days and hold the administrative hearing as soon as possible but not later than 30 calendar days from receipt of the request for a hearing. A written hearing decision upholding or setting aside the action shall

1 be sent by certified mail to the licenseholder within 30 calendar
2 days of the hearing.

3 1416.84. Whenever any person has engaged, or is about to
4 engage, in any acts or practices that constitute, or will constitute,
5 a violation of this chapter, the superior court in and for the county
6 in which those acts or practices take place, or are about to take
7 place, may issue an injunction or other appropriate order,
8 restraining the conduct, on application of the program, to the
9 Attorney General, or the district attorney.

10 1416.86. If any provision of this chapter, or the application
11 thereof to any person or circumstance, is held invalid, that
12 invalidity shall not affect other provisions or applications of this
13 chapter that can be given effect without the invalid provision or
14 application, and to this end the provisions of this chapter are
15 declared to be severable.

16 SEC. 6. Section 1429.5 of the Health and Safety Code is
17 repealed.

18 SEC. 7. Section 1.5 of this bill incorporates amendments to
19 Section 101 of the Business and Professions Code proposed by this
20 bill and SB 26. It shall only become operative if (1) both bills are
21 enacted and become effective on or before January 1, 2002, (2)
22 each bill amends Section 101 of the Business and Professions
23 Code, and (3) this bill is enacted after SB 26, in which case Section
24 101 of the Business and Professions Code, as amended by SB 26,
25 shall remain operative only until the operative date of this bill, at
26 which time Section 1.5 of this bill shall become operative, and
27 Section 1 of this bill shall not become operative.

28 SEC. 8. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

