

Introduced by Committee on Business and Professions (Senators Figueroa (Chair), Machado, Morrow, Murray, O'Connell, and Polanco)

February 23, 2001

~~An act to amend Sections 802, 803, 803.2, 1646.9, 1647.12, 1716.1, 1743, 1744, 2065, 2066, 2072, 2073, 2079, 2102, 2221, 2245, 2531, 4008, 4033, 4057, 4110, 4115, 4161, 4305.5, 4331, 4400, 4980.38, 4980.40, 4980.44, 4980.50, 4986.21, 4986.47, 4992.1, 4992.3, 4996.2, 4996.18, and 4996.21 of, to amend and repeal Section 1646.7 of, to add Sections 1621 and 4996.23 to, to repeal Article 1.5 (commencing with Section 1621) of Chapter 4 of Division 2 of, to repeal Sections 2088 and 4992.6 of, and to repeal and add Sections 2878.7 and 4524 of, the Business and Professions Code, relating to the healing arts, and making~~
An act to amend Sections 125.3, 125.9, 650, 802, 803, 803.2, 1646.9, 1647.12, 1716.1, 1743, 1744, 2065, 2066, 2072, 2073, 2079, 2102, 2245, 2499.5, 2531, 2532.6, 2903, 2914, 4008, 4033, 4053, 4110, 4115, 4160, 4161, 4196, 4200.5, 4301, 4305.5, 4331, 4400, 4980.40, 4980.44, 4980.50, 4986.20, 4986.21, 4986.47, 4992.1, 4992.3, 4996.2, 4996.18, 4996.21, 4999.2, 4999.7, 7006, 7026, 7027.3, 7028.7, 7028.13, 7059.1, 7071.11, 7074, 7091, 7112, 7153, 17910.5, 17913, 17917, 17923, 22355, and 22453.1 of, to amend and repeal Section 1646.7 of, to add Sections 1621, 4052.7, 4996.23, 5536.26, and 7112.1 to, to repeal Sections 2088 and 4992.6 of, to repeal Article 1.5 (commencing with Section 1621) of Chapter 4 of Division 2 of, and to repeal and add Sections 2878.7 and 4524 of, the Business and Professions Code, and to amend Sections 109948.1, 111656, and

111656.2 of the Health and Safety Code, relating to businesses, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 724, as amended, Committee on Business and Professions. ~~Healing arts~~ *Businesses*.

(1) Existing law requires that specified information relating to claims against a physician and surgeon for acts of professional negligence or for the unauthorized rendering of professional services be reported to the Medical Board of California.

This bill would require these reports to include the name and license number of the physician and surgeon against whom the claim was made.

(2) Existing law, the Dental Practice Act, establishes an examining committee within the Dental Board of California and makes it responsible, among other matters, for assisting the board in the examination of applicants for licensure by the board.

This bill would delete these provisions and would require the board to use persons who are licensed under the act and who meet other specified criteria in the administration of its licensure examination.

(3) Existing law provides, generally, for the licensure of chiropractors and other health care practitioners.

This bill would extend to chiropractors provisions applicable to other health care practitioners authorizing a regulatory board to request an administrative law judge who finds a licentiate found to have violated the licensing act to pay a sum not to exceed the costs of investigation and enforcement of the case; and would extend to chiropractors provisions making it a misdemeanor to offer or accept a rebate, commission, discount, or other consideration for the referral of patients thereby imposing a state-mandated local program by expanding the definition of a crime. The bill would also extend to chiropractors and certain other health care practitioners provisions authorizing the establishment, by regulation, of a system for the issuance of citations to licentiates containing an order of abatement or payment of an administrative fine.

(4) The Dental Practice Act and the Medical Practice Act include certain provisions operative until January 1, 2002, relating to the administration of general anesthesia by a physician and surgeon to patients in the office of a dentist licensed by the board.



This bill would extend the inoperative date with respect to these provisions to January 1, 2006.

(5) The Medical Practice Act prohibits a physician and surgeon from practicing without a certificate issued by the Medical Board of California and establishes criteria for the issuance of this certificate, including evidence of the completion of specified preprofessional education courses. The act exempts, under specified conditions, a graduate of an approved medical school and a graduate of a foreign medical school from this certificate requirement while participating in postgraduate training.

This bill would delete the postsecondary education criteria as a requirement for issuance of a certificate and would terminate the exemption afforded a graduate during postgraduate training if his or her application for a certificate is denied by the board's Division of Licensing.

(6) Existing law which provides for biennial renewal fees for certificates to practice podiatric medicine, expires January 1, 2002.

This bill would extend that expiration date to January 1, 2004.

(7) Existing law specifies the requirements for an application for licensure as a psychologist, practice of which without a license is a misdemeanor.

This bill would revise the definition of psychology for these purposes to delete the requirement that services be provided for a fee, thereby imposing a state-mandated local program by expanding the definition of a crime.

(8) Existing law specifies the course requirements for continuing education of speech-language pathologists and audiologists.

This bill would revise those course requirements.

(9) Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, creates, until July 1, 2002, the Speech-Language Pathology and Audiology Board.

This bill would extend this board to July 1, 2004.

(10) Existing law provides for the licensure of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California and authorizes the board to reinstate, under specified conditions, a license that it has suspended or revoked.

This bill would specify the time when a petition for reinstatement is required to be filed and would provide certain processes for the conduct of these proceedings.



(11) *The Pharmacy Law provides for the regulation and licensing of pharmacists and various other persons and entities by the California State Board of Pharmacy and makes it a misdemeanor for a wholesaler or any other person to permit the dispensing of prescriptions except by a pharmacist or exemptee.*

This bill would authorize a pharmacy to repackage, at the patient's request, a drug that was previously dispensed to the patient and would revise, for purposes of the Pharmacy Law, the definition of "manufacturer," and the board's authority to issue a temporary permit to conduct a pharmacy. This bill would also provide that it is a misdemeanor for a wholesaler or any other person to permit the furnishing of dangerous drugs or dangerous devices except by a pharmacist or exemptee. In that regard, the bill would change the definition of a crime, thereby imposing a state-mandated local program. The bill would also make other clarifying changes.

(12) *Existing law makes it a misdemeanor for any person other than a pharmacist to compound or dispense any dangerous drug or device, or to compound or dispense a prescription, with certain exceptions.*

This bill would revise the latter exemption with respect to veterinary food-animal drugs, would limit the insurance or renewal of licenses for veterinary food-animal drug retailers and wholesalers of dangerous drugs or devices, would revise provisions for the issuance of a retired license to a pharmacist, and would expand the investigative authority of the California State Board of Pharmacy regarding unprofessional conduct. The bill would impose a state-mandated local program by expanding the definition of a crime. The bill would also incorporate changes to Section 4115 of the Business and Professions Code proposed by AB 536 contingent upon its prior enactment.

(13) *Existing law requires persons engaged in the practice of marriage, family, and child counseling to be licensed by the Board of Behavioral Sciences. Under existing law, an applicant for this licensure is required to achieve a passing score on an examination and to possess a doctoral or master's degree in one of several designated subjects, including social work. Existing law requires an intern, defined as a person who has earned a master's or doctoral degree but is not yet licensed, to register with the board and renew this registration annually. Under existing law, the board is authorized to assess various fees in connection with its licensure activities that are deposited into the Behavioral Sciences Fund, which is continuously appropriated.*



This bill would delete social work from the type of degrees that satisfy this particular educational requirement for licensure and would limit eligibility for oral examination. The bill would also require an intern to pay a fee of \$75 upon his or her registration renewal. Because the bill would increase the amount of revenue paid into a continuously appropriated fund, it would make an appropriation.

(14) Existing law provides for the renewal of registration as an unlicensed marriage, family, and child counselor.

This bill would revise the requirements for renewal of registration, including the payment of a renewal fee; and would prohibit renewal or reinstatement after 6 years from initial issuance.

(15) Existing law precludes licensure as a licensed educational psychologist for persons convicted or registered for specified sex crimes.

This bill would revise that limitation, and further limit eligibility for licensure based upon oral examination.

(16) Existing law provides for the licensure and registration by the Board of Behavioral Sciences of persons engaged in the practice of clinical social work. Under existing law, an applicant for this license is required to meet specified professional experience and educational requirements and to achieve a passing score on a professional licensure examination. Existing law also authorizes the board to take disciplinary action against a licensee for unprofessional conduct and makes the violation of any provision regulating the licensure or practice of a clinical social worker a crime.

This bill would limit eligibility for oral examination and would require an applicant for licensure to furnish evidence that he or she has completed training or coursework in the subjects of human sexuality and child abuse assessment and reporting. The bill would also specify the professional experience requirements for licensure with respect to persons registered with the board on and after January 1, 2002. The bill would additionally make sexual relations between the licensee and a former client, unprofessional conduct, subject to disciplinary action by the board and would prohibit the board from issuing a license to an applicant subject to criminal registration laws. Because the bill would specify additional acts as unprofessional conduct, the commission of which would be a criminal offense, it would expand the scope of an existing crime, thereby imposing a state-mandated local program.

(17) Existing law, the Architects Practice Act, provides that architects may plan the sites and designs of buildings and structures,



and that professional services include the compliance with applicable codes and regulations, the governmental review process and contract administration.

This bill would provide that the use of the words “certify” or “certification” by a licensed architect would constitute a professional opinion regarding the facts that are the subject of the certification and would not be considered a warranty or guarantee.

(18) Existing law, the Contractors’ State License Law, authorizes the Contractors’ State License Board to conduct all functions and duties relating to the licensing, regulation, and discipline of licensees and makes certain acts a crime, including using an incorrect contractor’s license number with the intent to defraud. The registrar is the executive officer who carries out the board’s administrative duties and tasks delegated by the board and is authorized to issue a citation for a violation of specified provisions that may result in the assessment of a civil penalty. Existing law specifies when the board will conduct its meetings, what activities contractors may perform, what criminal penalties exist when a licensed or unlicensed person intentionally uses a contractor’s license number that does not belong to him or her. Existing law provides how much time the registrar has to collect civil penalties from nonlicensee citations, provides licensing requirements for fictitious name usage, provides timeframes for filing claims against a licensee’s cash deposit, sets requirements regarding the licensing examination process, and addresses misrepresentation and fraud concerning license application and renewal. Existing law requires that these civil penalties and other fees that are collected be deposited in the Contractors’ License Fund which is continuously appropriated for purposes of the Contractors’ State License Law.

This bill would authorize the board to meet once each quarter, allow contractors to deal with underground storage tanks, allow the registrar to issue citations to unlicensed individuals and unregistered salespersons the registrar believes violated the Contractors’ State License Law and to persons who use an incorrect contractor’s license number to defraud others, and would also authorize the registrar to use collection agencies to collect civil penalties. The civil penalties assessed and collected pursuant to this bill would be deposited in the Contractor’s License Fund which is continuously appropriated. Therefore, the bill would make an appropriation.

This bill would also provide that a licensee could only conduct business under one name per license, extend the time in which a claim



could be made against a licensee's cash deposit to 3 years after the expiration of the license, revise the licensing examination procedures, and expand the grounds for disciplinary action during the license application and renewal process concerning misrepresentations or omissions made on the application or renewal form.

(19) Existing law does not allow the use of a fictitious business name that includes the words or abbreviations "Company," "Limited," "Co.," or "Ltd." if a business is not a limited liability company.

This bill would allow the use of a fictitious business name that includes the words or abbreviations "Company," "Limited," "Co.," or "Ltd." if that use does not imply that the business is a limited liability company.

Existing law requires that a fictitious business name statement contain the name or names of the person or persons doing business, the name of the business, and when the business began operating under the fictitious name. The form must be signed by the applicant or applicants and filed with the county clerk where the business is located.

This bill would require the applicant or applicants to declare that the information in the fictitious business name statement is true and correct. Since the filing of a false statement would constitute a crime, the bill would impose a state-mandated local program.

Existing law requires the publication of a refiled fictitious business name statement when the prior statement has expired unless there are no changes in the information in the statement.

This bill would provide that the exception from republication of a fictitious business name statement applies only if the statement is refiled within 40 days of the expiration date of the previous statement. This bill would also eliminate an exception from publication of a statement of withdrawal from a partnership operating under a fictitious business name.

(20) Existing law requires that county clerks issue permanent identification cards with a photograph to each process server and register professional photocopiers.

This bill would require each county clerk to issue temporary identification cards, valid for 120 days, to applicants while waiting for background checks from the Federal Bureau of Investigation and the Department of Justice. By requiring county clerks to issue temporary identification cards, this bill would impose a state-mandated local program. This bill would correct an erroneous section reference in a provision regulating the fee payable in connection with the filing of an



application with a county clerk for registration as a professional photocopier.

(21) Existing law regulates the retail sale of home medical devices.

This bill would revise the definition of home medical devices, the retail sale of which requires licensure by the State Department of Health Services, would revise the application of licensure for warehouses owned by retail facilities, would expand the list of home medical devices that may be sold by pharmacies and pharmacists, and would revise the requirements applicable to the storage of home medical devices by retail facilities.

(22) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(1) Existing law requires that specified information relating to claims against a physician and surgeon for acts of professional negligence or for the unauthorized rendering of professional services be reported to the Medical Board of California.~~

~~This bill would require these reports to include the name and license number of the physician and surgeon against whom the claim was made.~~

~~(2) Existing law, the Dental Practice Act, establishes an examining committee within the Dental Board of California and makes it responsible, among other matters, for assisting the board in the examination of applicants for licensure by the board.~~

~~This bill would delete these provisions and would require the board to use persons who are licensed under the act and who meet other specified criteria in the administration of its licensure examination.~~

~~(3) The Dental Practice Act and the Medical Practice Act include certain provisions operative until January 1, 2002, relating to the administration of general anesthesia by a physician and surgeon to patients in the office of a dentist licensed by the board.~~



~~This bill would delete the inoperative date with respect to these provisions, thereby extending their operation.~~

~~(4) The Medical Practice Act prohibits a physician and surgeon from practicing without a certificate issued by the Medical Board of California and establishes criteria for the issuance of this certificate, including evidence of the completion of specified preprofessional education courses. The act exempts, under specified conditions, a graduate of an approved medical school and a graduate of a foreign medical school from this certificate requirement while participating in postgraduate training.~~

~~This bill would delete the postsecondary education criteria as a requirement for issuance of a certificate and would terminate the exemption afforded a graduate during postgraduate training if his or her application for a certificate is denied by the board's Division of Licensing. The bill would also authorize the division to require an applicant for a certificate to take a professional competency examination or be examined by a healing arts practitioner.~~

~~(5) Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, creates, until July 1, 2002, the Speech-Language Pathology and Audiology Board.~~

~~This bill would extend the operation of this board to July 1, 2004.~~

~~(6) Existing law provides for the licensure of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California and authorizes the board to reinstate, under specified conditions, a license that it has suspended or revoked.~~

~~This bill would specify the time when a petition for reinstatement is required to be filed and would provide certain processes for the conduct of these proceedings.~~

~~(7) The Pharmacy Law provides for the regulation and licensing of pharmacists and various other persons and entities by the California State Board of Pharmacy and makes it a misdemeanor for a wholesaler or any other person to permit the dispensing of prescriptions except by a pharmacist or exemptee.~~

~~This bill would revise, for purposes of the Pharmacy Law, the definition of "manufacturer," would authorize the board to establish a list of dangerous devices that may only be maintained, dispensed, sold, or furnished by a pharmacist in a pharmacy, and would revise the board's authority to issue a temporary permit to conduct a pharmacy. This bill would also provide that it is a misdemeanor for a wholesaler~~



~~or any other person to permit the furnishing of dangerous drugs or dangerous devices except by a pharmacist or exemptee. In that regard, the bill would change the definition of a crime, thereby imposing a state mandated local program. The bill would also make other clarifying changes.~~

~~(8) Existing law requires persons engaged in the practice of marriage, family, and child counseling to be licensed by the Board of Behavioral Sciences. Under existing law, an applicant for this licensure is required to achieve a passing score on an examination and to possess a doctoral or master's degree in one of several designated subjects, including social work. Existing law requires an intern, defined as a person who has earned a master's or doctoral degree but is not yet licensed, to register with the board and renew this registration annually. Under existing law, the board is authorized to assess various fees in connection with its licensure activities that are deposited into the Behavioral Sciences Fund, which is continuously appropriated.~~

~~This bill would delete social work from the type of degrees that satisfy this particular educational requirement for licensure and would specify that a passing score on the licensure examination is valid for a period of 7 years after its administration. The bill would also require an intern to pay a fee of \$75 upon his or her registration renewal. Because the bill would increase the amount of revenue paid into a continuously appropriated fund, it would make an appropriation.~~

~~(9) Existing law provides for the licensure and registration by the Board of Behavioral Sciences of persons engaged in the practice of clinical social work. Under existing law, an applicant for this license is required to meet specified professional experience and educational requirements and to achieve a passing score on a professional licensure examination. Existing law also authorizes the board to take disciplinary action against a licensee for unprofessional conduct and makes the violation of any provision regulating the licensure or practice of a clinical social worker a crime.~~

~~This bill would specify that a passing grade on this licensure examination is valid for a period of 7 years after its administration and would require an applicant for licensure to furnish evidence that he or she has completed training or coursework in the subjects of human sexuality and child abuse assessment and reporting. The bill would also specify the professional experience requirements for licensure with respect to persons registered with the board on and after January 1, 2002. The bill would additionally make sexual relations between the~~



~~licensee and a former client, unprofessional conduct, subject to disciplinary action by the board and would prohibit the board from issuing a license to an applicant subject to criminal registration laws. Because the bill would specify additional acts as unprofessional conduct, the commission of which would be a criminal offense, it would expand the scope of an existing crime, thereby imposing a state-mandated local program.~~

~~(10) 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 125.3 of the Business and Professions*
2 *Code is amended to read:*

3 125.3. (a) Except as otherwise provided by law, in any order
4 issued in resolution of a disciplinary proceeding before any board
5 within the department or before the Osteopathic Medical Board *or*
6 *the board created by the Chiropractic Initiative Act*, the board may
7 request the administrative law judge to direct a licentiate found to
8 have committed a violation or violations of the licensing act to pay
9 a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 (b) In the case of a disciplined licentiate that is a corporation or
12 a partnership, the order may be made against the licensed corporate
13 entity or licensed partnership.

14 (c) A certified copy of the actual costs, or a good faith estimate
15 of costs where actual costs are not available, signed by the entity
16 bringing the proceeding or its designated representative shall be
17 prima facie evidence of reasonable costs of investigation and
18 prosecution of the case. The costs shall include the amount of
19 investigative and enforcement costs up to the date of the hearing,
20 including, but not limited to, charges imposed by the Attorney
21 General.



1 (d) The administrative law judge shall make a proposed finding
2 of the amount of reasonable costs of investigation and prosecution
3 of the case when requested pursuant to subdivision (a). The finding
4 of the administrative law judge with regard to costs shall not be
5 reviewable by the board to increase the cost award. The board may
6 reduce or eliminate the cost award, or remand to the administrative
7 law judge where the proposed decision fails to make a finding on
8 costs requested pursuant to subdivision (a).

9 (e) Where an order for recovery of costs is made and timely
10 payment is not made as directed in the board's decision, the board
11 may enforce the order for repayment in any appropriate court. This
12 right of enforcement shall be in addition to any other rights the
13 board may have as to any licentiate to pay costs.

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

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

20 (2) Notwithstanding paragraph (1), the board may, in its
21 discretion, conditionally renew or reinstate for a maximum of one
22 year the license of any licentiate who demonstrates financial
23 hardship and who enters into a formal agreement with the board
24 to reimburse the board within that one-year period for the unpaid
25 costs.

26 (h) All costs recovered under this section shall be considered a
27 reimbursement for costs incurred and shall be deposited in the fund
28 of the board recovering the costs to be available upon
29 appropriation by the Legislature.

30 (i) Nothing in this section shall preclude a board from including
31 the recovery of the costs of investigation and enforcement of a case
32 in any stipulated settlement.

33 (j) This section does not apply to any board if a specific
34 statutory provision in that board's licensing act provides for
35 recovery of costs in an administrative disciplinary proceeding.

36 *SEC. 1.2. Section 125.9 of the Business and Professions Code*
37 *is amended to read:*

38 125.9. (a) Except with respect to persons regulated under
39 ~~Chapter 8 (commencing with Section 6850), Chapter 11~~
40 ~~(commencing with Section 7500), Chapter 11.5 (commencing~~



1 ~~with Section 7512), and Chapter 11.6 (commencing with Section~~
2 ~~7590) of Division 3, or a person holding a license specified in~~
3 ~~paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any~~
4 board, bureau, or commission within the department, *the board*
5 *created by the Chiropractic Initiative*, and the Osteopathic
6 Medical Board of California, may establish, by regulation, a
7 system for the issuance to a licensee of a citation which may
8 contain an order of abatement or an order to pay an administrative
9 fine assessed by the board, bureau, or commission where the
10 licensee is in violation of the applicable licensing act or any
11 regulation adopted pursuant thereto.

12 (b) The system shall contain the following provisions:

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

16 (2) Whenever appropriate, the citation shall contain an order of
17 abatement fixing a reasonable time for abatement of the violation.

18 (3) In no event shall the administrative fine assessed by the
19 board, bureau, or commission exceed two thousand five hundred
20 dollars (\$2,500) for each inspection or each investigation made
21 with respect to the violation, or two thousand five hundred dollars
22 (\$2,500) for each violation or count if the violation involves
23 fraudulent billing submitted to an insurance company, the
24 Medi-Cal program, or Medicare. In assessing a fine, the board,
25 bureau, or commission shall give due consideration to the
26 appropriateness of the amount of the fine with respect to factors
27 such as the gravity of the violation, the good faith of the licensee,
28 and the history of previous violations.

29 (4) A citation or fine assessment issued pursuant to a citation
30 shall inform the licensee that if he or she desires a hearing to
31 contest the finding of a violation, that hearing shall be requested
32 by written notice to the board, bureau, or commission within 30
33 days of the date of issuance of the citation or assessment. If a
34 hearing is not requested pursuant to this section, payment of any
35 fine shall not constitute an admission of the violation charged.
36 Hearings shall be held pursuant to Chapter 5 (commencing with
37 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
38 Code.

39 (5) Failure of a licensee to pay a fine within 30 days of the date
40 of assessment, unless the citation is being appealed, may result in



1 disciplinary action being taken by the board, bureau, or
2 commission. Where a citation is not contested and a fine is not
3 paid, the full amount of the assessed fine shall be added to the fee
4 for renewal of the license. A license shall not be renewed without
5 payment of the renewal fee and fine.

6 (c) The system may contain the following provisions:

7 (1) A citation may be issued without the assessment of an
8 administrative fine.

9 (2) Assessment of administrative fines may be limited to only
10 particular violations of the applicable licensing act.

11 (d) Notwithstanding any other provision of law, if a fine is paid
12 to satisfy an assessment based on the finding of a violation,
13 payment of the fine shall be represented as satisfactory resolution
14 of the matter for purposes of public disclosure.

15 (e) Administrative fines collected pursuant to this section shall
16 be deposited in the special fund of the particular board, bureau, or
17 commission.

18 *SEC. 1.4. Section 650 of the Business and Professions Code*
19 *is amended to read:*

20 650. Except as provided in Chapter 2.3 (commencing with
21 Section 1400) of Division 2 of the Health and Safety Code, the
22 offer, delivery, receipt, or acceptance by any person licensed under
23 this division *or the Chiropractic Initiative Act* of any rebate,
24 refund, commission, preference, patronage dividend, discount, or
25 other consideration, whether in the form of money or otherwise,
26 as compensation or inducement for referring patients, clients, or
27 customers to any person, irrespective of any membership,
28 proprietary interest or coownership in or with any person to whom
29 these patients, clients or customers are referred is unlawful.

30 The payment or receipt of consideration for services other than
31 the referral of patients which is based on a percentage of gross
32 revenue or similar type of contractual arrangement shall not be
33 unlawful if the consideration is commensurate with the value of
34 the services furnished or with the fair rental value of any premises
35 or equipment leased or provided by the recipient to the payer.

36 Except as provided in Chapter 2.3 (commencing with Section
37 1400) of Division 2 of the Health and Safety Code and in Sections
38 654.1 and 654.2, it shall not be unlawful for any person licensed
39 under this division to refer a person to any laboratory, pharmacy,
40 clinic (including entities exempt from licensure pursuant to



1 Section 1206 of the Health and Safety Code), or health care facility
2 solely because the licensee has a proprietary interest or
3 coownership in the laboratory, pharmacy, clinic, or health care
4 facility; provided, however, that the licensee's return on
5 investment for that proprietary interest or coownership shall be
6 based upon the amount of the capital investment or proportional
7 ownership of the licensee which ownership interest is not based on
8 the number or value of any patients referred. Any referral excepted
9 under this section shall be unlawful if the prosecutor proves that
10 there was no valid medical need for the referral.

11 "Health care facility" means a general acute care hospital, acute
12 psychiatric hospital, skilled nursing facility, intermediate care
13 facility, and any other health facility licensed by the State
14 Department of Health Services under Chapter 2 (commencing
15 with Section 1250) of Division 2 of the Health and Safety Code.

16 A violation of this section is a public offense and is punishable
17 upon a first conviction by imprisonment in the county jail for not
18 more than one year, or by imprisonment in the state prison, or by
19 a fine not exceeding fifty thousand dollars (\$50,000), or by both
20 that imprisonment and fine. A second or subsequent conviction is
21 punishable by imprisonment in the state prison or by
22 imprisonment in the state prison and a fine of fifty thousand dollars
23 (\$50,000).

24 *SEC. 1.5.* Section 802 of the Business and Professions Code
25 is amended to read:

26 802. (a) Every settlement or arbitration award over three
27 thousand dollars (\$3,000) of a claim or action for damages for
28 death or personal injury caused by negligence, error or omission
29 in practice, or the unauthorized rendering of professional services,
30 by a person who holds a license, certificate or other similar
31 authority from an agency mentioned in subdivision (a) of Section
32 800 (except a person licensed pursuant to Chapter 3 (commencing
33 with Section 1200) or Chapter 5 (commencing with Section 2000)
34 of Division 2) or the Osteopathic Initiative Act who does not
35 possess professional liability insurance as to that claim shall,
36 within 30 days after the written settlement agreement has been
37 reduced to writing and signed by all the parties thereto or 30 days
38 after service of the arbitration award on the parties, be reported to
39 the agency that issued the license, certificate, or similar authority.
40 A complete report shall be made by appropriate means by the



1 person or his or her counsel, with a copy of the communication to
2 be sent to the claimant through his or her counsel if the person is
3 so represented, or directly if he or she is not. If, within 45 days of
4 the conclusion of the written settlement agreement or service of the
5 arbitration award on the parties, counsel for the claimant (or if the
6 claimant is not represented by counsel, the claimant himself or
7 herself) has not received a copy of the report, he or she shall
8 himself or herself make the complete report. Failure of the
9 physician or claimant (or, if represented by counsel, their counsel)
10 to comply with this section is a public offense punishable by a fine
11 of not less than fifty dollars (\$50) or more than five hundred dollars
12 (\$500). Knowing and intentional failure to comply with this
13 section, or conspiracy or collusion not to comply with this section,
14 or to hinder or impede any other person in the compliance is a
15 public offense punishable by a fine of not less than five thousand
16 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

17 (b) Every settlement over thirty thousand dollars (\$30,000), or
18 arbitration award of any amount, of a claim or action for damages
19 for death or personal injury caused by negligence, error or
20 omission in practice, or the unauthorized rendering of professional
21 services, by a physician and surgeon licensed pursuant to Chapter
22 5 (commencing with Section 2000) of Division 2, or the
23 Osteopathic Initiative Act, who does not possess professional
24 liability insurance as to the claim shall, within 30 days after the
25 written settlement agreement has been reduced to writing and
26 signed by all the parties thereto or 30 days after service of the
27 arbitration award on the parties, be reported to the agency that
28 issued the license, certificate or similar authority. A complete
29 report including the name and license number of the ~~responsible~~
30 physician and surgeon shall be made by appropriate means by the
31 person or his or her counsel, with a copy of the communication to
32 be sent to the claimant through his or her counsel if he or she is so
33 represented, or directly if he or she is not. If, within 45 days of the
34 conclusion of the written settlement agreement or service of the
35 arbitration award on the parties, counsel for the claimant (or if the
36 claimant is not represented by counsel, the claimant himself or
37 herself) has not received a copy of the report, he or she shall
38 himself or herself make the complete report. Failure of the
39 physician or claimant (or, if represented by counsel, their counsel)
40 to comply with this section is a public offense punishable by a fine



1 of not less than fifty dollars (\$50) or more than five hundred dollars
2 (\$500). Knowing and intentional failure to comply with this
3 section, or conspiracy or collusion not to comply with this section,
4 or to hinder or impede any other person in the compliance is a
5 public offense punishable by a fine of not less than five thousand
6 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

7 (c) Every settlement or arbitration award over ten thousand
8 dollars (\$10,000) of a claim or action for damages for death or
9 personal injury caused by negligence, error, or omission in
10 practice, or the unauthorized rendering of professional services, by
11 a marriage, family, and child counselor or clinical social worker
12 licensed pursuant to Chapter 13 (commencing with Section 4980)
13 or Chapter 14 (commencing with Section 4990), who does not
14 possess professional liability insurance as to that claim shall within
15 30 days after the written settlement agreement has been reduced
16 to writing and signed by all the parties thereto or 30 days after
17 service of the arbitration award on the parties, be reported to the
18 agency that issued the license, certificate, or similar authority. A
19 complete report shall be made by appropriate means by the person
20 or his or her counsel, with a copy of the communication to be sent
21 to the claimant through his or her counsel if he or she is so
22 represented, or directly if he or she is not. If, within 45 days of the
23 conclusion of the written settlement agreement or service of the
24 arbitration award on the parties, counsel for the claimant (or if he
25 or she is not represented by counsel, the claimant himself or
26 herself) has not received a copy of the report, he or she shall
27 himself or herself make a complete report. Failure of the marriage,
28 family, and child counselor or clinical social worker or claimant
29 (or, if represented by counsel, their counsel) to comply with this
30 section is a public offense punishable by a fine of not less than fifty
31 dollars (\$50) or more than five hundred dollars (\$500). Knowing
32 and intentional failure to comply with this section, or conspiracy
33 or collusion not to comply with this section, or to hinder or impede
34 any other person in that compliance is a public offense punishable
35 by a fine of not less than five thousand dollars (\$5,000) nor more
36 than fifty thousand dollars (\$50,000).

37 SEC. 2. Section 803 of the Business and Professions Code is
38 amended to read:

39 803. (a) (1) Except as provided in paragraph (2), within 10
40 days after a judgment by a court of this state that a person who



1 holds a license, certificate, or other similar authority from the
2 Board of Behavioral Science Examiners or from an agency
3 mentioned in subdivision (a) of Section 800 (except a person
4 licensed pursuant to Chapter 3 (commencing with Section 1200))
5 has committed a crime, or is liable for any death or personal injury
6 resulting in a judgment for an amount in excess of thirty thousand
7 dollars (\$30,000) caused by his or her negligence, error or
8 omission in practice, or his or her rendering unauthorized
9 professional services, the clerk of the court that rendered the
10 judgment shall report that fact to the agency that issued the license,
11 certificate, or other similar authority.

12 (2) For purposes of a physician and surgeon who has
13 committed a crime, or is liable for any death or personal injury
14 resulting in a judgment of any amount caused by his or her
15 negligence, error or omission in practice, or his or her rendering
16 unauthorized professional services, the clerk of the court that
17 rendered the judgment shall report that fact to the agency that
18 issued the license.

19 (b) Every insurer providing professional liability insurance to
20 a physician and surgeon licensed pursuant to Chapter 5
21 (commencing with Section 2000) shall send a complete report
22 including the name and license number of the ~~responsible~~
23 physician and surgeon to the Medical Board of California as to any
24 judgment of a claim for damages for death or personal injury
25 caused by that licensee's negligence, error, or omission in practice,
26 or rendering of unauthorized professional services. The report
27 shall be sent within 30 calendar days after entry of judgment.

28 (c) Notwithstanding any other provision of law, the Medical
29 Board of California and the California Board of Podiatric
30 Medicine shall disclose to an inquiring member of the public
31 information received pursuant to subdivision (a) regarding felony
32 convictions of, and judgments against, a physician and surgeon or
33 doctor of podiatric medicine. The Division of Medical Quality and
34 the California Board of Podiatric Medicine may formulate
35 appropriate disclaimers or explanatory statements to be included
36 with any information released, and may, by regulation, establish
37 categories of information that need not be disclosed to the public
38 because that information is unreliable or not sufficiently related to
39 the licensee's professional practice.



1 SEC. 3. Section 803.2 of the Business and Professions Code
2 is amended to read:

3 803.2. Every entry of settlement agreement over thirty
4 thousand dollars (\$30,000), or judgment or arbitration award of
5 any amount, of a claim or action for damages for death or personal
6 injury caused by, or alleging, the negligence, error, or omission in
7 practice, or the unauthorized rendering of professional services, by
8 a physician and surgeon or doctor of podiatric medicine licensed
9 pursuant to Chapter 5 (commencing with Section 2000) or the
10 Osteopathic Initiative Act, when that judgment, settlement
11 agreement, or arbitration award is entered against, or paid by, the
12 employer of that licensee and not the licensee himself or herself,
13 shall be reported to the appropriate board by the entity required to
14 report the information in accordance with Sections 801, 801.1,
15 802, and 803 as an entry of judgment, settlement, or arbitration
16 award against the negligent licensee. This report shall include the
17 name and license number of the responsible physician and
18 surgeon.

19 “Employer” as used in this section means a professional
20 corporation, a group practice, a health care facility or clinic
21 licensed or exempt from licensure under the Health and Safety
22 Code, a licensed health care service plan, a medical care
23 foundation, an educational institution, a professional institution,
24 a professional school or college, a general law corporation, a
25 public entity, or a nonprofit organization that employs, retains, or
26 contracts with a licensee referred to in this section. Nothing in this
27 section shall be construed to authorize the employment of, or
28 contracting with, any licensee in violation of Section 2400.

29 SEC. 4. Article 1.5 (commencing with Section 1621) of
30 Chapter 4 of Division 2 of the Business and Professions Code is
31 repealed.

32 SEC. 5. Section 1621 is added to the Business and Professions
33 Code, to read:

34 1621. The board shall utilize in the administration of its
35 licensure examinations only examiners whom it has appointed and
36 who meet the following criteria:

37 (a) Possession of a valid license to practice dentistry in this state
38 or possession of a valid license in one of the following dental
39 auxiliary categories: registered dental assistant, registered dental
40 assistant in extended functions, registered dental hygienist,



1 registered dental hygienist in extended functions, or registered
2 dental hygienist in alternative practice.

3 (b) Practice as a licensed dentist or in a dental auxiliary
4 licensure category for at least five years preceding his or her
5 appointment.

6 (c) Hold no position as an officer or faculty member at any
7 college, school, or institution that provides dental instruction in the
8 same licensure category as that held by the examiner.

9 SEC. 6. Section 1646.7 of the Business and Professions Code,
10 as amended by Section 1 of Chapter 177 of the Statutes of 1999,
11 is amended to read:

12 1646.7. (a) A violation of this article constitutes
13 unprofessional conduct and is grounds for the revocation or
14 suspension of the dentist's permit, license, or both, or the dentist
15 may be reprimanded or placed on probation.

16 (b) A violation of any provision of this article or Section 1682
17 is grounds for suspension or revocation of the physician and
18 surgeon's permit issued pursuant to this article by the Dental Board
19 of California. The exclusive enforcement authority against a
20 physician and surgeon by the Dental Board of California shall be
21 to suspend or revoke the permit issued pursuant to this article. The
22 Dental Board of California shall refer a violation of this article by
23 a physician and surgeon to the Medical Board of California for its
24 consideration as unprofessional conduct and further action, if
25 deemed necessary by the Medical Board of California, pursuant to
26 Chapter 5 (commencing with Section 2000). A suspension or
27 revocation of a physician and surgeon's permit by the Dental
28 Board of California pursuant to this article shall not constitute a
29 disciplinary proceeding or action for any purpose except to permit
30 the initiation of an investigation or disciplinary action by the
31 Medical Board of California as authorized by Section 2220.5.

32 (c) The proceedings under this section shall be conducted in
33 accordance with Chapter 5 (commencing with Section 11500) of
34 Part 1 of Division 3 of Title 2 of the Government Code, and the
35 Dental Board of California shall have all the powers granted
36 therein.

37 SEC. 7. Section 1646.7 of the Business and Professions Code,
38 as amended by Section 2 of Chapter 177 of the Statutes of 1999,
39 is repealed.



1 SEC. 8. Section 1646.9 of the Business and Professions Code
2 is amended to read:

3 1646.9. (a) Notwithstanding any other provision of law,
4 including, but not limited to, Section 1646.1, a physician and
5 surgeon licensed pursuant to Chapter 5 (commencing with Section
6 2000) may administer general anesthesia in the office of a licensed
7 dentist for dental patients, without regard to whether the dentist
8 possesses a permit issued pursuant to this article, if all of the
9 following conditions are met:

10 (1) The physician and surgeon possesses a current license in
11 good standing to practice medicine in this state.

12 (2) The physician and surgeon holds a valid general anesthesia
13 permit issued by the Dental Board of California pursuant to
14 subdivision (b).

15 (b) (1) A physician and surgeon who desires to administer
16 general anesthesia as set forth in subdivision (a) shall apply to the
17 Dental Board of California on an application form prescribed by
18 the board and shall submit all of the following:

19 (A) The payment of an application fee prescribed by this
20 article.

21 (B) Evidence satisfactory to the Medical Board of California
22 showing that the applicant has successfully completed a
23 postgraduate residency training program in anesthesiology that is
24 recognized by the American Council on Graduate Medical
25 Education, as set forth in Section 2079.

26 (C) Documentation demonstrating that all equipment and
27 drugs required by the Dental Board of California are possessed by
28 the applicant and shall be available for use in any dental office in
29 which he or she administers general anesthesia.

30 (D) Information relative to the current membership of the
31 applicant on hospital medical staffs.

32 (2) Prior to issuance or renewal of a permit pursuant to this
33 section, the Dental Board of California may, at its discretion,
34 require an onsite inspection and evaluation of the facility,
35 equipment, personnel, including, but not limited to, the physician
36 and surgeon, and procedures utilized. At least one of the persons
37 evaluating the procedures utilized by the physician and surgeon
38 shall be a licensed physician and surgeon expert in outpatient
39 general anesthesia who has been authorized or retained under
40 contract by the Dental Board of California for this purpose.



1 (3) The permit of any physician and surgeon who has failed an
2 onsite inspection and evaluation shall be automatically suspended
3 30 days after the date on which the board notifies the physician and
4 surgeon of the failure unless within that time period the physician
5 and surgeon has retaken and passed an onsite inspection and
6 evaluation. Every physician and surgeon issued a permit under this
7 article shall have an onsite inspection and evaluation at least once
8 every six years. Refusal to submit to an inspection shall result in
9 automatic denial or revocation of the permit.

10 (c) *This section shall remain in effect until January 1, 2006, and*
11 *as of that date is repealed, unless a later enacted statute, which is*
12 *enacted on or before January 1, 2006, deletes or extends that date.*

13 SEC. 9. Section 1647.12 of the Business and Professions
14 Code is amended to read:

15 1647.12. A dentist who desires to administer, or order the
16 administration of, oral conscious sedation for minor patients, who
17 does not hold a general anesthesia permit as provided in Sections
18 1646.1 and 1646.2 or a conscious sedation permit as provided in
19 Sections 1647.2 and 1647.3, shall register his or her name with the
20 board on a board-prescribed registration form. The dentist shall
21 submit the registration fee and evidence showing that he or she
22 satisfies any of the following requirements:

23 (a) Satisfactory completion of a postgraduate program in oral
24 and maxillofacial surgery, pediatric dentistry, or periodontics at a
25 dental school approved by either the Commission on Dental
26 Accreditation or a comparable organization approved by the
27 board.

28 (b) Satisfactory completion of a general practice residency or
29 other advanced education in a general dentistry program approved
30 by the board.

31 (c) Satisfactory completion of a board-approved educational
32 program on oral medications and sedation.

33 SEC. 10. Section 1716.1 of the Business and Professions
34 Code is amended to read:

35 1716.1. (a) Notwithstanding Section 1716, the board may, by
36 regulation, reduce the renewal fee for a licensee who has practiced
37 dentistry for 20 years or more in this state, has reached the age of
38 retirement under the federal Social Security Act (42 U.S.C. Sec.
39 301 et seq.), and customarily provides his or her services free of
40 charge to any person, organization, or agency. In the event that



1 charges are made, these charges shall be nominal. In no event shall
2 the aggregate of these charges in any single calendar year be in an
3 amount that would render the licensee ineligible for full social
4 security benefits. The board shall not reduce the renewal fee under
5 this section to an amount less than one-half of the regular renewal
6 fee.

7 (b) Notwithstanding Section 1716, any licensee who
8 demonstrates to the satisfaction of the board that he or she is unable
9 to practice dentistry due to a disability, may request a waiver of 50
10 percent of the renewal fee. The granting of a waiver shall be at the
11 discretion of the board, and the board may terminate the waiver at
12 any time. A licensee to whom the board has granted a waiver
13 pursuant to this subdivision shall not engage in the practice of
14 dentistry unless and until the licensee pays the current renewal fee
15 in full and establishes to the satisfaction of the board, on a form
16 prescribed by the board and signed under penalty of perjury, that
17 the licensee's disability either no longer exists or no longer affects
18 his or her ability to safely practice dentistry.

19 SEC. 11. Section 1743 of the Business and Professions Code
20 is amended to read:

21 1743. The committee shall consist of the following nine
22 members:

23 (a) One member who is a public member of the board, one
24 member who is a licensed dentist and who has been appointed by
25 the board as an examiner pursuant to Section 1621, one member
26 who is a licensed dentist who is neither a board member nor
27 appointed by the board as an examiner pursuant to Section 1621,
28 three members who are licensed as registered dental hygienists, at
29 least one of whom is actively employed in a private dental office,
30 and three members who are licensed as registered dental assistants.
31 If available, an individual licensed as a registered dental hygienist
32 in extended functions shall be appointed in place of one of the
33 members licensed as a registered dental hygienist. If available, an
34 individual licensed as a registered dental assistant in extended
35 functions shall be appointed in place of one of the members
36 licensed as a registered dental assistant.

37 (b) The public member of the board shall not have been
38 licensed under Chapter 4 (commencing with Section 1600) of the
39 Business and Professions Code within five years of the



1 appointment date and shall not have any current financial interest
2 in a dental-related business.

3 SEC. 12. Section 1744 of the Business and Professions Code
4 is amended to read:

5 1744. (a) The members of the committee shall be appointed
6 by the Governor. The terms of the member who is a board member
7 and the member who has been appointed by the board as an
8 examiner pursuant to Section 1621 shall expire December 31,
9 1976. The terms of the member who is a licensed dentist and one
10 member who is a dental assistant and one member who is licensed
11 as a registered dental hygienist shall expire on December 31, 1977.
12 The terms of all other members shall expire on December 31,
13 1978. Thereafter, appointments shall be for a term of four years.

14 (b) No member shall serve as a member of the committee for
15 more than two consecutive terms. Vacancies shall be filled by
16 appointment for the unexpired terms. The committee shall
17 annually elect one of its members as ~~chairman~~ *chairperson*.

18 (c) The Governor shall have the power to remove any member
19 of the committee from office for neglect of any duty required by
20 law or for incompetence or unprofessional or dishonorable
21 conduct.

22 SEC. 13. Section 2065 of the Business and Professions Code
23 is amended to read:

24 2065. Unless otherwise provided by law, no postgraduate
25 trainee, intern, resident, postdoctoral fellow, or instructor may
26 engage in the practice of medicine, or receive compensation
27 therefor, or offer to engage in the practice of medicine unless he
28 or she holds a valid, unrevoked, and unsuspended physician's and
29 surgeon's certificate issued by the board. However, a graduate of
30 an approved medical school, who is registered with the Division
31 of Licensing and who is enrolled in a postgraduate training
32 program approved by the division, may engage in the practice of
33 medicine whenever and wherever required as a part of the program
34 under the following conditions:

35 (a) A graduate enrolled in an approved first-year postgraduate
36 training program may so engage in the practice of medicine for a
37 period not to exceed one year whenever and wherever required as
38 a part of the training program, and may receive compensation for
39 that practice.



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

14 SEC. 14. Section 2066 of the Business and Professions Code
15 is amended to read:

16 2066. (a) Nothing in this chapter shall be construed to
17 prohibit a foreign medical graduate from engaging in the practice
18 of medicine whenever and wherever required as a part of a clinical
19 service program under the following conditions:

20 (1) The clinical service is in a postgraduate training program
21 approved by the Division of Licensing.

22 (2) The graduate is registered with the division for the clinical
23 service.

24 (b) A graduate may engage in the practice of medicine under
25 this section until the receipt of his or her physician and surgeon's
26 certificate. If the graduate fails to pass the examination and receive
27 a certificate by the completion of the graduate's third year of
28 postgraduate training or if the division denies his or her application
29 for licensure, all privileges and exemptions under this section shall
30 automatically cease.

31 (c) Nothing in this section shall preclude a foreign medical
32 graduate from engaging in the practice of medicine under any
33 other exemption contained in this chapter.

34 SEC. 15. Section 2072 of the Business and Professions Code
35 is amended to read:

36 2072. Notwithstanding any other provision of law and subject
37 to the provisions of the State Civil Service Act, any person who is
38 licensed to practice medicine in any other state, who meets the
39 requirements for application set forth in this chapter and who
40 registers with and is approved by the Division of Licensing, may



1 be appointed to the medical staff within a state institution and,
2 under the supervision of a physician and surgeon licensed in this
3 state, may engage in the practice of medicine on persons under the
4 jurisdiction of any ~~such~~ state institution. Qualified physicians and
5 surgeons licensed in this state shall not be recruited pursuant to this
6 section.

7 No person appointed pursuant to this section shall be employed
8 in any state institution for a period in excess of two years from the
9 date the person was first employed, and the appointment shall not
10 be extended beyond the two-year period. At the end of the
11 two-year period, the physician shall have been issued a physician's
12 and surgeon's certificate by the board in order to continue ~~such~~
13 employment. Until the physician has obtained a physician's and
14 surgeon's certificate from the board, he or she shall not engage in
15 the practice of medicine in this state except to the extent expressly
16 permitted herein.

17 SEC. 16. Section 2073 of the Business and Professions Code
18 is amended to read:

19 2073. Notwithstanding any other provision of law, any person
20 who is licensed to practice medicine in any other state who meets
21 the requirements for application set forth in this chapter, and who
22 registers with and is approved by the Division of Licensing, may
23 be employed on the resident medical staff within a county general
24 hospital and, under the supervision of a physician and surgeon
25 licensed in this state, may engage in the practice of medicine on
26 persons within the county institution. Employment pursuant to this
27 section is authorized only when an adequate number of qualified
28 resident physicians cannot be recruited from intern staffs in this
29 state.

30 No person appointed pursuant to this section shall be employed
31 in any county general hospital for a period in excess of two years
32 from the date the person was first employed, and the employment
33 shall not be extended beyond the two-year period. At the end of the
34 two-year period, the physician shall have been issued a physician's
35 and surgeon's certificate by the board in order to continue as a
36 member of ~~such~~ *the* resident staff. Until the physician has obtained
37 a physician's and surgeon's certificate from the board, he or she
38 shall not engage in the practice of medicine in this state except to
39 the extent expressly permitted herein.



1 SEC. 17. Section 2079 of the Business and Professions Code
2 is amended to read:

3 2079. (a) A physician and surgeon who desires to administer
4 general anesthesia in the office of a dentist pursuant to Section
5 1646.9, shall provide the Medical Board of California with a copy
6 of the application submitted to the Dental Board of California
7 pursuant to subdivision (b) of Section 1646.9 and a fee established
8 by the board not to exceed the costs of processing the application
9 as provided in this section.

10 (b) The Medical Board of California shall review the
11 information submitted and take action as follows:

12 (1) Inform the Dental Board of California whether the
13 physician and surgeon has a current license in good standing to
14 practice medicine in this state.

15 (2) Verify whether the applicant has successfully completed a
16 postgraduate residency training program in anesthesiology and
17 whether the program has been recognized by the American
18 Council on Graduate Medical Education.

19 (3) Inform the Dental Board of California whether the Medical
20 Board of California has determined that the applicant has
21 successfully completed the postgraduate residency training
22 program in anesthesiology recognized by the American Council
23 on Graduate Medicine.

24 (c) *This section shall remain in effect until January 1, 2006, and*
25 *as of that date is repealed, unless a later enacted statute, which is*
26 *enacted on or before January 1, 2006, deletes or extends that date.*

27 SEC. 18. Section 2088 of the Business and Professions Code
28 is repealed.

29 SEC. 19. Section 2102 of the Business and Professions Code
30 is amended to read:

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

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



1 construed to require the division to evaluate for equivalency any
2 coursework obtained at a medical school disapproved by the
3 division pursuant to this section.

4 (b) Certification by the Educational Commission for Foreign
5 Medical Graduates, or its equivalent, as determined by the
6 division. This subdivision shall apply to all applicants who are
7 subject to this section and who have not taken and passed the
8 written examination specified in subdivision (d) prior to June 1,
9 1986.

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

22 (d) Pass the written examination as provided under Article 9
23 (commencing with Section 2170). If an applicant has not
24 satisfactorily completed at least two years of approved
25 postgraduate training, the applicant shall also pass the clinical
26 competency written examination. An applicant shall be required
27 to meet the requirements specified in subdivision (b) prior to being
28 admitted to the written examination required by this subdivision.

29 Nothing in this section prohibits the division from disapproving
30 any foreign medical school or from denying an application if, in
31 the opinion of the division, the professional instruction provided
32 by the medical school or the instruction received by the applicant
33 is not equivalent to that required in Article 4 (commencing with
34 Section 2080).

35 ~~SEC. 20.—Section 2221 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~2221.—(a) The Division of Licensing may deny a physician's~~
38 ~~and surgeon's license to any applicant guilty of unprofessional~~
39 ~~conduct or of any cause that would subject a licensee to revocation~~
40 ~~or suspension of his or her license; or, the division in its sole~~



1 discretion, may issue a probationary license to an applicant subject
2 to terms and conditions, including, but not limited to, any of the
3 following conditions of probation:

4 (1) Practice limited to a supervised, structured environment
5 where the licensee’s activities shall be supervised by another
6 physician and surgeon.

7 (2) Total or partial restrictions on drug prescribing privileges
8 for controlled substances.

9 (3) Continuing medical or psychiatric treatment.

10 (4) Ongoing participation in a specified rehabilitation
11 program.

12 (5) Enrollment and successful completion of a clinical training
13 program.

14 (6) Abstention from the use of alcohol or drugs.

15 (7) Restrictions against engaging in certain types of medical
16 practice.

17 (8) Compliance with all provisions of this chapter.

18 (b) The Division of Licensing may modify or terminate the
19 terms and conditions imposed on the probationary license upon
20 receipt of a petition from the licensee.

21 (c) The Division of Licensing may require an applicant to be
22 examined by a psychiatrist or psychologist or by a physician and
23 surgeon or by another practitioner licensed under this division.
24 The division may also require the applicant to take a professional
25 competency examination, conducted in accordance with Section
26 2292, in order to determine whether it should issue a probationary
27 license and the probationary conditions required to ensure that the
28 applicant is able to practice medicine with reasonable skill and
29 safety to patients.

30 (d) Enforcement and monitoring of the probationary
31 conditions shall be under the jurisdiction of the Division of
32 Medical Quality in conjunction with the administrative hearing
33 procedures established pursuant to Sections 11371, 11372, 11373,
34 and 11529 of the Government Code, and the review procedures set
35 forth in Section 2335.

36 ~~SEC. 21.~~

37 *SEC. 20.* Section 2245 of the Business and Professions Code
38 is amended to read:

39 2245. A violation of Article 2.7 (commencing with Section
40 1646) of Chapter 4 or Section 1682 by a physician and surgeon



1 who possesses a permit issued by the Dental Board of California
2 to administer general anesthesia in a dental office may constitute
3 unprofessional conduct.

4 *This section shall remain in effect until January 1, 2004, and as*
5 *of that date is repealed, unless a later enacted statute which is*
6 *enacted on or before January 1, 2004, deletes or extends that date.*

7 SEC. 21. Section 2499.5 of the Business and Professions Code
8 is amended to read:

9 2499.5. The following fees apply to certificates to practice
10 podiatric medicine. The amount of fees prescribed for doctors of
11 podiatric medicine shall be those set forth in this section unless a
12 lower fee is established by the board in accordance with Section
13 2499.6. Fees collected pursuant to this section shall be fixed by the
14 board in amounts not to exceed the actual costs of providing the
15 service for which the fee is collected.

16 (a) Each applicant for a certificate to practice podiatric
17 medicine shall pay an application fee of twenty dollars (\$20) at the
18 time the application is filed. If the applicant qualifies for a
19 certificate, he or she shall pay a fee which shall be fixed by the
20 board at an amount not to exceed one hundred dollars (\$100) nor
21 less than five dollars (\$5) for the issuance of the certificate.

22 (b) The oral examination fee shall be seven hundred dollars
23 (\$700), or the actual cost, whichever is lower, and shall be paid by
24 each applicant. If the applicant's credentials are insufficient or if
25 the applicant does not desire to take the examination, and has so
26 notified the board 30 days prior to the examination date, only the
27 examination fee is returnable to the applicant. The board may
28 charge an examination fee for any subsequent reexamination of the
29 applicant.

30 (c) Each applicant who qualifies for a certificate, as a condition
31 precedent to its issuance, in addition to other fees required by this
32 section, shall pay an initial license fee. The initial license fee shall
33 be eight hundred dollars (\$800). The initial license shall expire the
34 second year after its issuance on the last day of the month of birth
35 of the licensee. The board may reduce the initial license fee by up
36 to 50 percent of the amount of the fee for any applicant who is
37 enrolled in a postgraduate training program approved by the board
38 or who has completed a postgraduate training program approved
39 by the board within six months prior to the payment of the initial
40 license fee.



1 (d) The biennial renewal fee shall be nine hundred dollars
2 (\$900). This fee shall remain in effect only until January 1, ~~2002~~
3 *2004*, and as of that date is reduced to eight hundred dollars (\$800),
4 unless a later enacted statute, that is enacted before January 1, ~~2002~~
5 *2004*, deletes or extends that date. Any licensee enrolled in an
6 approved residency program shall be required to pay only 50
7 percent of the biennial renewal fee at the time of his or her first
8 renewal.

9 (e) The delinquency fee is one hundred fifty dollars (\$150).

10 (f) The duplicate wall certificate fee is forty dollars (\$40).

11 (g) The duplicate renewal receipt fee is forty dollars (\$40).

12 (h) The endorsement fee is thirty dollars (\$30).

13 (i) The letter of good standing fee or for loan deferment is thirty
14 dollars (\$30).

15 (j) There shall be a fee of sixty dollars (\$60) for the issuance of
16 a limited license under Section 2475.

17 (k) The application fee for certification under Section 2473
18 shall be fifty dollars (\$50). The examination and reexamination
19 fee for this certification shall be seven hundred dollars (\$700).

20 (l) The filing fee to appeal the failure of an oral examination
21 shall be twenty-five dollars (\$25).

22 (m) The fee for approval of a continuing education course or
23 program shall be one hundred dollars (\$100).

24 SEC. 22. Section 2531 of the Business and Professions Code
25 is amended to read:

26 2531. There is hereby created a Speech-Language Pathology
27 and Audiology Board under the jurisdiction of the Medical Board
28 of California. The Speech-Language Pathology and Audiology
29 Board shall consist of nine members, three of whom shall be public
30 members. The Speech-Language Pathology and Audiology Board
31 shall enforce and administer this chapter.

32 This section shall become inoperative on July 1, 2004, and, as
33 of January 1, 2005, is repealed, unless a later enacted statute, that
34 becomes effective on or before January 1, 2005, deletes or extends
35 the inoperative and repeal dates.

36 SEC. 22.5. *Section 2532.6 of the Business and Professions*
37 *Code is amended to read:*

38 2532.6. (a) The Legislature recognizes that the education and
39 experience requirements of this chapter constitute only minimal
40 requirements to assure the public of professional competence. The



1 Legislature encourages all professionals licensed and registered
2 by the board under this chapter to regularly engage in continuing
3 professional development and learning that is related and relevant
4 to the professions of speech-language pathology and audiology.

5 (b) On and after January 1, 2001, and until January 1, 2002, the
6 board shall not renew any license or registration pursuant to this
7 chapter unless the applicant certifies to the board that he or she has
8 completed, after April 12, 1999, and prior to his or her renewal
9 date in 2001, not less than the minimum number of continuing
10 professional development hours established by the board pursuant
11 to subdivision (c) for the professional practice authorized by his
12 or her license. On and after January 1, 2002, the board shall not
13 renew any license or registration pursuant to this chapter unless the
14 applicant certifies to the board that he or she has completed in the
15 preceding two years not less than the minimum number of
16 continuing professional development hours established by the
17 board pursuant to subdivision (c) for the professional practice
18 authorized by his or her license or registration.

19 (c) (1) The board shall prescribe the forms utilized for and the
20 number of hours of required continuing professional development
21 for persons licensed or registered under this chapter.

22 (2) The board shall have the right to audit the records of any
23 applicant to verify the completion of the continuing professional
24 development requirements.

25 (3) Applicants shall maintain records of completion of required
26 continuing professional development coursework for a minimum
27 of two years and shall make these records available to the board for
28 auditing purposes upon request.

29 (d) The board shall establish exceptions from the continuing
30 professional development requirements of this section for good
31 cause as defined by the board.

32 (e) (1) The continuing professional development services
33 shall be obtained from accredited institutions of higher learning,
34 organizations approved as continuing education providers by
35 either the American Speech-Language Hearing Association or the
36 American Academy of Audiology, the California Medical
37 Association's Institute for Medical Quality Continuing Medical
38 Education Program, or other entities or organizations approved as
39 continuing professional development providers by the board, in its
40 discretion.



1 (2) The continuing professional development services offered
2 by these entities may, but are not required to, utilize pretesting and
3 posttesting or other evaluation techniques to measure and
4 demonstrate improved professional learning and competency.

5 (3) An accredited institution of higher learning, an
6 organization approved as continuing education providers by either
7 the American Speech-Language Hearing Association or the
8 American Academy of Audiology, and the California Medical
9 Association’s Institute for Medical Quality Continuing Education
10 Program shall be exempt from any application or registration fees
11 that the board may charge for continuing education providers.

12 (4) *Unless a course offered by entities listed in paragraph (3)*
13 *meets the requirements of the sponsoring institution, the course*
14 *may not be credited towards the continuing professional*
15 *development requirements for license renewal.*

16 (5) *The licensee shall be responsible for obtaining the required*
17 *course completion documents for courses offered by entities*
18 *specified in paragraph (1).*

19 (f) The board, by regulation, shall fund the administration of
20 this section through professional development services provider
21 and licensing fees to be deposited in the Speech-Language
22 Pathology and Audiology Board Fund. The fees related to the
23 administration of this section shall be sufficient to meet, but shall
24 not exceed, the costs of administering the corresponding
25 provisions of this section.

26 (g) The continuing professional development requirements
27 adopted by the board shall comply with any guidelines for
28 mandatory continuing education established by the Department of
29 Consumer Affairs.

30 SEC. 23. Section 2878.7 of the Business and Professions
31 Code is repealed.

32 SEC. 24. Section 2878.7 is added to the Business and
33 Professions Code, to read:

34 2878.7. (a) A person whose license has been revoked,
35 suspended, surrendered, or placed on probation, may petition the
36 board for reinstatement or modification of the penalty, including
37 modification or termination of probation, after a period not less
38 than the following minimum periods has elapsed from the
39 ~~effective date of the decision ordering the disciplinary action order~~
40 *effective date of the disciplinary order* or if any portion of the order



1 is stayed by the board itself or by the superior court, from the date
2 the disciplinary action is actually implemented in its entirety:

3 (1) Except as otherwise provided in this section, at least three
4 years for the reinstatement of a license that was revoked or
5 surrendered, except that the board may, in its sole discretion,
6 specify in its order a lesser period of time, which shall be no less
7 than one year, to petition for reinstatement.

8 (2) At least two years for the early termination of a probation
9 period of three years or more.

10 (3) At least one year for the early termination of a probation
11 ~~period of three years or more.~~ *period of less than three years.*

12 (4) At least one year for the modification of a condition of
13 probation, or for the reinstatement of a license revoked for mental
14 or physical illness.

15 (b) The board shall give notice to the Attorney General of the
16 filing of the petition. The petitioner and the Attorney General shall
17 be given timely notice by letter of the time and place of the hearing
18 on the petition, and an opportunity to present both oral and
19 documentary evidence and argument to the board. The petitioner
20 shall at all times have the burden of proof to establish by clear and
21 convincing evidence that he or she is entitled to the relief sought
22 in the petition.

23 (c) The board itself or the administrative law judge, if one is
24 designated by the board, shall hear the petition and shall prepare
25 a written decision setting forth the reasons supporting the decision.

26 (d) The board may grant or deny the petition or may impose any
27 terms and conditions that it reasonably deems appropriate as a
28 condition of reinstatement or reduction of penalty.

29 (e) No petition shall be considered while the petitioner is under
30 sentence for any criminal offense, including any period during
31 which the petitioner is on court-imposed probation or parole or
32 subject to an order of registration pursuant to Section 290 of the
33 Penal Code. No petition shall be considered while there is an
34 accusation or petition to revoke probation pending against the
35 petitioner.

36 (f) Except in those cases where the petitioner has been
37 disciplined for a violation of Section 822, the board may in its
38 discretion deny without hearing or argument any petition that is
39 filed pursuant to this section within a period of two years from the



1 effective date of a prior decision following a hearing under this
2 section.

3 (g) Nothing in this section shall be deemed to alter the
4 provisions of Sections 822 and 823.

5 *SEC. 24.2. Section 2903 of the Business and Professions Code*
6 *is amended to read:*

7 2903. No person may engage in the practice of psychology, or
8 represent himself *or herself* to be a psychologist, without a license
9 granted under this chapter, except as otherwise provided in this
10 chapter. The practice of psychology is defined as rendering or
11 offering to render ~~for a fee~~ to individuals, groups, organizations or
12 the public any psychological service involving the application of
13 psychological principles, methods, and procedures of
14 understanding, predicting, and influencing behavior, such as the
15 principles pertaining to learning, perception, motivation,
16 emotions, and interpersonal relationships; and the methods and
17 procedures of interviewing, counseling, psychotherapy, behavior
18 modification, and hypnosis; and of constructing, administering,
19 and interpreting tests of mental abilities, aptitudes, interests,
20 attitudes, personality characteristics, emotions, and motivations.

21 The application of such principles and methods includes, but is
22 not restricted to: diagnosis, prevention, treatment, and
23 amelioration of psychological problems and emotional and mental
24 disorders of individuals and groups.

25 Psychotherapy within the meaning of this chapter means the use
26 of psychological methods in a professional relationship to assist a
27 person or persons to acquire greater human effectiveness or to
28 modify feelings, conditions, attitudes and behavior which are
29 emotionally, intellectually, or socially ineffectual or maladjustive.

30 ~~As used in this chapter, "fee" means any charge, monetary or~~
31 ~~otherwise, whether paid directly or paid on a prepaid or capitation~~
32 ~~basis by a third party, or a charge assessed by a facility, for services~~
33 ~~rendered.~~

34 *SEC. 24.4. Section 2914 of the Business and Professions Code*
35 *is amended to read:*

36 2914. Each applicant for licensure shall comply with all of the
37 following requirements:

38 (a) Is not subject to denial of licensure under Division 1.5.

39 (b) Possess an earned doctorate degree (1) in psychology, (2)
40 in education psychology, or (3) in education with the field of



1 specialization in counseling psychology or educational
2 psychology. Except as provided in subdivision (g), this degree or
3 training shall be obtained from an accredited university, college,
4 or professional school.

5 No educational institution shall be denied recognition as an
6 accredited academic institution solely because its program is not
7 accredited by any professional organization of psychologists, and
8 nothing in this chapter or in the administration of this chapter shall
9 require the registration with the board by educational institutions
10 of their departments of psychology or their doctoral programs in
11 psychology.

12 *An applicant for licensure trained in an educational institution*
13 *outside the United States or Canada shall demonstrate to the*
14 *satisfaction of the board that he or she possesses a doctorate*
15 *degree in psychology with is equivalent to such a degree earned*
16 *from a regionally accredited university in the United States or*
17 *Canada. These applicants shall provide the board with a*
18 *comprehensive evaluation of the degree performed by a foreign*
19 *credential evaluation service that is a member of the National*
20 *Association of Credential Evaluation Services (NACES), and any*
21 *other documentation the board deems necessary.*

22 (c) Have engaged for at least two years in supervised
23 professional experience under the direction of a licensed
24 psychologist, the specific requirements of which shall be defined
25 by the board in its regulations, or under suitable alternative
26 supervision as determined by the board in regulations duly adopted
27 under this chapter, at least one year of which shall be after being
28 awarded the doctorate in psychology. If the supervising licensed
29 psychologist fails to provide verification to the board of the
30 experience required by this subdivision within 30 days after being
31 so requested by the applicant, the applicant may provide written
32 verification directly to the board.

33 If the applicant sends verification directly to the board, the
34 applicant shall file with the board a declaration of proof of service,
35 under penalty of perjury, of the request for verification. A copy of
36 the completed verification forms shall be provided to the
37 supervising psychologist and the applicant shall prove to the board
38 that a copy has been sent to the supervising psychologist by filing
39 a declaration of proof of service under penalty of perjury, and shall



1 file this declaration with the board when the verification forms are
2 submitted.

3 Upon receipt by the board of the applicant's verification and
4 declarations, a rebuttable presumption affecting the burden of
5 producing evidence is created that the supervised, professional
6 experience requirements of this subdivision have been satisfied.
7 The supervising psychologist shall have 20 days from the day the
8 board receives the verification and declaration to file a rebuttal
9 with the board.

10 The authority provided by this subdivision for an applicant to
11 file written verification directly shall apply only to an applicant
12 who has acquired the experience required by this subdivision in the
13 United States.

14 The board shall establish qualifications by regulation for
15 supervising psychologists and shall review and approve applicants
16 for this position on a case-by-case basis.

17 (d) Take and pass the examination required by Section 2941
18 unless otherwise exempted by the board under this chapter.

19 (e) Show by evidence satisfactory to the board that he or she has
20 completed training in the detection and treatment of alcohol and
21 other chemical substance dependency. This requirement applies
22 only to applicants who matriculate on or after September 1, 1985.

23 (f) Show by evidence satisfactory to the board that he or she has
24 completed coursework, in spousal or partner abuse assessment,
25 detection, and intervention. Coursework required under this
26 subdivision may be satisfactory if taken either in fulfillment of
27 other educational requirements for licensure or in a separate
28 course. This requirement applies to applicants who begin graduate
29 training on or after January 1, 1995. This requirement for
30 coursework in spousal or partner abuse detection and treatment
31 shall be satisfied by, and the board shall accept in satisfaction of
32 the requirement, a certification from the chief academic officer of
33 the educational institution from which the applicant graduated that
34 the required coursework is included within the institution's
35 required curriculum for graduation.

36 (g) An applicant holding a doctoral degree in psychology from
37 an approved institution is deemed to meet the requirements of this
38 section if all of the following are true:

39 (1) The approved institution offered a doctoral degree in
40 psychology designed to prepare students for a license to practice



1 psychology and was approved by the Bureau for Private
2 Postsecondary and Vocational Education on or before July 1,
3 1999.

4 (2) The approved institution has not, since July 1, 1999, had a
5 new location, as described in Section 94721 of the Education
6 Code.

7 (3) The approved institution is not a franchise institution, as
8 defined in Section 94729.3 of the Education Code.

9 SEC. 25. Section 4008 of the Business and Professions Code
10 is amended to read:

11 4008. (a) Except as provided by Section 159.5, the board
12 may employ inspectors of pharmacy. The inspectors, whether the
13 inspectors are employed by the board or the department's Division
14 of Investigation, may inspect during business hours all
15 pharmacies, wholesalers, dispensaries, stores, or places in which
16 drugs or devices are compounded, prepared, furnished, dispensed,
17 or stored. Any board inspector of pharmacy whose principal duties
18 include either (1) the inspection and investigation of pharmacies
19 or pharmacists for alleged violations of this act, or (2) the
20 supervision of other inspectors of pharmacy, shall be a pharmacist.
21 For purposes of inspecting or investigating nonpharmacies or
22 nonpharmacists pursuant to this chapter, a board inspector of
23 pharmacy is not required to be a pharmacist.

24 (b) Notwithstanding subdivision (a), a pharmacy inspector
25 may inspect or examine a physician's office or clinic that does not
26 have a permit under Section 4180 or 4190 only to the extent
27 necessary to determine compliance with and to enforce either
28 Section 4080 or 4081.

29 (c) (1) Any pharmacy inspector employed by the board or in
30 the department's Division of Investigation shall have the authority,
31 as a public officer, to arrest, without warrant, any person whenever
32 the officer has reasonable cause to believe that the person to be
33 arrested has, in his or her presence, violated any provision of this
34 chapter or of Division 10 (commencing with Section 11000) of the
35 Health and Safety Code. If the violation is a felony, or if the
36 arresting officer has reasonable cause to believe that the person to
37 be arrested has violated any provision that is declared to be a
38 felony, although no felony has in fact been committed, he or she
39 may make an arrest although the violation or suspected violation
40 did not occur in his or her presence.



1 (2) In case in which an arrest authorized by this subdivision
2 is made for an offense declared to be a misdemeanor, and the
3 person arrested does not demand to be taken before a magistrate,
4 the arresting inspector may, instead of taking the person before a
5 magistrate, follow the procedure prescribed by Chapter 5C
6 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal
7 Code. That chapter shall thereafter apply with reference to any
8 proceeding based upon the issuance of a citation pursuant to this
9 authority.

10 (d) There shall be no civil liability on the part of, and no cause
11 of action shall arise against, any person, acting pursuant to
12 subdivision (a) and within the scope of his or her authority, for
13 false arrest or false imprisonment arising out of any arrest that is
14 lawful, or that the arresting officer, at the time of the arrest, had
15 reasonable cause to believe was lawful. No inspector shall be
16 deemed an aggressor or lose his or her right to self-defense by the
17 use of reasonable force to effect the arrest or to prevent escape or
18 to overcome resistance.

19 (e) Any inspector may serve all processes and notices
20 throughout the state.

21 SEC. 26. Section 4033 of the Business and Professions Code
22 is amended to read:

23 4033. (a) “Manufacturer” means and includes every person
24 who prepares, derives, produces, compounds, or repackages any
25 drug or device except a pharmacy that manufactures on the
26 immediate premises where the drug or device is sold to the
27 ultimate consumer.

28 (b) Notwithstanding subdivision (a), “manufacturer” shall not
29 mean a pharmacy compounding a drug for parenteral therapy,
30 pursuant to a prescription, for delivery to another pharmacy for the
31 purpose of delivering or administering the drug to the patient or
32 patients named in the prescription, provided that neither the
33 components for the drug nor the drug are compounded, fabricated,
34 packaged, or otherwise prepared prior to receipt of the
35 prescription.

36 (c) Notwithstanding subdivision (a), “manufacturer” shall not
37 mean a pharmacy that, at a patient’s request, repackages a drug
38 previously dispensed to the patient, or to the patient’s agent,
39 pursuant to a prescription.



1 ~~SEC. 27.—Section 4057 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~4057.—(a) Except as provided in Sections 4006, 4240, and~~
4 ~~4342, this chapter does not apply to the retail sale of~~
5 ~~nonprescription drugs that are not subject to Section 4022 and that~~
6 ~~are packaged or bottled in the manufacturer's or distributor's~~
7 ~~container and labeled in accordance with applicable federal and~~
8 ~~state drug labeling requirements.~~

9 ~~(b) This chapter does not apply to specific dangerous drugs and~~
10 ~~dangerous devices listed in board regulations, where the sale or~~
11 ~~furnishing is made to any of the following:~~

12 ~~(1) A physician, dentist, podiatrist, pharmacist, medical~~
13 ~~technician, medical technologist, optometrist, or chiropractor~~
14 ~~holding a currently valid and unrevoked license and acting within~~
15 ~~the scope of his or her profession.~~

16 ~~(2) A clinic, hospital, institution, or establishment holding a~~
17 ~~currently valid and unrevoked license or permit under Division 2~~
18 ~~(commencing with Section 1200) of the Health and Safety Code,~~
19 ~~or Chapter 2 (commencing with Section 3300) of Division 3 of, or~~
20 ~~Part 2 (commencing with Section 6250) of Division 6 of, the~~
21 ~~Welfare and Institutions Code.~~

22 ~~(c) This chapter shall not apply to a home health agency~~
23 ~~licensed under Chapter 8 (commencing with Section 1725) of, or~~
24 ~~a hospice licensed under Chapter 8.5 (commencing with Section~~
25 ~~1745) of, Division 2 of, the Health and Safety Code, when it~~
26 ~~purchases, stores, furnishes, or transports specific dangerous~~
27 ~~drugs and dangerous devices listed in board regulations in~~
28 ~~compliance with applicable law and regulations including:~~

29 ~~(1) Dangerous devices described in subdivision (b) of Section~~
30 ~~4022, as long as these dangerous devices are furnished only upon~~
31 ~~the prescription or order of a physician, dentist, or podiatrist.~~

32 ~~(2) Hypodermic needles and syringes.~~

33 ~~(3) Irrigation solutions of 50 cubic centimeters or greater.~~

34 ~~(d) This chapter does not apply to the storage of devices in~~
35 ~~secure central or ward supply areas of a clinic, hospital, institution,~~
36 ~~or establishment holding a currently valid and unrevoked license~~
37 ~~or permit pursuant to Division 2 (commencing with Section 1200)~~
38 ~~of the Health and Safety Code, or pursuant to Chapter 2~~
39 ~~(commencing with Section 3300) of Division 3 of, or Part 2~~



1 ~~(commencing with Section 6250) of Division 6 of, the Welfare and~~
2 ~~Institutions Code.~~

3 ~~(e) This chapter does not apply to the retail sale of vitamins,~~
4 ~~mineral products, or combinations thereof or to foods,~~
5 ~~supplements, or nutrients used to fortify the diet of humans or~~
6 ~~other animals or poultry and labeled as such that are not subject to~~
7 ~~Section 4022 and that are packaged or bottled in the~~
8 ~~manufacturer's or distributor's container and labeled in~~
9 ~~accordance with applicable federal and state labeling~~
10 ~~requirements.~~

11 ~~(f) This chapter does not apply to the furnishing of dangerous~~
12 ~~drugs and dangerous devices to recognized schools of nursing.~~
13 ~~These dangerous drugs and dangerous devices shall not include~~
14 ~~controlled substances. The dangerous drugs and dangerous~~
15 ~~devices shall be used for training purposes only, and not for the~~
16 ~~cure, mitigation, or treatment of disease in humans. Recognized~~
17 ~~schools of nursing for purposes of this subdivision are those~~
18 ~~schools recognized as training facilities by the California Board of~~
19 ~~Registered Nursing.~~

20 ~~(g) The board may, by regulation, establish a list of those~~
21 ~~dangerous devices that may only be maintained, dispensed, sold,~~
22 ~~or furnished by a pharmacist in a pharmacy. In establishing or~~
23 ~~modifying that list, the board shall consider factors, including, but~~
24 ~~not limited to, the following:~~

- 25 ~~(1) The potential for abuse or for the spread of illness.~~
- 26 ~~(2) The danger to the public if the device is not so restricted.~~
- 27 ~~(3) The potential danger to minors if the device is not so~~
28 ~~restricted.~~

29 *SEC. 27. Section 4052.7 is added to the Business and*
30 *Professions Code, to read:*

31 *4052.7. (a) A pharmacy may, at a patient's request,*
32 *repackage a drug previously dispensed to the patient or to the*
33 *patient's agent pursuant to a prescription.*

34 *(b) Any pharmacy providing repackaging services shall have in*
35 *place policies and procedures for repackaging these drugs and*
36 *shall label the repackaged prescription container with the*
37 *following:*

- 38 *(1) All the information required by Section 4076.*



1 (2) *The name and address of the pharmacy repackaging the*
2 *drug and the name and address of the pharmacy that initially*
3 *dispensed the drug to the patient.*

4 (c) *The repackaging pharmacy and the pharmacy that initially*
5 *dispensed the drug shall only be liable for its own actions in*
6 *providing the drug to the patient or the patient’s agent.*

7 SEC. 27.2. *Section 4053 of the Business and Professions Code*
8 *is amended to read:*

9 4053. (a) Subdivision (a) of Section 4051 shall not apply to
10 a manufacturer, *veterinary food-animal drug retailer*, or
11 wholesaler if the board shall find that sufficient, qualified
12 supervision is employed by the manufacturer, *veterinary*
13 *food-animal drug retailer*, or wholesaler to adequately safeguard
14 and protect the public health, nor shall Section 4051 apply to any
15 laboratory licensed under Section 351 of Title III of the Public
16 Health Service Act (Public Law 78-410).

17 (b) ~~Section 4051 shall not prohibit a veterinary food-animal~~
18 ~~drug retailer from selling or dispensing veterinary food-animal~~
19 ~~drugs for food-producing animals if the board finds that sufficient~~
20 ~~qualified supervision is employed by the veterinary food-animal~~
21 ~~drug retailer to adequately safeguard and protect the public health.~~
22 ~~Each person applying~~ *An individual employed by a manufacturer,*
23 *veterinary food-animal drug retailer, or wholesaler may apply for*
24 *an exemption shall meet the following requirements from Section*
25 *4051. In order to obtain and maintain that exemption, the*
26 *individual shall meet the following requirements:*

27 (1) ~~The veterinary food-animal drug retailer shall be in the~~
28 ~~charge of an exempt person who has taken and passed an~~
29 ~~examination administered by the board and whose certificate of~~
30 ~~exemption is currently valid~~ *He or she shall be a high school*
31 *graduate or possess a general education development equivalent.*

32 (2) ~~Each premises maintained by a veterinary food-animal~~
33 ~~drug retailer shall have a license issued by the board and shall have~~
34 ~~an exempt person on the premises if veterinary food-animal drugs~~
35 ~~are furnished, sold, or dispensed.~~

36 (3) ~~Only the exempt person shall prepare and affix the label to~~
37 ~~all veterinary food-animal drugs.~~

38 (4) ~~The exempt person~~ *He or she shall have a minimum of one*
39 *year of paid work experience related to the distribution or*
40 *dispensing of dangerous drugs or dangerous devices or meet all of*



1 *the prerequisites to take the examination required for licensure as*
2 *a pharmacist by the board.*

3 *(3) He or she shall complete a training program to be approved*
4 *by the board and qualify through examination on areas covering*
5 *the essential knowledge necessary to properly read, fill, label, and*
6 *dispense veterinary food-animal prescriptions that, at a minimum,*
7 *addresses each of the following subjects:*

8 *(A) Knowledge and understanding of state and federal law*
9 *relating to the distribution of dangerous drugs and dangerous*
10 *devices.*

11 *(B) Knowledge and understanding of state and federal law*
12 *relating to the distribution of controlled substances.*

13 *(C) Knowledge and understanding of quality control systems.*

14 *(D) Knowledge and understanding of the United States*
15 *Pharmacopoeia standards relating to the safe storage and*
16 *handling of drugs.*

17 *(E) Knowledge and understanding of prescription terminology,*
18 *abbreviations, dosages and format.*

19 *(4) The board may, by regulation, require training programs to*
20 *include additional material.*

21 *(5) The board may, by regulation, require training programs to*
22 *include additional material.*

23 *(6) The board shall not issue a certificate of exemption until the*
24 *applicant provides proof of completion of the required training to*
25 *the board.*

26 *(c) An exemptee certificate issued pursuant to this section is*
27 *valid only at the location for which it is issued. The licensee and*
28 *the exemptee shall each notify the board in writing within 30 days*
29 *of the date on which the exemptee is no longer employed by the*
30 *licensee at the location for which the exemptee certificate was*
31 *issued. The licensee manufacturer, veterinary food-animal drug*
32 *retailer, or wholesaler shall not operate without a pharmacist or an*
33 *exemptee approved for that location by the board individual in*
34 *possession of a certificate of exemption on its premises.*

35 *(d) This section shall become operative on July 1, 2001. Only*
36 *a pharmacist or an individual in possession of a certificate of*
37 *exemption shall prepare and affix the label to veterinary*
38 *food-animal drugs.*

39 SEC. 28. Section 4110 of the Business and Professions Code
40 is amended to read:



1 4110. (a) No person shall conduct a pharmacy in the State of
2 California unless he or she has obtained a license from the board.
3 A license shall be required for each pharmacy owned or operated
4 by a specific person. A separate license shall be required for each
5 of the premises of any person operating a pharmacy in more than
6 one location. The license shall be renewed annually. The board
7 may, by regulation, determine the circumstances under which a
8 license may be transferred.

9 (b) The board may, at its discretion, issue a temporary permit,
10 when the ownership of a pharmacy is transferred from one person
11 to another, upon the conditions and for any periods of time as the
12 board determines to be in the public interest. A temporary permit
13 fee shall be established by the board at an amount not to exceed the
14 annual fee for renewal of a permit to conduct a pharmacy. ~~When~~
15 ~~needed to protect public safety, a temporary permit to conduct a~~
16 ~~pharmacy may be issued for a period not to exceed 180 days.~~
17 ~~Temporary permits may be subject to conditions or restrictions~~
18 ~~deemed necessary to protect public safety. A temporary license or~~
19 ~~temporary certificate shall terminate upon notice thereof by~~
20 ~~certified mail, return receipt requested, if it is issued by mistake or~~
21 ~~if an application for permanent licensure is denied. The holder of~~
22 ~~a temporary permit shall have no vested property interest in the~~
23 ~~permit. A temporary permit may be issued for a period not to~~
24 ~~exceed 180 days, and may be issued subject to terms and~~
25 ~~conditions the board deems necessary. If the board determines a~~
26 ~~temporary permit was issued by mistake or denies the application~~
27 ~~for a permanent license or registration, the temporary license or~~
28 ~~registration shall terminate upon either personal service of the~~
29 ~~notice of termination upon the permitholder or service by certified~~
30 ~~mail, return receipt requested, at the permitholder's address of~~
31 ~~record with the board, whichever comes first. Neither for purposes~~
32 ~~of retaining a temporary permit nor for purposes of any~~
33 ~~disciplinary of license denial proceeding before the board shall the~~
34 ~~temporary permitholder be deemed to have a vested property right~~
35 ~~or interest in the permit.~~

36 SEC. 29. Section 4115 of the Business and Professions Code
37 is amended to read:

38 4115. (a) Notwithstanding any other provision of law, a
39 pharmacy technician may perform packaging, manipulative,
40 repetitive, or other nondiscretionary tasks, only while assisting,



1 and while under the direct supervision and control of, a
2 pharmacist.

3 (b) This section does not authorize the performance of any
4 tasks specified in subdivision (a) by a pharmacy technician
5 without a pharmacist on duty, nor does this section authorize the
6 use of a pharmacy technician to perform tasks specified in
7 subdivision (a) except under the direct supervision and control of
8 a pharmacist.

9 (c) This section does not authorize a pharmacy technician to
10 perform any act requiring the exercise of professional judgment by
11 a pharmacist.

12 (d) The board shall adopt regulations to specify tasks pursuant
13 to subdivision (a) that a pharmacy technician may perform under
14 the direct supervision and control of a pharmacist. Any pharmacy
15 that employs a pharmacy technician to perform tasks specified in
16 subdivision (a) shall do so in conformity with the regulations
17 adopted by the board pursuant to this subdivision.

18 (e) (1) No person shall act as a pharmacy technician without
19 first being registered with the board as a pharmacy technician as
20 set forth in Section 4202.

21 (2) The registration requirements in paragraph (1) and Section
22 4202 shall not apply during the first year of employment for a
23 person employed or utilized as a pharmacy technician to assist in
24 the filling of prescriptions for an inmate of a correctional facility
25 of the Department of the Youth Authority or the Department of
26 Corrections, or for a person receiving treatment in a facility
27 operated by the State Department of Mental Health, the State
28 Department of Developmental Services, or the Department of
29 Veterans Affairs.

30 (f) The performance of duties by a pharmacy technician shall
31 be under the direct supervision and control of a pharmacist. The
32 pharmacist on duty shall be directly responsible for the conduct of
33 a pharmacy technician. A pharmacy technician may perform the
34 duties, as specified in subdivision (a), only under the immediate,
35 personal supervision and control of a pharmacist. Any pharmacist
36 responsible for a pharmacy technician shall be on the premises at
37 all times, and the pharmacy technician shall be within the
38 pharmacist's view. A pharmacist shall indicate verification of the
39 prescription by initialing the prescription label before the
40 medication is provided to the patient.



1 This subdivision shall not apply to a person employed or utilized
2 as a pharmacy technician to assist in the filling of prescriptions for
3 an inpatient of a hospital or for an inmate of a correctional facility.
4 Notwithstanding the exemption in this subdivision, the
5 requirements of subdivisions (a) and (b) shall apply to a person
6 employed or utilized as a pharmacy technician to assist in the
7 filling of prescriptions for an inpatient of a hospital or for an
8 inmate of a correctional facility.

9 (g) (1) The ratio of pharmacy technicians performing the tasks
10 specified in subdivision (a) to pharmacists shall not exceed one to
11 one, except that this ratio shall not apply to personnel performing
12 clerical functions pursuant to Section 4116 or 4117. This ratio is
13 applicable to all practice settings, except for an inpatient of a
14 licensed health facility, a patient of a licensed home health agency,
15 as specified in paragraph (2), an inmate of a correctional facility
16 of the Department of the Youth Authority or the Department of
17 Corrections, and for a person receiving treatment in a facility
18 operated by the State Department of Mental Health, the State
19 Department of Developmental Services, or the Department of
20 Veterans Affairs.

21 (2) The board may adopt regulations establishing the ratio of
22 pharmacy technicians performing the tasks specified in
23 subdivision (a) to pharmacists applicable to the filling of
24 prescriptions of an inpatient of a licensed health facility and for a
25 patient of a licensed home health agency. Any ratio established by
26 the board pursuant to this subdivision shall allow, at a minimum,
27 at least one pharmacy technician for each pharmacist, except that
28 this ratio shall not apply to personnel performing clerical functions
29 pursuant to Section 4116 or 4117.

30 (h) Notwithstanding subdivisions (b) and (f), the board shall by
31 regulation establish conditions to permit the temporary absence of
32 a pharmacist for breaks and lunch periods pursuant to Section 512
33 of the Labor Code and the orders of the Industrial Welfare
34 Commission without closing the pharmacy. During these
35 temporary absences, a pharmacy technician may, at the discretion
36 of the pharmacist, remain in the pharmacy but may only perform
37 nondiscretionary tasks. The pharmacist shall be responsible for a
38 pharmacy technician and shall review any task performed by a
39 pharmacy technician during the pharmacist's temporary absence.
40 Nothing in this subdivision shall be construed to authorize a



1 pharmacist to supervise pharmacy technicians in greater ratios
2 than those described in subdivision (g).

3 *SEC. 29.2. Section 4115 of the Business and Professions Code*
4 *is amended to read:*

5 4115. (a) Notwithstanding any other provision of law, a
6 pharmacy technician may perform packaging, manipulative,
7 repetitive, or other nondiscretionary tasks, only while assisting,
8 and while under the direct supervision and control of, a
9 pharmacist.

10 (b) This section does not authorize the performance of any
11 tasks specified in subdivision (a) by a pharmacy technician
12 without a pharmacist on duty, nor does this section authorize the
13 use of a pharmacy technician to perform tasks specified in
14 subdivision (a) except under the direct supervision and control of
15 a pharmacist.

16 (c) This section does not authorize a pharmacy technician to
17 perform any act requiring the exercise of professional judgment by
18 a pharmacist.

19 (d) The board shall adopt regulations to specify tasks pursuant
20 to subdivision (a) that a pharmacy technician may perform under
21 the direct supervision and control of a pharmacist. Any pharmacy
22 that employs a pharmacy technician to perform tasks specified in
23 subdivision (a) shall do so in conformity with the regulations
24 adopted by the board pursuant to this subdivision.

25 (e) (1) No person shall act as a pharmacy technician without
26 first being registered with the board as a pharmacy technician as
27 set forth in Section 4202.

28 ~~(2) The registration requirements in paragraph (1) and Section~~
29 ~~4202 shall not apply to a person employed or utilized as a~~
30 ~~pharmacy technician to assist in the filling of prescriptions for an~~
31 ~~inpatient of a hospital until July 1, 1997.~~

32 ~~(3) The registration requirements in paragraph (1) and Section~~
33 ~~4202 shall not apply during the first year of employment for a~~
34 ~~person employed or utilized as a pharmacy technician to assist in~~
35 ~~the filling of prescriptions for an inmate of a correctional facility~~
36 ~~of the Department of the Youth Authority or the Department of~~
37 ~~Corrections, or for a person receiving treatment in a facility~~
38 ~~operated by the State Department of Mental Health, the State~~
39 ~~Department of Developmental Services, or the Department of~~
40 ~~Veterans Affairs.~~



1 (f) The performance of duties by a pharmacy technician shall
2 be under the direct supervision and control of a pharmacist. The
3 pharmacist on duty shall be directly responsible for the conduct of
4 a pharmacy technician. A pharmacy technician may perform the
5 duties, as specified in subdivision (a), only under the immediate,
6 personal supervision and control of a pharmacist. Any pharmacist
7 responsible for a pharmacy technician shall be on the premises at
8 all times, and the pharmacy technician shall be within the
9 pharmacist's view. A pharmacist shall indicate verification of the
10 prescription by initialing the prescription label before the
11 medication is provided to the patient.

12 This subdivision shall not apply to a person employed or utilized
13 as a pharmacy technician to assist in the filling of prescriptions for
14 an inpatient of a hospital or for an inmate of a correctional facility.
15 Notwithstanding the exemption in this subdivision, the
16 requirements of subdivisions (a) and (b) shall apply to a person
17 employed or utilized as a pharmacy technician to assist in the
18 filling of prescriptions for an inpatient of a hospital or for an
19 inmate of a correctional facility.

20 (g) (1) ~~The ratio of pharmacy technicians to a pharmacy with~~
21 ~~only one pharmacist shall have no more than one pharmacy~~
22 ~~technician performing the tasks specified in subdivision (a) to~~
23 ~~pharmacists shall not exceed one to one. The ratio of pharmacy~~
24 ~~technicians performing the tasks specified in subdivision (a) to any~~
25 ~~additional pharmacist shall not exceed 2:1, except that this ratio~~
26 shall not apply to personnel performing clerical functions pursuant
27 to Section 4116 or 4117. This ratio is applicable to all practice
28 settings, except for an inpatient of a licensed health facility, a
29 patient of a licensed home health agency, as specified in paragraph
30 (2), an inmate of a correctional facility of the Department of the
31 Youth Authority or the Department of Corrections, and for a
32 person receiving treatment in a facility operated by the State
33 Department of Mental Health, the State Department of
34 Developmental Services, or the Department of Veterans Affairs.

35 (2) The board may adopt regulations establishing the ratio of
36 pharmacy technicians performing the tasks specified in
37 subdivision (a) to pharmacists applicable to the filling of
38 prescriptions of an inpatient of a licensed health facility and for a
39 patient of a licensed home health agency. Any ratio established by
40 the board pursuant to this subdivision shall allow, at a minimum,



1 at least one pharmacy technician for ~~each~~ a single pharmacist in
2 a pharmacy and two pharmacy technicians for each additional
3 pharmacist, except that this ratio shall not apply to personnel
4 performing clerical functions pursuant to Section 4116 or 4117.

5 (3) A pharmacist scheduled to supervise a second pharmacy
6 technician may refuse to supervise a second pharmacy technician
7 if the pharmacist determines, in the exercise of his or her
8 professional judgment, that permitting the second pharmacy
9 technician to be on duty would interfere with the effective
10 performance of the pharmacist's responsibilities under this
11 chapter. A pharmacist assigned to supervise a second pharmacy
12 technician shall notify the pharmacist in charge in writing of his
13 or her determination, specifying the circumstances of concern with
14 respect to the pharmacy or the pharmacy technician that have led
15 to the determination, within a reasonable period, but not to exceed
16 24 hours, after the posting of the relevant schedule. No entity
17 employing a pharmacist may discharge, discipline, or otherwise
18 discriminate against any pharmacist in the terms and conditions
19 of employment for exercising or attempting to exercise in good
20 faith the right established pursuant to this paragraph.

21 (h) Notwithstanding subdivisions (b) and (f), the board shall by
22 regulation establish conditions to permit the temporary absence of
23 a pharmacist for breaks and lunch periods pursuant to Section 512
24 of the Labor Code and the orders of the Industrial Welfare
25 Commission without closing the pharmacy. During these
26 temporary absences, a pharmacy technician may, at the discretion
27 of the pharmacist, remain in the pharmacy but may only perform
28 nondiscretionary tasks. The pharmacist shall be responsible for a
29 pharmacy technician and shall review any task performed by a
30 pharmacy technician during the pharmacist's temporary absence.
31 Nothing in this subdivision shall be construed to authorize a
32 pharmacist to supervise pharmacy technicians in greater ratios
33 than those described in subdivision (g).

34 *SEC. 29.4. Section 4160 of the Business and Professions Code*
35 *is amended to read:*

36 4160. (a) No person shall act as a wholesaler of any
37 dangerous drug or dangerous device unless he or she has obtained
38 a license from the board. Upon approval by the board and the
39 payment of the required fee, the board shall issue a license to the
40 applicant.



1 (b) No selling or distribution outlet, located in this state, of any
2 out-of-state manufacturer, that has not obtained a license from the
3 board, that sells or distributes only the dangerous drugs or the
4 dangerous devices of that manufacturer, shall sell or distribute any
5 dangerous drug or dangerous device in this state without obtaining
6 a wholesaler's license from the board.

7 (c) A separate license shall be required for each place of
8 business owned or operated by a wholesaler. Each license shall be
9 renewed annually and shall not be transferable.

10 (d) *The board shall not issue or renew a wholesaler license until*
11 *the wholesaler designates an exemptee-in-charge and notifies the*
12 *board in writing of the identity and license number of that*
13 *exemptee. The exemptee-in-charge shall be responsible for the*
14 *wholesaler's compliance with state and federal laws governing*
15 *wholesalers. Each wholesaler shall designate, and notify the*
16 *board of, a new exemptee-in-charge within 30 days of the date that*
17 *the prior exemptee-in-charge ceases to be exemptee-in-charge. A*
18 *pharmacist may be designated as the exemptee-in-charge.*

19 (e) *For purposes of this section, "exemptee-in-charge" means*
20 *a person granted a certificate of exemption pursuant to Section*
21 *4053, or a registered pharmacist, who is the supervisor or*
22 *manager of the facility.*

23 SEC. 30. Section 4161 of ~~the~~ the Business and Professions
24 Code is amended to read:

25 4161. (a) No person shall act as an out-of-state manufacturer
26 or wholesaler of dangerous drugs or dangerous devices doing
27 business in this state who has not obtained an out-of-state
28 dangerous drug or dangerous device distributor's license from the
29 board. Persons not located in this state selling or distributing
30 dangerous drugs or dangerous devices in this state only through a
31 licensed wholesaler are not required to be licensed as an
32 out-of-state manufacturer or wholesaler or have an out-of-state
33 dangerous drug or dangerous device distributor's license.

34 (b) Applications for an out-of-state dangerous drug or
35 dangerous device distributor's license shall be made on a form
36 furnished by the board. The board may require any information as
37 the board deems is reasonably necessary to carry out the purposes
38 of the section. The license shall be renewed annually.

39 (c) The Legislature, by enacting this section, does not intend a
40 license issued to any out-of-state manufacturer or wholesaler



1 pursuant to this section to change or affect the tax liability imposed
2 by Chapter 3 (commencing with Section 23501) of Part 11 of
3 Division 2 of the Revenue and Taxation Code on any out-of-state
4 manufacturer or wholesaler.

5 (d) The Legislature, by enacting this section, does not intend a
6 license issued to any out-of-state manufacturer or wholesaler
7 pursuant to this section to serve as any evidence that the
8 out-of-state manufacturer or wholesaler is doing business within
9 this state.

10 *SEC. 30.2. Section 4196 of the Business and Professions Code*
11 *is amended to read:*

12 4196. (a) No person shall conduct a veterinary food-animal
13 drug retailer in the State of California unless he or she has obtained
14 a license from the board. A license shall be required for each
15 veterinary food-animal drug retailer owned or operated by a
16 specific person. A separate license shall be required for each of the
17 premises of any person operating a veterinary food-animal drug
18 retailer in more than one location. The license shall be renewed
19 annually and shall not be transferable.

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

27 (c) No person other than a pharmacist ~~or~~, an intern pharmacist,
28 an exempt person ~~as specified in Section 4197~~, or an authorized
29 officer of the law, or a person authorized to prescribe, ~~as provided~~
30 ~~in Sections 4040 and 4070~~, shall be permitted in that area, place,
31 or premises described in the permit issued by the board pursuant
32 to Section 4041, wherein veterinary food-animal drugs are stored,
33 possessed, or repacked, ~~except that a~~. A pharmacist or exemptee,
34 ~~as specified in Section 4198~~, shall be responsible for any
35 individual who enters the veterinary food-animal drug retailer for
36 the purpose of performing clerical, inventory control,
37 housekeeping, delivery, maintenance, or similar functions relating
38 to the veterinary food-animal drug retailer.

39 (d) *The board shall not issue or renew a veterinary food-animal*
40 *retailer license until the veterinary food-animal drug retailer*



1 designates an exemptee-in-charge and notifies the board in
2 writing of the identity and license number of that exemptee. The
3 exemptee-in-charge shall be responsible for the veterinary
4 food-animal drug retailer's compliance with state and federal laws
5 governing veterinary food-animal drug retailer. Each veterinary
6 food-animal drug retailer shall designate, and notify the board of,
7 a new exemptee-in-charge within 30 days of the date that the prior
8 exemptee-in-charge ceases to be exemptee-in-charge. A
9 pharmacist may be designated as the exemptee-in-charge.

10 (e) For purposes of this section, "exemptee-in-charge" means
11 a person granted a certificate of exemption pursuant to Section
12 4053, or a registered pharmacist, who is the supervisor or
13 manager of the facility.

14 SEC. 30.4. Section 4200.5 of the Business and Professions
15 Code is amended to read:

16 4200.5. (a) The board shall issue, upon application and
17 payment of the fee established by Section 4400, a retired license
18 to a pharmacist who has been licensed by the board for 20 years
19 or longer, and who holds a license that is current and capable of
20 being renewed pursuant to Section 4401, that is not suspended,
21 revoked, or otherwise disciplined, or subject to pending discipline,
22 under this chapter. The board shall not issue a retired license to a
23 pharmacist whose license has been revoked.

24 (b) The holder of a retired license issued pursuant to this section
25 shall not engage in any activity for which an active pharmacist's
26 license is required. A pharmacist holding a retired license shall be
27 permitted to use the titles "retired pharmacist" or "pharmacist,
28 retired."

29 (c) The holder of a retired license shall not be required to renew
30 that license.

31 (d) In order for the holder of a retired license issued pursuant
32 to this section to restore his or her license to active status, he or she
33 shall pass the examination that is required for initial licensure with
34 the board.

35 SEC. 30.6. Section 4301 of the Business and Professions Code
36 is amended to read:

37 4301. The board shall take action against any holder of a
38 license who is guilty of unprofessional conduct or whose license
39 has been procured by fraud or misrepresentation or issued by



1 mistake. Unprofessional conduct shall include, but is not limited
2 to, any of the following:

3 (a) Gross immorality.

4 (b) Incompetence.

5 (c) Gross negligence.

6 (d) The clearly excessive furnishing of controlled substances in
7 violation of subdivision (a) of Section 11153 of the Health and
8 Safety Code.

9 (e) The clearly excessive furnishing of controlled substances in
10 violation of subdivision (a) of Section 11153.5 of the Health and
11 Safety Code. Factors to be considered in determining whether the
12 furnishing of controlled substances is clearly excessive shall
13 include, but not be limited to, the amount of controlled substances
14 furnished, the previous ordering pattern of the customer (including
15 size and frequency of orders), the type and size of the customer,
16 and where and to whom the customer distributes its product.

17 (f) The commission of any act involving moral turpitude,
18 dishonesty, fraud, deceit, or corruption, whether the act is
19 committed in the course of relations as a licensee or otherwise, and
20 whether the act is a felony or misdemeanor or not.

21 (g) Knowingly making or signing any certificate or other
22 document that falsely represents the existence or nonexistence of
23 a state of facts.

24 (h) The administering to oneself, of any controlled substance,
25 or the use of any dangerous drug or of alcoholic beverages to the
26 extent or in a manner as to be dangerous or injurious to oneself, to
27 a person holding a license under this chapter, or to any other person
28 or to the public, or to the extent that the use impairs the ability of
29 the person to conduct with safety to the public the practice
30 authorized by the license.

31 (i) Except as otherwise authorized by law, knowingly selling,
32 furnishing, giving away, or administering or offering to sell,
33 furnish, give away, or administer any controlled substance to an
34 addict.

35 (j) The violation of any of the statutes of this state or of the
36 United States regulating controlled substances and dangerous
37 drugs.

38 (k) The conviction of more than one misdemeanor or any
39 felony involving the use, consumption, or self-administration of



1 any dangerous drug or alcoholic beverage, or any combination of
2 those substances.

3 (l) The conviction of a crime substantially related to the
4 qualifications, functions, and duties of a licensee under this
5 chapter. The record of conviction of a violation of Chapter 13
6 (commencing with Section 801) of Title 21 of the United States
7 Code regulating controlled substances or of a violation of the
8 statutes of this state regulating controlled substances or dangerous
9 drugs shall be conclusive evidence of unprofessional conduct. In
10 all other cases, the record of conviction shall be conclusive
11 evidence only of the fact that the conviction occurred. The board
12 may inquire into the circumstances surrounding the commission
13 of the crime, in order to fix the degree of discipline or, in the case
14 of a conviction not involving controlled substances or dangerous
15 drugs, to determine if the conviction is of an offense substantially
16 related to the qualifications, functions, and duties of a licensee
17 under this chapter. A plea or verdict of guilty or a conviction
18 following a plea of *nolo contendere* is deemed to be a conviction
19 within the meaning of this provision. The board may take action
20 when the time for appeal has elapsed, or the judgment of
21 conviction has been affirmed on appeal or when an order granting
22 probation is made suspending the imposition of sentence,
23 irrespective of a subsequent order under Section 1203.4 of the
24 Penal Code allowing the person to withdraw his or her plea of
25 guilty and to enter a plea of not guilty, or setting aside the verdict
26 of guilty, or dismissing the accusation, information, or indictment.

27 (m) The cash compromise of a charge of violation of Chapter
28 13 (commencing with Section 801) of Title 21 of the United States
29 Code regulating controlled substances *or of Chapter 7*
30 *(commencing with Section 14000) of Part 3 of Division 9 of the*
31 *Welfare and Institutions Code relating to the Medi-Cal program.*
32 The record of the compromise is conclusive evidence of
33 unprofessional conduct.

34 (n) The revocation, suspension, or other discipline by another
35 state of a license to practice pharmacy, operate a pharmacy, or do
36 any other act for which a license is required by this chapter.

37 (o) Violating or attempting to violate, directly or indirectly, or
38 assisting in or abetting the violation of or conspiring to violate any
39 provision or term of this chapter or of the applicable federal and



1 state laws and regulations governing pharmacy, including
2 regulations established by the board.

3 (p) Actions or conduct that would have warranted denial of a
4 license.

5 (q) Engaging in any conduct that subverts or attempts to
6 subvert an investigation of the board.

7 SEC. 31. Section 4305.5 of the Business and Professions
8 Code is amended to read:

9 4305.5. (a) Any person who has obtained a license to conduct
10 a wholesaler or veterinary food-animal drug retailer, shall notify
11 the board within 30 days of the termination of employment of any
12 pharmacist or exemptee who takes charge of, or acts as manager
13 of the licensee. Failure to notify the board within the 30-day period
14 shall constitute grounds for disciplinary action.

15 (b) Any person who has obtained a license to conduct a
16 wholesaler or veterinary food-animal drug retailer, who willfully
17 fails to notify the board of the termination of employment of any
18 pharmacist or exemptee who takes charge of, or acts as manager
19 of the licensee, and who continues to operate the licensee in the
20 absence of a pharmacist or an exemptee approved for that location,
21 shall be subject to summary suspension or revocation of his or her
22 license to conduct a wholesaler or veterinary food-animal drug
23 retailer.

24 (c) Any pharmacist or exemptee who takes charge of, or acts as
25 manager of a wholesaler or veterinary food-animal drug retailer,
26 who terminates his or her employment at the licensee, shall notify
27 the board within 30 days of the termination of employment.
28 Failure to notify the board within the 30-day period shall constitute
29 grounds for disciplinary action.

30 SEC. 32. Section 4331 of the Business and Professions Code
31 is amended to read:

32 4331. (a) Any person who is neither a pharmacist nor an
33 exemptee and who takes charge of a wholesaler or veterinary
34 food-animal drug retailer or who dispenses a prescription or
35 furnishes dangerous devices except as otherwise provided in this
36 chapter is guilty of a misdemeanor.

37 (b) Any person who has obtained a license to conduct a
38 veterinary food-animal drug retailer and who fails to place in
39 charge of that veterinary food-animal drug retailer a pharmacist or
40 exemptee, or any person who, by himself or herself, or by any



1 other person, permits the dispensing of prescriptions, except by a
2 pharmacist or exemptee, or as otherwise provided in this chapter,
3 is guilty of a misdemeanor.

4 (c) Any person who has obtained a license to conduct a
5 wholesaler and who fails to place in charge of that wholesaler a
6 pharmacist or exemptee, or any person who, by himself or herself,
7 or by any other person, permits the furnishing of dangerous drugs
8 or dangerous devices, except by a pharmacist or exemptee, or as
9 otherwise provided in this chapter, is guilty of a misdemeanor.

10 SEC. 33. Section 4400 of the Business and Professions Code
11 is amended to read:

12 4400. The amount of fees and penalties prescribed by this
13 chapter, except as otherwise provided, is that fixed by the board
14 according to the following schedule:

15 (a) The fee for a nongovernmental pharmacy license shall be
16 three hundred forty dollars (\$340) and may be increased to four
17 hundred dollars (\$400).

18 (b) The fee for a nongovernmental pharmacy or medical device
19 retailer annual renewal shall be one hundred seventy-five dollars
20 (\$175) and may be increased to two hundred fifty dollars (\$250).

21 (c) The fee for the pharmacist examination shall be one
22 hundred fifty-five dollars (\$155) and may be increased to one
23 hundred eighty-five dollars (\$185).

24 (d) The fee for regrading an examination shall be seventy-five
25 dollars (\$75) and may be increased to eighty-five dollars (\$85). If
26 an error in grading is found and the applicant passes the
27 examination, the regrading fee shall be refunded.

28 (e) The fee for a pharmacist license and biennial renewal shall
29 be one hundred fifteen dollars (\$115) and may be increased to one
30 hundred fifty dollars (\$150).

31 (f) The fee for a wholesaler license and annual renewal shall be
32 five hundred fifty dollars (\$550) and may be increased to six
33 hundred dollars (\$600).

34 (g) The fee for a hypodermic license and renewal shall be
35 ninety dollars (\$90) and may be increased to one hundred
36 twenty-five dollars (\$125).

37 (h) The fee for application and investigation for an exemptee
38 license under Sections 4053 and 4054 shall be seventy-five dollars
39 (\$75) and may be increased to one hundred dollars (\$100), except



1 for a veterinary food-animal drug retailer exemptee, for whom the
2 fee shall be one hundred dollars (\$100).

3 (i) The fee for an exemptee license and annual renewal under
4 Sections 4053 and 4054 shall be one hundred ten dollars (\$110)
5 and may be increased to one hundred fifty dollars (\$150), except
6 that the fee for the issuance of a veterinary food-animal drug
7 retailer exemptee license shall be one hundred fifty dollars (\$150),
8 for renewal one hundred ten dollars (\$110), which may be
9 increased to one hundred fifty dollars (\$150), and for filing a late
10 renewal fifty-five dollars (\$55).

11 (j) The fee for an out-of-state drug distributor's license and
12 annual renewal issued pursuant to Section 4120 shall be five
13 hundred fifty dollars (\$550) and may be increased to six hundred
14 dollars (\$600).

15 (k) The fee for registration and annual renewal of providers of
16 continuing education shall be one hundred dollars (\$100) and may
17 be increased to one hundred thirty dollars (\$130).

18 (l) The fee for evaluation of continuing education courses for
19 accreditation shall be set by the board at an amount not to exceed
20 forty dollars (\$40) per course hour.

21 (m) The fee for evaluation of applications submitted by
22 graduates of foreign colleges of pharmacy or colleges of pharmacy
23 not recognized by the board shall be one hundred sixty-five dollars
24 (\$165) and may be increased to one hundred seventy-five dollars
25 (\$175).

26 (n) The fee for an intern license or extension shall be sixty-five
27 dollars (\$65) and may be increased to seventy-five dollars (\$75).
28 The fee for transfer of intern hours or verification of licensure to
29 another state shall be fixed by the board not to exceed twenty
30 dollars (\$20).

31 (o) The board may, by regulation, provide for the waiver or
32 refund of the additional fee for the issuance of a certificate where
33 the certificate is issued less than 45 days before the next
34 succeeding regular renewal date.

35 (p) The fee for the reissuance of any license, or renewal thereof,
36 that has been lost or destroyed or reissued due to a name change
37 is thirty dollars (\$30).

38 (q) The fee for the reissuance of any license, or renewal thereof,
39 that must be reissued because of a change in the information, is



1 sixty dollars (\$60) and may be increased to one hundred dollars
2 (\$100).

3 (r) It is the intent of the Legislature that, in setting fees pursuant
4 to this section, the board shall seek to maintain a reserve in the
5 Pharmacy Board Contingent Fund equal to approximately one
6 year's operating expenditures.

7 (s) The fee for any applicant for a clinic permit is three hundred
8 forty dollars (\$340) and may be increased to four hundred dollars
9 (\$400) for each permit. The annual fee for renewal of the permit
10 is one hundred seventy-five dollars (\$175) and may be increased
11 to two hundred fifty dollars (\$250) for each permit.

12 (t) The board shall charge a fee for the processing and issuance
13 of a registration to a pharmacy technician and a separate fee for the
14 biennial renewal of the registration. The registration fee shall be
15 twenty-five dollars (\$25) and may be increased to fifty dollars
16 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)
17 and may be increased to fifty dollars (\$50).

18 (u) The fee for a veterinary food-animal drug retailer license
19 shall be four hundred dollars (\$400). The annual renewal fee for
20 a veterinary food-animal drug retailer shall be two hundred fifty
21 dollars (\$250).

22 (v) The fee for issuance of a retired license pursuant to Section
23 4200.5 shall be thirty dollars (\$30).

24 SEC. 34. Section 4524 of the Business and Professions Code
25 is repealed.

26 SEC. 35. Section 4524 is added to the Business and
27 Professions Code, to read:

28 4524. (a) A person whose license has been revoked,
29 suspended, surrendered, or placed on probation, may petition the
30 board for reinstatement or modification of the penalty, including
31 modification or termination of probation, after a period not less
32 than the following minimum periods has elapsed from the
33 ~~effective date of the decision ordering the disciplinary action order~~
34 *effective date of the disciplinary order* or if any portion of the order
35 is stayed by the board itself or by the superior court, from the date
36 the disciplinary action is actually implemented in its entirety:

37 (1) Except as otherwise provided in this section, at least three
38 years for the reinstatement of a license that was revoked or
39 surrendered, except that the board may, in its sole discretion,



1 specify in its order a lesser period of time, which shall be no less
2 than one year to petition for reinstatement.

3 (2) At least two years for the early termination of a probation
4 period of three years or more.

5 (3) At least one year for the early termination of a probation
6 ~~period of three years or more.~~ *period of less than three years.*

7 (4) At least one year for the modification of a condition of
8 probation, or for the reinstatement of a license revoked for mental
9 or physical illness.

10 (b) The board shall give notice to the Attorney General of the
11 filing of the petition. The petitioner and the Attorney General shall
12 be given timely notice by letter of the time and place of the hearing
13 on the petition, and an opportunity to present both oral and
14 documentary evidence and argument to the board. The petitioner
15 shall at all times have the burden of proof to establish by clear and
16 convincing evidence that he or she is entitled to the relief sought
17 in the petition.

18 (c) The board itself or the administrative law judge, if one is
19 designated by the board, shall hear the petition and shall prepare
20 a written decision setting forth the reasons supporting the decision.

21 (d) The board may grant or deny the petition or may impose any
22 terms and conditions that it reasonably deems appropriate as a
23 condition of reinstatement or reduction of penalty.

24 (e) No petition shall be considered while the petitioner is under
25 sentence for any criminal offense, including any period during
26 which the petitioner is on court-imposed probation or parole or
27 subject to an order of registration pursuant to Section 290 of the
28 Penal Code. No petition shall be considered while there is an
29 accusation or petition to revoke probation pending against the
30 petitioner.

31 (f) Except in those cases where the petitioner has been
32 disciplined for a violation of Section 822, the board may in its
33 discretion deny without hearing or argument any petition that is
34 filed pursuant to this section within a period of two years from the
35 effective date of a prior decision following a hearing under this
36 section.

37 (g) Nothing in this section shall be deemed to alter the
38 provisions of Sections 822 and 823.

39 ~~SEC. 36. Section 4980.38 of the Business and Professions~~
40 ~~Code is amended to read:~~



1 ~~4980.38. (a) Each educational institution preparing~~
 2 ~~applicants to qualify for licensure shall notify each of its students~~
 3 ~~by means of its public documents or otherwise in writing that its~~
 4 ~~degree program is designed to meet the requirement of Section~~
 5 ~~4980.37 and shall certify to the board that it has so notified its~~
 6 ~~students.~~

7 ~~(b) In addition to all the other requirements for licensure, each~~
 8 ~~applicant shall submit to the board a certification by the chief~~
 9 ~~academic officer, or his or her designee, of the applicant's~~
 10 ~~educational institution that the applicant has fulfilled the~~
 11 ~~requirements enumerated in Sections 4980.37 and 4980.40, and~~
 12 ~~subdivisions (a) and (d) of Section 4980.41.~~

13 ~~(c) An applicant for an intern registration who has completed~~
 14 ~~a program to update his or her degree in accordance with~~
 15 ~~subdivision (i) of Section 4980.40 shall furnish to the board~~
 16 ~~certification by the chief academic officer of a school, college, or~~
 17 ~~university accredited by the Western Association of Schools and~~
 18 ~~Colleges, or from a school, college, or university meeting~~
 19 ~~accreditation standards comparable to those of the Western~~
 20 ~~Association of Schools and Colleges, that the applicant has~~
 21 ~~successfully completed all academic work necessary to comply~~
 22 ~~with the current educational requirements for licensure as a~~
 23 ~~marriage, family, and child counselor.~~

24 ~~SEC. 37.—~~

25 *SEC. 36.* Section 4980.40 of the Business and Professions
 26 Code is amended to read:

27 4980.40. To qualify for a license, an applicant shall have all
 28 the following qualifications:

29 (a) Applicants applying for licensure on or after January 1,
 30 1988, shall possess a doctor's or master's degree ~~approved by the~~
 31 ~~board~~ in marriage, family, and child counseling, marital and
 32 family therapy, psychology, clinical psychology, counseling
 33 psychology, or counseling with an emphasis in either marriage,
 34 family, and child counseling or marriage and family therapy,
 35 obtained from a school, college, or university accredited by the
 36 Western Association of Schools and Colleges, or approved by the
 37 Bureau for Private Postsecondary and Vocational Education. *The*
 38 *board has the authority to make the final determination as to*
 39 *whether a degree meets all requirements, including, but not limited*
 40 *to, course requirements regardless of accreditation or approval.*



1 For purposes of this chapter, the term “approved by the Bureau for
2 Private Postsecondary and Vocational Education” shall mean
3 unconditional approval existing at the time of the applicant’s
4 graduation from the school, college, or university. In order to
5 qualify for licensure pursuant to this subdivision, any doctor’s or
6 master’s degree program shall be a single, integrated program
7 primarily designed to train marriage and family therapists and
8 shall contain no less than 48 semester or 72 quarter units of
9 instruction. The instruction shall include no less than 12 semester
10 units or 18 quarter units of coursework in the areas of marriage,
11 family, and child counseling, and marital and family systems
12 approaches to treatment.

13 The coursework shall include all of the following areas:

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

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

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

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

30 The board shall, by regulation, set forth the subjects of
31 instruction required in this subdivision.

32 (b) (1) In addition to the 12 semester or 18 quarter units of
33 coursework specified above, the doctor’s or master’s degree
34 program shall contain not less than six semester or nine quarter
35 units of supervised practicum in applied psychotherapeutic
36 techniques, assessment, diagnosis, prognosis, and treatment of
37 premarital, couple, family, and child relationships, including
38 dysfunctions, healthy functioning, health promotion, and illness
39 prevention, in a supervised clinical placement that provides



1 supervised fieldwork experience within the scope of practice of a
2 marriage, family, and child counselor.

3 (2) For applicants who enrolled in a degree program on or after
4 January 1, 1995, the practicum shall include a minimum of 150
5 hours of face-to-face experience counseling individuals, couples,
6 families, or groups.

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

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

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

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

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

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

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



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

8 *(h) The applicant shall not have committed acts or crimes*
9 *constituting grounds for denial of licensure under Section 480. The*
10 *board shall not issue a registration or license to any person who*
11 *has been convicted of any crime in this or another state or in a*
12 *territory of the United States that involves sexual abuse of children*
13 *or who is required to register pursuant to Section 290 of the Penal*
14 *Code or the equivalent in another state or territory.*

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

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

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

39 (C) The applicant completes a plan of instruction that has been
40 approved by the board at a school, college, or university accredited



1 by the Western Association of Schools and Colleges that the chief
2 academic officer of the educational institution has, pursuant to
3 subparagraph (B), certified will meet the current educational
4 requirements when considered in conjunction with the original
5 degree.

6 (2) A person applying under this subdivision shall be
7 considered a trainee, as that term is defined in Section 4980.03,
8 once he or she is enrolled to complete the additional coursework
9 necessary to meet the current educational requirements for
10 licensure.

11 ~~SEC. 38. Section 4980.44 of the Business and Professions~~
12 ~~Code is amended to read:~~

13 ~~4980.44. (a) An unlicensed marriage, family, and child~~
14 ~~counselor intern employed under this chapter shall:~~

15 ~~(1) Have earned at least a master's degree as specified in~~
16 ~~Section 4980.40.~~

17 ~~(2) Be registered with the board prior to the intern performing~~
18 ~~any duties, except as otherwise provided in subdivision (e) of~~
19 ~~Section 4980.43.~~

20 ~~(3) File for renewal of registration annually for a maximum of~~
21 ~~five years after initial registration with the board. The following~~
22 ~~is required in order to renew this registration:~~

23 ~~(A) Filing an application with the board.~~

24 ~~(B) Paying the renewal fee in the sum of seventy-five dollars~~
25 ~~(\$75).~~

26 ~~(C) Notifying the board of any conviction, as defined in~~
27 ~~Section 490, of a misdemeanor or felony offense and of any~~
28 ~~disciplinary action by a regulatory or licensing board in this or any~~
29 ~~other state that occurred after the time of the prior registration~~
30 ~~renewal.~~

31 ~~(4) Inform each client or patient prior to performing any~~
32 ~~professional services that he or she is unlicensed and under the~~
33 ~~supervision of a licensed marriage, family, and child counselor,~~
34 ~~licensed clinical social worker, licensed psychologist, licensed~~
35 ~~physician certified in psychiatry by the American Board of~~
36 ~~Psychiatry and Neurology, or a licensed physician who has~~
37 ~~completed a residency in psychiatry and who is described in~~
38 ~~subdivision (f) of Section 4980.40, whichever is applicable.~~
39 ~~Continued employment as an unlicensed marriage, family, and~~



1 ~~child counselor intern shall cease after six years unless the~~
2 ~~requirements of subdivision (b) are met.~~

3 ~~(b) No application to renew or to reinstate a registration shall~~
4 ~~be granted if the application is made more than six years after the~~
5 ~~registration was initially issued. This provision applies to a~~
6 ~~registration that was revoked for any period of time after its~~
7 ~~issuance.~~

8 ~~(c) When no further renewals are possible, either because the~~
9 ~~applicant has exhausted the number of renewals available or~~
10 ~~because of the repeal of Section 4980.44, as amended by Chapter~~
11 ~~1114 of the Statutes of 1991, an applicant may apply for and obtain~~
12 ~~new intern registration status if the applicant meets the educational~~
13 ~~requirements for registration in effect at the time of the application~~
14 ~~for a new intern registration. An applicant who is issued a~~
15 ~~subsequent intern registration pursuant to this subdivision may be~~
16 ~~employed or volunteer in all allowable work settings except in~~
17 ~~private practice, and shall fulfill all of the required hours of~~
18 ~~experience for licensure within that intern registration period.~~
19 ~~Hours of experience fulfilled under a prior intern registration shall~~
20 ~~not be used to satisfy licensure requirements.~~

21 *SEC. 37. Section 4980.44 of the Business and Professions*
22 *Code is amended to read:*

23 4980.44. (a) An unlicensed marriage, family, and child
24 counselor intern employed under this chapter shall:

25 (1) Have earned at least a master's degree as specified in
26 Section 4980.40.

27 (2) Be registered with the board prior to the intern performing
28 any duties, except as otherwise provided in subdivision (e) of
29 Section 4980.43.

30 (3) File for renewal of registration annually for a maximum of
31 five years after initial registration with the board. *Renewal of*
32 *registration shall include filing an application for renewal, paying*
33 *a renewal fee of seventy-five dollars (\$75), and notifying the board*
34 *whether he or she has been convicted, as defined in Section 490,*
35 *of a misdemeanor or felony, or whether any disciplinary action has*
36 *been taken by any regulatory or licensing board in this or any other*
37 *state, subsequent to the registrant's last renewal.*

38 (4) Inform each client or patient prior to performing any
39 professional services that he or she is unlicensed and under the
40 supervision of a licensed marriage, family, and child counselor,



1 licensed clinical social worker, licensed psychologist, licensed
2 physician certified in psychiatry by the American Board of
3 Psychiatry and Neurology, or a licensed physician who has
4 completed a residency in psychiatry and who is described in
5 subdivision (f) of Section 4980.40, whichever is applicable.
6 Continued employment as an unlicensed marriage, family, and
7 child counselor intern shall cease after six years unless the
8 requirements of subdivision (b) are met. *No registration shall be*
9 *renewed or reinstated beyond the six years from initial issuance*
10 *regardless of whether it has been revoked.*

11 (b) When no further renewals are possible, either because the
12 applicant has exhausted the number of renewals available or
13 because of the repeal of Section 4980.44, as amended by Chapter
14 1114 of the Statutes of 1991, an applicant may apply for and obtain
15 new intern registration status if the applicant meets the educational
16 requirements for registration in effect at the time of the application
17 for a new intern registration. An applicant who is issued a
18 subsequent intern registration pursuant to this subdivision may be
19 employed or volunteer in all allowable work settings except in
20 private practice, and shall fulfill all of the required hours of
21 experience for licensure within that intern registration period.
22 Hours of experience fulfilled under a prior intern registration shall
23 not be used to satisfy licensure requirements.

24 ~~(e) This section shall become operative on January 1, 1999.~~

25 ~~SEC. 39.—~~

26 *SEC. 38.* Section 4980.50 of the Business and Professions
27 Code is amended to read:

28 4980.50. Every applicant who meets the educational and
29 experience requirements and applies for a license as a marriage,
30 family, and child counselor shall be examined by the board. The
31 examinations shall be as set forth in subdivision (g) of Section
32 4980.40. The examinations shall be given at least twice a year at
33 a time and place and under supervision as the board may
34 determine. The board shall examine the candidate with regard to
35 his or her knowledge and professional skills and his or her
36 judgment in the utilization of appropriate techniques and methods.

37 The board shall not deny any applicant, who has submitted a
38 complete application for examination, admission to the licensure
39 examinations required by this section if the applicant meets the
40 educational and experience requirements of this chapter, and has



1 not committed any acts or engaged in any conduct which would
2 constitute grounds to deny licensure.

3 The board shall not deny any applicant, whose application for
4 licensure is complete, admission to the written examination, nor
5 shall the board postpone or delay any applicant's written
6 examination or delay informing the candidate of the results of any
7 written examination, solely upon the receipt by the board of a
8 complaint alleging acts or conduct which would constitute
9 grounds to deny licensure.

10 If an applicant for examination who has passed the written
11 examination is the subject of a complaint or is under board
12 investigation for acts or conduct that, if proven to be true, would
13 constitute grounds for the board to deny licensure, the board shall
14 permit the applicant to take the oral examination for licensure, but
15 may withhold the results of the examination or notify the applicant
16 that licensure will not be granted pending completion of the
17 investigation.

18 Notwithstanding Section 135, the board may deny any applicant
19 who has previously failed either the written or oral examination
20 permission to retake either examination pending completion of the
21 investigation of any complaints against the applicant. Nothing in
22 this section shall prohibit the board from denying an applicant
23 admission to any examination, withholding the results, or refusing
24 to issue a license to any applicant when an accusation or statement
25 of issues has been filed against the applicant pursuant to Sections
26 11503 and 11504 of the Government Code, respectively, or the
27 applicant has been denied in accordance with subdivision (b) of
28 Section 485.

29 Notwithstanding any other provision of law, the board may
30 destroy all written and oral examination materials two years
31 following the date of the examination.

32 ~~A passing score achieved on the examination shall be valid and
33 accepted by the board for the purpose of qualifying for licensure
34 as a marriage, family, and child counselor for a period of seven
35 years from the date on which the examination occurred.~~

36 *On or after January 1, 2002, no applicant shall be eligible to
37 participate in an oral examination if his or her passing score on
38 the written examination occurred more than seven years before.*



1 An applicant who has qualified pursuant to this chapter shall be
2 issued a license as a marriage, family, and child counselor in the
3 form that the board may deem appropriate.

4 *SEC. 39. Section 4986.20 of the Business and Professions*
5 *Code is amended to read:*

6 4986.20. A person who desires a license under this article
7 shall meet all of the following qualifications:

8 (a) He or she shall possess at least a master's degree in
9 psychology, educational psychology, school psychology, or
10 counseling and guidance, or a degree deemed equivalent by the
11 board under regulations duly adopted under this article. Such
12 degree or training shall be obtained from educational institutions
13 approved by the board according to the regulations duly adopted
14 under this article.

15 (b) He or she shall be at least 18 years of age.

16 (c) He or she shall not have committed *any* acts or crimes
17 constituting grounds for denial of licensure under Section 480.
18 The board shall not issue a registration or license to any person
19 who has been convicted of any crime in *this or any other state or*
20 *in a territory of* the United States that involves sexual abuse of
21 children or who ~~has been ordered to register as a mentally~~
22 ~~disordered sex offender~~ *is required to register pursuant to Section*
23 *290 of the Penal Code* or the equivalent in another state or territory.

24 (d) He or she shall have successfully completed 60 semester
25 hours of postgraduate work devoted to pupil personnel services or
26 have experience deemed equivalent by the board in regulations
27 duly adopted under this chapter.

28 (e) He or she shall furnish proof of three years of full-time
29 experience as a credentialed school psychologist in the public
30 schools or experience which the board deems equivalent. If the
31 applicant provides proof of having completed one year's
32 internship working full time as a school psychologist intern in the
33 public schools in an accredited internship program, one year's
34 experience shall be credited toward this requirement.

35 (f) He or she shall be examined by the board with respect to the
36 professional functions authorized by this article.

37 (g) He or she shall have at least one year of supervised
38 professional experience in an accredited school psychology
39 program, or under the direction of a licensed psychologist, or such



1 suitable alternative experience as determined by the board in
2 regulations duly adopted under this chapter.

3 SEC. 40. Section 4986.21 of the Business and Professions
4 Code is amended to read:

5 4986.21. (a) Only individuals who have the qualifications
6 prescribed by the board under this chapter are eligible to take the
7 examination. Every applicant who is issued a license as an
8 educational psychologist shall be examined by the board.

9 (b) Notwithstanding any other provision of law, the board may
10 destroy all written and oral examination materials two years
11 following the date of the examination.

12 ~~(c) A passing score achieved on the examination shall be valid
13 and accepted by the board for the purpose of qualifying for
14 licensure under this article for a period of seven years from the date
15 on which the examination occurred.~~

16 *On or after January 1, 2002, no applicant shall be eligible to
17 participate in an oral examination if his or her passing score on
18 the written examination occurred more than seven years before.*

19 SEC. 41. Section 4986.47 of the Business and Professions
20 Code is amended to read:

21 4986.47. A licensee shall give written notice to the board of
22 a name change within 30 days after each change, providing both
23 the old and new names. A copy of the legal document affecting the
24 name change, such as a court order or marriage certificate, shall be
25 submitted with the notice.

26 SEC. 42. Section 4992.1 of the Business and Professions
27 Code is amended to read:

28 4992.1. (a) Only individuals who have the qualifications
29 prescribed by the board under this chapter are eligible to take the
30 examination.

31 Every applicant who is issued a clinical social worker license
32 shall be examined by the board.

33 (b) Notwithstanding any other provision of law, the board may
34 destroy all written and oral examination materials two years
35 following the date of the examination.

36 ~~(c) A passing score achieved on the examination shall be valid
37 and accepted by the board for the purpose of qualifying for
38 licensure under this chapter for a period of seven years from the
39 date on which the examination occurred.~~



1 *On or after January 1, 2002, no applicant shall be eligible to*
2 *participate in an oral examination if his or her passing score on*
3 *the written examination occurred more than seven years before.*

4 SEC. 43. Section 4992.3 of the Business and Professions
5 Code is amended to read:

6 4992.3. The board may refuse to issue a registration or a
7 license, or may suspend or revoke the license or registration of any
8 registrant or licensee if the applicant, licensee, or registrant has
9 been guilty of unprofessional conduct. Unprofessional conduct
10 includes, but is not limited to:

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

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

37 (c) Administering to himself or herself any controlled
38 substance or using of any of the dangerous drugs specified in
39 Section 4022, or ~~of~~ any alcoholic beverage to the extent, or in a
40 manner, as to be dangerous or injurious to the person applying for



1 a registration or license or holding a registration or license under
2 this chapter, or to any other person, or to the public, or, to the extent
3 that the use impairs the ability of the person applying for or holding
4 a registration or license to conduct with safety to the public the
5 practice authorized by the registration or license, or the conviction
6 of more than one misdemeanor or any felony involving the use,
7 consumption, or self-administration of any of the substances
8 referred to in this subdivision, or any combination thereof. The
9 board shall deny an application for a registration or license or
10 revoke the license or registration of any person who uses or offers
11 to use drugs in the course of performing clinical social work. This
12 provision does not apply to any person also licensed as a physician
13 and surgeon under Chapter 5 (commencing with Section 2000) or
14 the Osteopathic Act who lawfully prescribes drugs to a patient
15 under his or her care.

16 (d) Gross negligence or incompetence in the performance of
17 clinical social work.

18 (e) Violating, attempting to violate, or conspiring to violate this
19 chapter or any regulation adopted by the board.

20 (f) Misrepresentation as to the type or status of a license or
21 registration held by the person, or otherwise misrepresenting or
22 permitting misrepresentation of his or her education, professional
23 qualifications, or professional affiliations to any person or entity.
24 For purposes of this subdivision, this misrepresentation includes,
25 but is not limited to, misrepresentation of the person's
26 qualifications as an adoption service provider pursuant to Section
27 8502 of the Family Code.

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

31 (h) Aiding or abetting any unlicensed or unregistered person to
32 engage in conduct for which a license or registration is required
33 under this chapter.

34 (i) Intentionally or recklessly causing physical or emotional
35 harm to any client.

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

39 (k) Engaging in sexual relations with a client or with a former
40 client within two years from the termination date of therapy with



1 the client, soliciting sexual relations with a client, or committing
2 an act of sexual abuse, or sexual misconduct with a client, or
3 committing an act punishable as a sexually related crime, if that act
4 or solicitation is substantially related to the qualifications,
5 functions, or duties of a clinical social worker.

6 (l) Performing, or holding one's self out as being able to
7 perform, or offering to perform or permitting, any registered
8 associate clinical social worker or intern under supervision to
9 perform any professional services beyond the scope of the license
10 authorized by this chapter.

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

16 (n) Prior to the commencement of treatment, failing to disclose
17 to the client or prospective client the fee to be charged for the
18 professional services, or the basis upon which that fee will be
19 computed.

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

29 (p) Advertising in a manner which is false, misleading, or
30 deceptive.

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

36 (r) Any conduct in the supervision of any registered associate
37 clinical social worker or intern by any licensee that violates this
38 chapter or any rules or regulations adopted by the board.



1 (s) Failure to keep records consistent with sound clinical
2 judgment, the standards of the profession, and the nature of the
3 services being rendered.

4 SEC. 44. Section 4992.6 of the Business and Professions
5 Code is repealed.

6 SEC. 45. Section 4996.2 of the Business and Professions
7 Code is amended to read:

8 4996.2. Each applicant shall furnish evidence satisfactory to
9 the board that he or she complies with all of the following
10 requirements:

11 (a) Is at least 21 years of age.

12 (b) Has received a master's degree from an accredited school
13 of social work.

14 (c) Has had two years of supervised ~~post-masters~~ *post-master's*
15 degree experience, as specified in Section 4996.20, 4996.21, or
16 4996.23.

17 (d) Has not committed any crimes or acts constituting grounds
18 for denial of licensure under Section 480. The board shall not issue
19 a registration or license to any person who has been convicted of
20 any crime in this or another state or in a territory of the United
21 States that involves sexual abuse of children or who is required to
22 register pursuant to Section 290 of the Penal Code or the
23 equivalent in another state or territory.

24 (e) Has completed adequate instruction and training in the
25 subject of alcoholism and other chemical substance dependency.
26 This requirement applies only to applicants who matriculate on or
27 after January 1, 1986.

28 (f) Has completed instruction and training in spousal or partner
29 abuse assessment, detection, and intervention. Coursework
30 required under this subdivision may be satisfactory if taken either
31 in fulfillment of other educational requirements for licensure or in
32 a separate course. This requirement applies only to applicants who
33 begin graduate training on or after January 1, 1995. This
34 requirement for coursework in spousal or partner abuse detection
35 and treatment shall be satisfied by, and the board shall accept in
36 satisfaction of the requirement, a certification from the chief
37 academic officer of the educational institution from which the
38 applicant graduated that the required coursework is included
39 within the institution's required curriculum for graduation.



1 (g) Has completed a minimum of 10 contact hours of training
2 or coursework in human sexuality as specified in Section 1807 of
3 Title 16 of the California Code of Regulations. This training or
4 coursework may be satisfactory if taken either in fulfillment of
5 other educational requirements for licensure or in a separate
6 course.

7 (h) Has completed a minimum of seven contact hours of
8 training or coursework in child abuse assessment and reporting as
9 specified in Section 1807.2 of Title 16 of the California Code of
10 Regulations. This training or coursework may be satisfactory if
11 taken either in fulfillment of other educational requirements for
12 licensure or in a separate course.

13 SEC. 46. Section 4996.18 of the Business and Professions
14 Code is amended to read:

15 4996.18. (a) Any person who wishes to be credited with
16 experience toward licensure requirements shall register with the
17 board as an associate clinical social worker prior to obtaining that
18 experience. The application shall be made on a form prescribed by
19 the board and shall be accompanied by a fee of ninety dollars
20 (\$90). An applicant for registration shall (1) possess a master's
21 degree from an accredited school or department of social work,
22 and (2) not have committed any crimes or acts constituting
23 grounds for denial of licensure under Section 480. On and after
24 January 1, 1993, an applicant who possesses a master's degree
25 from a school or department of social work that is a candidate for
26 accreditation by the Commission on Accreditation of the Council
27 on Social Work Education shall be eligible, and shall be required,
28 to register as an associate clinical social worker in order to gain
29 experience toward licensure if the applicant has not committed any
30 crimes or acts that constitute grounds for denial of licensure under
31 Section 480. That applicant shall not, however, be eligible for
32 examination until the school or department of social work has
33 received accreditation by the Commission on Accreditation of the
34 Council on Social Work Education.

35 ~~(b) Registration as an associate clinical social worker shall~~
36 ~~expire one year from the last day of the month during which it was~~
37 ~~issued. A registration may be renewed annually after initial~~
38 ~~registration on or before the date on which the registration expires,~~
39 ~~by filing an application for renewal, paying a renewal fee of~~
40 ~~seventy five dollars (\$75), and notifying the board of any~~



1 conviction, as defined in Section 490, of a misdemeanor or felony
2 offense, and any disciplinary action by a regulatory or licensing
3 board in this or another state that occurred after the date of the prior
4 registration renewal. Each person who registers or has registered
5 as an associate clinical social worker, may retain that status for a
6 total of six years.

7 (b) *Registration as an associate clinical social worker shall*
8 *expire one year from the last day of the month during which it was*
9 *issued. A registration may be renewed annually after initial*
10 *registration by filing an application for renewal, paying a renewal*
11 *fee of seventy-five dollars (\$75), and notifying the board whether*
12 *he or she has been convicted, as defined in Section 490, of a*
13 *misdemeanor or felony, or whether any disciplinary action has*
14 *been taken by any regulatory or licensing board in this or any other*
15 *state, subsequent to the registrant's last renewal on or before the*
16 *date on which the registration expires. Each person who registers*
17 *or has registered as an associate clinical social worker, may retain*
18 *that status for a total of six years.*

19 (c) Notwithstanding the limitations on the length of an
20 associate registration in subdivision (b), an associate may apply
21 for, and the board shall grant, one-year extensions beyond the
22 six-year period when no grounds exist for denial, suspension, or
23 revocation of the registration pursuant to Section 480. An
24 associate shall be eligible to receive a maximum of three one-year
25 extensions. An associate who practices pursuant to an extension
26 shall not practice independently and shall comply with all
27 requirements of this chapter governing experience, including
28 supervision, even if the associate has completed the hours of
29 experience required for licensure. Each extension shall commence
30 on the date when the last associate renewal or extension expires.
31 An application for extension shall be made on a form prescribed
32 by the board and shall be accompanied by a renewal fee of fifty
33 dollars (\$50). An associate who is granted this extension may work
34 in all work settings authorized pursuant to this chapter.

35 (d) A registrant shall not provide clinical social work services
36 to the public for a fee, monetary or otherwise, except as an
37 employee.

38 (e) A registrant shall inform each client or patient prior to
39 performing any professional services that he or she is unlicensed
40 and is under the supervision of a licensed professional.



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

8 (g) An applicant who possesses a master's degree from an
9 approved school or department of social work shall be able to
10 apply experience the applicant obtained during the time the
11 approved school or department was in candidacy status by the
12 Commission on Accreditation of the Council on Social Work
13 Education toward the licensure requirements, if the experience
14 meets the requirements of Section 4996.20 or 4996.21. This
15 subdivision shall apply retroactively to persons who possess a
16 master's degree from an approved school or department of social
17 work and who obtained experience during the time the approved
18 school or department was in candidacy status by the Commission
19 on Accreditation of the Council on Social Work Education.

20 SEC. 47. Section 4996.21 of the Business and Professions
21 Code is amended to read:

22 4996.21. The experience required by subdivision (c) of
23 Section 4996.2 shall meet the following criteria:

24 (a) On or after January 1, 1999, a registrant shall have at least
25 3,200 hours of post-master's *degree* experience, supervised by a
26 licensed clinical social worker, in providing clinical social work
27 services as permitted by Section 4996.9. Experience shall consist
28 of the following:

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

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

34 (3) Experience shall have been gained in not less than two nor
35 more than six years and shall have been gained within the six years
36 immediately preceding the date on which the application for
37 licensure was filed.

38 (b) Notwithstanding the requirements of subdivision (a), up to
39 1,000 hours of the required experience may be gained under the



1 supervision of a licensed mental health professional acceptable to
2 the board.

3 (1) Supervision means responsibility for and control of the
4 quality of clinical social work services being provided.

5 (2) Consultation shall not be considered to be supervision.

6 (3) Supervision shall include at least one hour of direct
7 supervisor contact for each week of experience claimed and shall
8 include at least one hour of direct supervisor contact for every 10
9 hours of client contact in each setting where experience is gained.
10 Not less than one-half of the hours of required supervision shall be
11 individual supervision. The remaining hours may be group
12 supervision. For purposes of this section, “one hour of direct
13 supervisor contact” means one hour of face-to-face contact on an
14 individual basis or two hours of face-to-face contact in a group
15 setting of not more than eight persons.

16 (4) The supervisor and the supervisee shall develop a
17 supervisory plan that describes the goals and objectives of
18 supervision. These goals shall include the ongoing assessment of
19 strengths and limitations and the assurance of practice in
20 accordance with the laws and regulations. The associate shall
21 submit to the board the initial supervisory plan within 30 days of
22 commencement of supervision.

23 (c) A “private practice setting” is any setting other than a
24 governmental entity, a school, college, or university, a nonprofit
25 and charitable corporation, a licensed health facility, as defined in
26 Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code,
27 a social rehabilitation facility or a community treatment facility,
28 as defined in subdivision (a) of Section 1502 of the Health and
29 Safety Code, a pediatric day health and respite care facility, as
30 defined in Section 1760.2 of the Health and Safety Code, or a
31 licensed alcoholism or drug abuse recovery or treatment facility,
32 as defined in Section 11834.02 of the Health and Safety Code.

33 (1) In a setting that is not a private practice, a registrant shall
34 be employed on either a voluntary or paid basis.

35 (2) If volunteering, the registrant shall provide the board with
36 a letter from his or her employer verifying his or her voluntary
37 status upon application for licensure.

38 (3) If employed, the registrant shall provide the board with
39 copies of his or her W-2 tax forms for each year of experience
40 claimed upon application for licensure.



1 (d) Employment in a private practice setting shall not
2 commence until the applicant has been registered as an associate
3 clinical social worker. A registrant employed in a private practice
4 setting shall not do any of the following:

5 (1) Pay his or her employer or supervisor for supervision, and
6 shall receive fair remuneration from his or her employer.

7 (2) Receive any remuneration from patients or clients and shall
8 only be paid by his or her employer.

9 (3) Perform services at any place except where the registrant's
10 employer regularly conducts business.

11 (4) Have any proprietary interest in the employer's business.

12 (e) A person employed in a setting other than a private practice
13 setting may obtain supervision from a person not employed by the
14 registrant's employer if that person has signed a written agreement
15 with the employer to take supervisory responsibility for the
16 registrant's social work services.

17 SEC. 48. Section 4996.23 is added to the Business and
18 Professions Code, to read:

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

21 ~~(a) All persons registered with the board on and after January~~
22 ~~1, 2002, shall have at least 3,200 hours of post-master's supervised~~
23 ~~experience providing clinical social work services as permitted by~~
24 ~~Section 4996.9. This experience shall consist of the following:~~

25 ~~(1) A minimum of 2,000 hours in clinical psychosocial~~
26 ~~diagnosis, assessment, and treatment, including psychotherapy~~
27 ~~and counseling. A minimum of 750 hours of experience shall~~
28 ~~consist of face to face individual or group psychotherapy~~
29 ~~provided to clients in the context of clinical social work services.~~

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

32 ~~(b) A minimum of two years of the experience required by this~~
33 ~~section shall be acquired within the six years immediately~~
34 ~~preceding the date on which the application for licensure was filed.~~

35 ~~(c) Two thousand two hundred of the 3,200 hours of supervised~~
36 ~~experience required by this section shall be acquired under the~~
37 ~~supervision of a licensed clinical social worker. The remaining~~
38 ~~1,000 hours of the required supervised experience may be acquired~~
39 ~~under the supervision of a licensed mental health professional who~~
40 ~~is acceptable to the board.~~



1 ~~(d) Experience shall not be credited for more than 40 hours in~~
2 ~~any week.~~

3 ~~(e) (1) Supervision means responsibility for and control of the~~
4 ~~quality of clinical social work services being provided.~~
5 ~~Consultation shall not be considered to be supervision.~~

6 ~~(2) In order to qualify as experience under supervision for the~~
7 ~~purposes of this section, a supervisor shall, prior to commencing~~
8 ~~the supervision, comply with all requirements in Section 1870 of~~
9 ~~Title 16 of the California Code of Regulations and sign under~~
10 ~~penalty of perjury the “Responsibility Statement for Supervisors~~
11 ~~of an Associate Clinical Social Worker” form.~~

12 ~~(3) Supervised experience shall include at least one hour of~~
13 ~~direct supervisor contact for each week of experience claimed by~~
14 ~~the registrant. A registrant shall receive an average of at least one~~
15 ~~hour of direct supervisor contact for every 10 hours of face-to-face~~
16 ~~psychotherapy the registrant performs in each setting in which~~
17 ~~experience is acquired. No more than five hours of supervision,~~
18 ~~whether individual or group, shall be credited during any single~~
19 ~~week. Of the 3,200 hours of supervised experience required in this~~
20 ~~section, 1,600 hours shall consist of individual supervision, and~~
21 ~~the remaining hours may consist of group supervision. For~~
22 ~~purposes of this section “one hour of direct supervisor contact”~~
23 ~~means one hour of face-to-face contact on an individual basis or~~
24 ~~two hours of face-to-face contact in a group of not more than eight~~
25 ~~persons receiving supervision.~~

26 ~~(4) The supervisor and the registrant shall develop a~~
27 ~~supervisory plan that describes the goals and objectives of~~
28 ~~supervision. These goals shall include the ongoing assessment of~~
29 ~~the registrant’s strengths and limitations and the assurance of~~
30 ~~practice in accordance with laws and regulations governing the~~
31 ~~practice of social work. The registrant shall submit to the board the~~
32 ~~initial supervisory plan within 30 days of the commencement of~~
33 ~~supervision.~~

34 ~~(f) Acceptable settings for gaining experience required by this~~
35 ~~section are private practice; a governmental entity; a school; a~~
36 ~~college; a university; a nonprofit and charitable corporation; a~~
37 ~~licensed health facility, as defined in Sections 1250, 1250.2, and~~
38 ~~1250.3 of the Health and Safety Code; a social rehabilitation~~
39 ~~facility or a community treatment facility, as defined in~~
40 ~~subdivision (a) of Section 1502 of the Health and Safety Code; a~~



1 ~~pediatric day health and respite care facility, as defined in Section~~
2 ~~1760.2 of the Health and Safety Code; or a licensed alcoholism or~~
3 ~~drug abuse recovery or treatment facility, as defined in Section~~
4 ~~11834.02 of the Health and Safety Code.~~

5 ~~(1) If the setting is not a private practice, a registrant shall be~~
6 ~~employed on either a voluntary or paid basis.~~

7 ~~(2) If volunteering, the registrant shall upon application for~~
8 ~~licensure, provide the board with a letter from the person or entity~~
9 ~~where he or she is volunteering, verifying this voluntary status.~~

10 ~~(3) If employed, the registrant shall upon application for~~
11 ~~licensure, provide the board with copies of his or her W-2 tax forms~~
12 ~~for each year of experience claimed.~~

13 ~~(g) (1) Employment in a private practice setting shall not~~
14 ~~commence until the applicant has been registered as an associate~~
15 ~~clinical social worker. A registrant employed in a private practice~~
16 ~~setting shall receive fair remuneration from his or her employer~~
17 ~~and shall not engage in any of the following actions:~~

18 ~~(A) Pay his or her employer or supervisor for supervision.~~

19 ~~(B) Receive any remuneration from patients or clients.~~

20 ~~(C) Perform services at any place other than the location at~~
21 ~~which his or her employer and supervisor regularly conduct~~
22 ~~business.~~

23 ~~(D) Have any proprietary interest in the employer's business.~~

24 ~~(2) A registrant employed in a setting other than private~~
25 ~~practice may obtain supervision from a person who is not~~
26 ~~employed by the registrant's employer if that person has signed a~~
27 ~~written agreement with the employer to assume supervisory~~
28 ~~responsibility for the registrant's social work services.~~

29 ~~SEC. 49. No reimbursement is required by this act pursuant~~
30 ~~to Section 6 of Article XIII B of the California Constitution~~
31 ~~because the only costs that may be incurred by a local agency or~~
32 ~~school district will be incurred because this act creates a new crime~~
33 ~~or infraction, eliminates a crime or infraction, or changes the~~
34 ~~penalty for a crime or infraction, within the meaning of Section~~
35 ~~17556 of the Government Code, or changes the definition of a~~
36 ~~crime within the meaning of Section 6 of Article XIII B of the~~
37 ~~California Constitution.~~

38 ~~4996.23. The experience required by subdivision (c) of~~
39 ~~Section 4996.2 shall meet the following criteria:~~



1 (a) All persons registered with the board on and after January
2 1, 2002, shall have at least 3,200 hours of post-master's degree
3 supervised experience providing clinical social work services as
4 permitted by Section 4996.9. This degree of experience shall
5 consist of the following:

6 (1) A minimum of 2,000 hours in clinical psychosocial
7 diagnosis, assessment, and treatment, including psychotherapy
8 and counseling.

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

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

15 (4) A minimum of two years of supervised experience is
16 required to be obtained over a period of not less than 104 weeks
17 and shall have been gained within the six years immediately
18 preceding the date on which the application for licensure was filed.

19 (b) Of the 3,200 hours of supervised experience required in
20 subdivision (a), 2,200 hours shall be gained under the supervision
21 of a licensed clinical social worker. The remaining 1,000 hours of
22 the required supervised experience may be gained under the
23 supervision of a licensed mental health professional acceptable to
24 the board.

25 (c) Experience shall not be credited for more than 40 hours in
26 any week.

27 (d) "Supervision" means responsibility for, and control of, the
28 quality of clinical social work services being provided.

29 (1) consultation shall not be considered to be supervision.

30 (2) Prior to the commencement of supervision, a supervisor
31 shall comply with all requirements enumerated in Section 1870 of
32 the California Code of Regulations and shall sign under penalty
33 of perjury the "Responsibility Statement for Supervisors of an
34 Associate Clinical Social Worker" form.

35 (3) Supervised experience shall include at least one hour of
36 direct supervisor contact for each week of experience claimed. A
37 registrant shall receive an average of at least one hour of direct
38 supervisor contact for every 10 hours of face-to-face
39 psychotherapy performed in each setting in which experience is
40 gained. No more than five hours of supervision, whether individual



1 or group, shall be credited during any single week. Of the 3,200
2 hours of supervised experience required in subdivision (a), 1,600
3 hours must be individual supervision. The remaining hours may be
4 group supervision. For purposes of this section, “one hour of
5 direct supervisor contact” means one hour of face-to-face contact
6 on an individual basis or two hours of face-to-face contact in a
7 group of not more than eight persons receiving supervision.

8 (4) The supervisor and the supervisee shall develop a
9 supervisory plan that describes the goals and objectives of
10 supervision. These goals shall include the ongoing assessment of
11 strengths and limitations and the assurance of practice in
12 accordance with the laws and regulations. The associate shall
13 submit to the board the initial supervisory plan within 30 days of
14 commencement of supervision.

15 (c) Acceptable settings for gaining experience are private
16 practice, governmental entity, a school, college, or university, a
17 nonprofit and charitable corporation, a licensed health facility, as
18 defined in Sections 1250, 1250.2, and 1250.3 of the Health and
19 Safety Code, a social rehabilitation facility or a community
20 treatment facility, as defined in subdivision (a) of Section 1502 of
21 the Health and Safety Code, a pediatric day health and respite care
22 facility, as defined in Section 1760.2 of the Health and Safety Code,
23 or a licensed alcoholism or drug abuse recovery or treatment
24 facility, as defined in Section 11834.02 of the Health and Safety
25 Code, that meet the following criteria:

26 (1) In a setting that is not a private practice, a registrant shall
27 be employed on either a voluntary or paid basis.

28 (2) If volunteering, the registrant shall provide the board with
29 a letter from his or her employer verifying his or her voluntary
30 status upon application for licensure.

31 (3) If employed, the registrant shall provide the board with
32 copies of his or her W-2 tax forms for each year of experience
33 claimed upon application for licensure.

34 (f) Employment in private a practice setting shall not
35 commence until the applicant has been registered as an associate
36 clinical social worker. A registrant employed in a private practice
37 setting shall not do any of the following:

38 (1) Pay his or her employer or supervisor for supervision, and
39 shall receive fair remuneration from his or her employer.



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

3 (3) Perform services at any place except where the registrant's
4 employer and supervisor regularly conduct business.

5 (4) Have any proprietary interest in the employer's business.

6 (g) A person employed in a setting other than a private practice
7 setting may obtain supervision from a person not employed by the
8 registrant's employer if that person has signed a written agreement
9 with the employer to take supervisory responsibility for the
10 registrant's social work services.

11 (h) Notwithstanding any other provision of law, registrants and
12 applicants for examination shall receive a minimum of one hour
13 of supervision per week for each setting in which he or she is
14 working.

15 SEC. 49. Section 4999.2 of the Business and Professions Code
16 is amended to read:

17 4999.2. (a) In order to obtain and maintain a registration,
18 in-state or out-of-state telephone medical advice services shall
19 comply with the requirements established by the department.
20 Those requirements shall include, but shall not be limited to, all of
21 the following:

22 (1) (A) Ensuring that all staff who provide medical advice
23 services are appropriately licensed, certified, or registered as a
24 physician and surgeon pursuant to Chapter 5 (commencing with
25 Section 2000) or the Osteopathic Initiative Act, as a dentist
26 pursuant to Chapter 4 (commencing with Section 1600), as a
27 dental hygienist pursuant to Section 1758 et seq., as a psychologist
28 pursuant to Chapter 6.6 (commencing with Section 2900), as a
29 marriage, family and child counselor pursuant to Chapter 13
30 (commencing with Section 4980), as an optometrist pursuant to
31 Chapter 7 (commencing with Section 3000), as a chiropractor
32 pursuant to the Chiropractic Initiative Act ~~or as an osteopath~~
33 ~~pursuant to the Osteopathic Initiative Act~~, and operating consistent
34 with the laws governing their respective scopes of practice in the
35 state within which they provide telephone medical advice services,
36 except as provided in paragraph (2).

37 (B) Ensuring that all staff who provide telephone medical
38 advice services from an out-of-state location are health care
39 professionals as identified in subparagraph (A) that are licensed,
40 registered, or certified in the state within which they are providing



1 the telephone medical advice services and operating consistent
2 with the laws governing their respective scopes of practice.

3 (2) Ensuring that all registered nurses providing telephone
4 medical advice services to both in-state and out-of-state business
5 entities registered pursuant to this chapter shall be licensed
6 pursuant to Chapter 6 (commencing with Section 2700).

7 (3) Ensuring that the telephone medical advice provided is
8 consistent with good professional practice.

9 (4) Maintaining records of telephone medical advice services,
10 including records of complaints, provided to patients in California
11 for a period of at least five years.

12 (5) Complying with all directions and requests for information
13 made by the department.

14 (b) To the extent permitted by Article VII of the California
15 Constitution, the department may contract with a private nonprofit
16 accrediting agency to evaluate the qualifications of applicants for
17 registration pursuant to this chapter, and to make
18 recommendations to the department.

19 *SEC. 50. Section 4999.7 of the Business and Professions Code*
20 *is amended to read:*

21 4999.7. (a) Nothing in this section shall limit, preclude, or
22 otherwise interfere with the practices of other persons licensed or
23 otherwise authorized to practice, under any other provision of this
24 division, telephone medical advice services consistent with the
25 laws governing their respective scopes of practice, or licensed
26 under the Osteopathic Initiative Act or the Chiropractic Initiative
27 Act and operating consistent with the laws governing their
28 respective scopes of practice.

29 (b) For the purposes of this chapter, “telephone medical
30 advice” means a telephonic communication between a patient and
31 a health care professional, wherein the health care professional’s
32 primary function is to provide to the patient a telephonic response
33 to the patient’s questions regarding his or her or a family member’s
34 medical care or treatment.

35 (c) For the purposes of this chapter, “health care professional”
36 is a staff person described in Section 4999.2 who provides medical
37 advice services and is appropriately licensed, certified, or
38 registered as a registered nurse pursuant to Chapter 6
39 (commencing with Section 2700), a physician and surgeon
40 pursuant to Chapter 5 (commencing with Section 2000) *or the*



1 *Osteopathic Initiative Act*, a dentist pursuant to Chapter 4
2 (commencing with Section 1600), a dental hygienist pursuant to
3 Section 1758 et seq., a psychologist pursuant to Chapter 6.6
4 (commencing with Section 2900), a marriage and family therapist
5 pursuant to Chapter 13 (commencing with Section 4980), an
6 optometrist pursuant to Chapter 7 (commencing with Section
7 3000), a chiropractor pursuant to the Chiropractic Initiative Act,
8 ~~or an osteopath pursuant to the Osteopathic Initiative Act~~, and who
9 is operating consistent with the laws governing his or her
10 respective scopes of practice in the state in which he or she
11 provides telephone medical advice services.

12 *SEC. 51. Section 5536.26 is added to the Business and*
13 *Professions Code, to read:*

14 5536.26. *The use of the words “certify” or “certification” by*
15 *a licensed architect in the practice of architecture constitutes an*
16 *expression of professional opinion regarding those facts or*
17 *findings that are the subject of the certification, and does not*
18 *constitute a warranty or guarantee, either expressed or implied.*
19 *Nothing in this section is intended to alter the standard of care*
20 *ordinarily exercised by a licensed architect.*

21 *SEC. 52. Section 7006 of the Business and Professions Code*
22 *is amended to read:*

23 7006. The board shall ~~hold not less than four regular meetings~~
24 ~~each fiscal year, once in July, once in October, once in January and~~
25 ~~once in April, meet at least once each calendar quarter~~ for the
26 purpose of transacting ~~such~~ business as may properly come before
27 it. ~~At the July meeting of each year the board shall elect officers.~~

28 Special meetings of the board may be held at ~~such~~ times as the
29 board may provide in its ~~by-laws~~ *bylaws*. Four members of the
30 board may call a special meeting at any time.

31 *SEC. 53. Section 7026 of the Business and Professions Code*
32 *is amended to read:*

33 7026. “Contractor,” for the purposes of this chapter, is
34 synonymous with “builder” and, within the meaning of this
35 chapter, a contractor is any person; who undertakes to or offers to
36 undertake to, or purports to have the capacity to undertake to, or
37 submits a bid to, or does himself *or herself* or by or through others,
38 construct, alter, repair, add to, subtract from, improve, move,
39 wreck or demolish any building, highway, road, parking facility,
40 railroad, excavation or other structure, project, development or



1 improvement, or to do any part thereof, including the erection of
2 scaffolding or other structures or works in connection therewith,
3 or the cleaning of grounds or structures in connection therewith,
4 or the preparation and removal of roadway construction zones,
5 lane closures, flagging, or traffic diversions, *or the installation,*
6 *repair, maintenance, or calibration of monitoring equipment for*
7 *underground storage tanks*, and whether or not the performance of
8 work herein described involves the addition to, or fabrication into,
9 any structure, project, development or improvement herein
10 described of any material or article of merchandise. “Contractor”
11 includes subcontractor and specialty contractor. “Roadway”
12 includes, but is not limited to, public or city streets, highways, or
13 any public conveyance.

14 *SEC. 54. Section 7027.3 of the Business and Professions Code*
15 *is amended to read:*

16 7027.3. Any person, licensed or unlicensed, who willfully
17 and intentionally uses, with intent to defraud, a contractor’s license
18 number ~~which~~ *that* does not correspond to the number on a
19 currently valid contractor’s license held by that person, is
20 punishable by a fine not exceeding ten thousand dollars (\$10,000),
21 or by imprisonment in state prison, or in county jail for not more
22 than one year, or by both the fine and imprisonment. The penalty
23 provided by this section is cumulative to the penalties available
24 under all other laws of this state. *If, upon investigation, the*
25 *registrar has probable cause to believe that an unlicensed*
26 *individual is in violation of this section, the registrar may issue a*
27 *citation pursuant to Section 7028.7.*

28 *SEC. 55. Section 7028.7 of the Business and Professions Code*
29 *is amended to read:*

30 7028.7. If upon inspection or investigation, either upon
31 complaint or otherwise, the registrar has probable cause to believe
32 that a person is acting in the capacity of or engaging in the business
33 of a contractor *or salesperson* within this state without having a
34 license *or registration* in good standing to so act or engage, and the
35 person is not otherwise exempted from this chapter, the registrar
36 shall issue a citation to that person. Within 72 hours of receiving
37 notice that a public entity is intending to award, or has awarded,
38 a contract to an unlicensed contractor, the registrar shall give
39 written notice to the public entity that a citation may be issued if
40 a contract is awarded to an unlicensed contractor. If after receiving



1 the written notice from the registrar the public entity has awarded
2 or awards the contract to an unlicensed contractor, the registrar
3 may issue a citation to the responsible officer or employee of the
4 public entity as specified in Section 7028.15. Each citation shall
5 be in writing and shall describe with particularity the basis of the
6 citation. Each citation shall contain an order of abatement and an
7 assessment of a civil penalty in an amount not less than two
8 hundred dollars (\$200) nor more than fifteen thousand dollars
9 (\$15,000). With the approval of the Contractors' State License
10 Board the registrar shall prescribe procedures for the issuance of
11 a citation under this section. The Contractors' State License Board
12 shall adopt regulations covering the assessment of a civil penalty
13 ~~which~~ *that* shall give due consideration to the gravity of the
14 violation, and any history of previous violations. The sanctions
15 authorized under this section shall be separate from, and in
16 addition to, all other remedies either civil or criminal.

17 *SEC. 56. Section 7028.13 of the Business and Professions*
18 *Code is amended to read:*

19 7028.13. (a) After the exhaustion of the review procedures
20 provided for in Sections 7028.10 to 7028.12, inclusive, the
21 registrar may apply to the appropriate superior court for a
22 judgment in the amount of the civil penalty and an order
23 compelling the cited person to comply with the order of abatement.
24 The application, which shall include a certified copy of the final
25 order of the registrar, shall constitute a sufficient showing to
26 warrant the issuance of the judgment and order. *If the cited person*
27 *did not appeal the citation, a certified copy of the citation and*
28 *proof of service, and a certification that the person cited is not or*
29 *was not a licensed contractor or applicant for a license at the time*
30 *of issuance of the citation, shall constitute a sufficient showing to*
31 *warrant the issuance of the judgment and order.*

32 (b) *Notwithstanding any other provision of law, the registrar*
33 *may delegate the collection of the civil penalty for any citation*
34 *issued to any person or entity legally authorized to engage in*
35 *collections. Costs of collection shall be borne by the person cited.*
36 *The registrar shall not delegate the authority to enforce the order*
37 *of abatement.*

38 (c) *Notwithstanding any other provision of law, the registrar*
39 *shall have the authority to assign the rights to the civil penalty, or*
40 *a portion thereof, for adequate consideration. The assignee and*



1 *the registrar shall have all the rights afforded under the ordinary*
2 *laws of assignment of rights and delegation of duties. The registrar*
3 *shall not assign the order of abatement. The assignee may apply*
4 *to the appropriate superior court for a judgment based upon the*
5 *assigned rights upon the same evidentiary showing as set forth in*
6 *subdivision (a).*

7 *(d) Notwithstanding any other provision of law, including*
8 *subdivisions (1) and (2) of Section 340 of the Code of Civil*
9 *Procedure, the registrar or his or her designee or assignee shall*
10 *have four years from the date of the final order to collect civil*
11 *penalties except that the registrar or his or her designee or*
12 *assignee shall have 10 years from the date of the judgment to*
13 *enforce civil penalties on citations that have been converted to*
14 *judgments through the process described in subdivisions (a) and*
15 *(c).*

16 *SEC. 57. Section 7059.1 of the Business and Professions Code*
17 *is amended to read:*

18 7059.1. (a) A licensee shall not use any *business name-style*
19 ~~*which*~~ *that indicates the licensee is qualified to perform work in*
20 *classifications other than those issued for that license, or any*
21 ~~*business name-style which*~~ *that is incompatible with the type of*
22 *business entity licensed.*

23 *(b) A licensee shall not conduct business under more than one*
24 *name for each license. Nothing in this section shall prevent a*
25 *licensee from obtaining a business name change as otherwise*
26 *provided by this chapter.*

27 *SEC. 58. Section 7071.11 of the Business and Professions*
28 *Code is amended to read:*

29 7071.11. (a) A copy of the complaint in a civil action
30 commenced by a person claiming against a bond required by this
31 article shall be served by registered or certified mail upon the
32 registrar by the clerk of the court at the time the action is
33 commenced and the registrar shall maintain a record, available for
34 public inspection, of all actions so commenced. The aggregate
35 liability of a surety on a claim for wages and fringe benefits
36 brought against any bond required by this article, other than a bond
37 required by Section 7071.8, shall not exceed the sum of four
38 thousand dollars (\$4,000). If any bond which may be required is
39 insufficient to pay all claims in full, the sum of the bond shall be
40 distributed to all claimants in proportion to the amount of their



1 respective claims. Any action, other than an action to recover
2 wages or fringe benefits, against a contractor's bond or a bond of
3 a qualifying individual filed by an active licensee shall be brought
4 within two years after the expiration of the license period during
5 which the act or omission occurred, or within two years of the date
6 the license of the active licensee was inactivated, canceled, or
7 revoked by the board, whichever first occurs. Any action, other
8 than an action to recover wages or fringe benefits, against a
9 disciplinary bond filed by an active licensee pursuant to Section
10 7071.8 shall be brought within two years after the expiration of the
11 license period during which the act or omission occurred, or within
12 two years of the date the license of the active licensee was
13 inactivated, canceled, or revoked by the board, or within two years
14 after the last date for which a disciplinary bond filed pursuant to
15 Section 7071.8 was required, whichever date is first. A claim to
16 recover wages or fringe benefits shall be brought within six
17 months from the date that the wage or fringe benefit delinquencies
18 were discovered, but in no event shall a civil action thereon be
19 brought later than two years from the date the wage or fringe
20 benefit contributions were due.

21 (b) When the surety makes payment on any claim against a
22 bond required by this article, whether or not payment is made
23 through a court action or otherwise, the surety shall, within 30 days
24 of the payment, notify the registrar. The notice shall contain, on a
25 form prescribed by the registrar, the name and license number of
26 the contractor, the surety bond number, the amount of payment, the
27 statutory basis upon which the claim is made, and the names of the
28 person or persons to whom payments are made.

29 (c) Any judgment or admitted claim against, or good faith
30 payment from, a bond required by this article shall constitute
31 grounds for disciplinary action against the licensee, except in those
32 cases of good faith payment where the licensee has, in writing,
33 timely instructed the surety not to make payment from the bond on
34 his or her account, upon the specific grounds that (1) the claim is
35 opposed by the licensee, and (2) the licensee has, in writing,
36 previously directed to the surety a specific and reasonable basis for
37 his or her opposition to payment. The license may not be reissued
38 or reinstated while any judgment or admitted claim in excess of the
39 amount of the bond remains unsatisfied. Further, the license may
40 not be reissued or reinstated while any surety remains



1 unreimbursed for loss and expense sustained on any bond issued
2 for the licensee or for any entity of which any officer, director,
3 member, partner, or qualifying person was an officer, director,
4 member, partner, or qualifying person of the licensee while the
5 licensee was subject to disciplinary action under this section. The
6 board shall require the licensee to file a new bond in an amount as
7 required pursuant to Section 7071.8.

8 (d) Legal fees may not be charged against the bond by the
9 board.

10 (e) In any case in which a claim is filed against a deposit given
11 in lieu of a bond by any employee or by an employee organization
12 on behalf of an employee, concerning wages or fringe benefits
13 based upon the employee's employment, claims for the
14 nonpayment thereof shall be filed with the Labor Commissioner.
15 The Labor Commissioner shall, pursuant to the authority vested by
16 Section 96.5 of the Labor Code, conduct hearings to determine
17 whether or not the wages or fringe benefits should be paid to the
18 complainant. Upon a finding by the commissioner that the wages
19 or fringe benefits should be paid to the complainant, the
20 commissioner shall notify the registrar of the findings. The
21 registrar shall not make payment from the deposit on the basis of
22 findings by the commissioner for a period of 10 days following
23 determination of the findings. If, within the period, the
24 complainant or the contractor files written notice with the registrar
25 and the commissioner of an intention to seek judicial review of the
26 findings pursuant to Section 11523 of the Government Code, the
27 registrar shall not make payment, if an action is actually filed,
28 except as determined by the court. If, thereafter, no action is filed
29 within 60 days following determination of findings by the
30 commissioner, the registrar shall make payment from the deposit
31 to the complainant.

32 (f) Any action, other than an action to recover wages or fringe
33 benefits, against a deposit given in lieu of a contractor's bond or
34 bond of a qualifying individual filed by an active licensee shall be
35 brought within ~~two~~ *three* years after the expiration of the license
36 period during which the act or omission occurred, or within ~~two~~
37 *three* years after the date the license was inactivated, canceled, or
38 revoked by the board, whichever first occurs. Any action, other
39 than an action to recover wages or fringe benefits, against a deposit
40 given in lieu of a disciplinary bond filed by an active licensee



1 pursuant to Section 7071.8 shall be brought within ~~two~~ *three* years
2 after the expiration of the license period during which the act or
3 omission occurred, or within ~~two~~ *three* years of the date the license
4 of the active licensee was inactivated, canceled, or revoked by the
5 board, or within ~~two~~ *three* years after the last date for which a
6 deposit given in lieu of a disciplinary bond filed pursuant to
7 Section 7071.8 was required, whichever date is first. *If the board*
8 *is notified of a complaint relative to a claim against the deposit,*
9 *the deposit shall not be released until the complaint has been*
10 *adjudicated.*

11 *SEC. 59. Section 7074 of the Business and Professions Code*
12 *is amended to read:*

13 7074. ~~An~~ *(a) Except as otherwise provided by this section, an*
14 *application for an original license, for an additional classification*
15 *or for a change of qualifier shall become void when:*

16 ~~(a)~~

17 (1) The applicant or examinee for the applicant has failed to
18 appear for the scheduled qualifying examination and fails to
19 request and pay the fee for rescheduling within 90 days of
20 notification of failure to appear, or, after being rescheduled, has
21 failed to appear for a second examination.

22 ~~(b)~~

23 (2) The applicant or the examinee for the applicant has failed
24 to achieve a passing grade in the scheduled qualifying
25 examination, and fails to request and pay the fee for rescheduling
26 within 90 days of notification of failure to pass the examination.

27 ~~(c)~~

28 (3) The applicant or the examinee for the applicant has failed
29 to achieve a passing grade in the qualifying examination within
30 ~~three scheduled examinations~~ *18 months after the application has*
31 *been deemed acceptable by the board.*

32 ~~(d)~~

33 (4) The applicant for an original license, after having been
34 notified to do so, fails to pay the initial license fee within 90 days
35 from the date of ~~such~~ *the* notice.

36 ~~(e)~~

37 (5) The applicant, after having been notified to do so, fails to
38 file within 90 days from the date of ~~such~~ *the* notice any bond or
39 cash deposit or other documents ~~which~~ *that* may be required for
40 issuance or granting pursuant to this chapter.



1 ~~(f)~~
2 (6) After filing, the applicant withdraws the application.

3 ~~(g)~~
4 (7) The applicant fails to return the application rejected by the
5 board for insufficiency or incompleteness within 90 days from the
6 date of original notice or rejection.

7 ~~(h)~~
8 (8) The application is denied after disciplinary proceedings
9 conducted in accordance with the provisions of this code.

10 (b) *The void date on an application may be extended up to 90*
11 *days or one examination may be rescheduled without a fee upon*
12 *documented evidence by the applicant that the failure to complete*
13 *the application process or to appear for an examination was due*
14 *to a medical emergency or other circumstance beyond the control*
15 *of the applicant.*

16 (c) An application voided pursuant to the provisions of this
17 section shall remain in the possession of the registrar for ~~such~~ *the*
18 period as he *or she* deems necessary and shall not be returned to
19 the applicant. Any reapplication for a license shall be accompanied
20 by the fee fixed by this chapter.

21 *SEC. 60. Section 7091 of the Business and Professions Code*
22 *is amended to read:*

23 7091. (a) A complaint against a licensee alleging
24 commission of any patent acts or omissions that may be grounds
25 for legal action shall be filed in writing with the registrar within
26 four years after the act or omission alleged as the ground for the
27 disciplinary action. An accusation or citation against a licensee
28 shall be filed within four years after the patent act or omission
29 alleged as the ground for disciplinary action or within 18 months
30 from the date of the filing of the complaint with the registrar,
31 whichever is later, except that with respect to an accusation
32 alleging a violation of Section 7112, the accusation may be filed
33 within two years after the discovery by the registrar or by the board
34 of the alleged facts constituting the fraud or misrepresentation
35 prohibited by the section.

36 (b) A complaint against a licensee alleging commission of any
37 latent acts or omissions that may be grounds for legal action
38 pursuant to subdivision (a) of Section 7109 regarding structural
39 defects, as defined by regulation, shall be filed in writing with the
40 registrar within 10 years after the act or omission alleged as the



1 ground for the disciplinary action. An accusation and citation
2 against a licensee shall be filed within 10 years after the latent act
3 or omission alleged as the ground for disciplinary action or within
4 18 months from the date of the filing of the complaint with the
5 registrar, whichever is later, except that with respect to an
6 accusation alleging a violation of Section 7112, the accusation
7 may be filed within two years after the discovery by the registrar
8 or by the board of the alleged facts constituting the fraud or
9 misrepresentation prohibited by Section 7112. As used in this
10 section “latent act or omission” means an act or omission that is
11 not apparent by reasonable inspection.

12 (c) An accusation regarding an alleged breach of an express,
13 written warranty for a period in excess of the time periods
14 specified in subdivisions (a) and (b) issued by the contractor shall
15 be filed within the duration of that warranty.

16 (d) The proceedings under this article shall be conducted in
17 accordance with the provisions of Chapter 5 (commencing with
18 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
19 Code, and the registrar shall have all the powers granted therein.

20 (e) Nothing in this section shall be construed to affect the
21 liability of a surety or the period of limitations prescribed by law
22 for the commencement of actions against a surety or cash deposit.

23 ~~(f) The board shall adopt regulations to define the term~~
24 ~~“structural defect” for purposes of this section by December 31,~~
25 ~~1995.~~

26 *SEC. 61. Section 7112 of the Business and Professions Code*
27 *is amended to read:*

28 7112. ~~Misrepresentation~~ *Omission or misrepresentation of a*
29 *material fact by an applicant in obtaining a or a licensee in*
30 *obtaining, or renewing a license, or in adding a classification to*
31 *an existing license constitutes a cause for disciplinary action.*

32 *SEC. 62. Section 7112.1 is added to the Business and*
33 *Professions Code, to read:*

34 7112.1. *Any classification that has been added to an existing*
35 *license record as a result of an applicant or licensee omitting or*
36 *misrepresenting a material fact shall be expunged from the license*
37 *record pursuant to a final order of the registrar evidencing a*
38 *violation of Section 7112.*

39 *SEC. 63. Section 7153 of the Business and Professions Code*
40 *is amended to read:*



1 7153. (a) It is a misdemeanor for any person to engage in the
2 occupation of salesperson for one or more home improvement
3 contractors within this state without having a registration issued by
4 the registrar for each of the home improvement contractors by
5 whom he or she is employed as a home improvement salesperson.
6 *If, upon investigation, the registrar has probable cause to believe*
7 *that a salesperson is in violation of this section, the registrar may*
8 *issue a citation pursuant to Section 7028.7.*

9 It is a misdemeanor for any person to engage in the occupation
10 of salesperson of home improvement goods or services within this
11 state without having a registration issued by the registrar.

12 (b) Any security interest taken by a contractor, to secure any
13 payment for the performance of any act or conduct described in
14 Section 7151 that occurs on or after January 1, 1995, is
15 unenforceable if the person soliciting the act or contract was not
16 a duly registered salesperson or was not exempt from registration
17 pursuant to Section 7152 at the time the homeowner signs the
18 home improvement contract solicited by the salesperson.

19 *SEC. 64. Section 17910.5 of the Business and Professions*
20 *Code is amended to read:*

21 17910.5. (a) No person shall adopt any fictitious business
22 name which includes “Corporation,” “Corp.,” “Incorporated,”
23 or “Inc.” unless ~~such~~ that person is a corporation organized
24 pursuant to the laws of this state or some other jurisdiction.

25 (b) No person shall adopt any fictitious business name that
26 includes “Limited Liability Company” ~~(whether using the~~
27 ~~complete words or the abbreviations “Ltd.” and “Co.” or either~~
28 ~~of them)~~ or “LLC” or “LC” unless ~~such~~ that person is a limited
29 liability company organized pursuant to the laws of this state or
30 some other jurisdiction. *A person is not prohibited from using the*
31 *complete words “Limited” or “Company” or their abbreviations*
32 *in the person’s business name as long as that use does not imply*
33 *that the person is a limited liability company.*

34 (c) A county clerk shall not accept a fictitious business name
35 statement which would be in violation of this section.

36 *SEC. 65. Section 17913 of the Business and Professions Code*
37 *is amended to read:*

38 17913. (a) The fictitious business name statement shall
39 contain all of the information required by this subdivision and shall
40 be substantially in the following form:



FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as

* _____

at **

*** _____

This business is conducted by **** _____

The registrant commenced to transact business under the fictitious business name or names listed above on

***** _____

I declare that all information in this statement is true and correct. (A registrant who declares as true information which he or she knows to be false is guilty of a crime.)

Signed _____

Statement filed with the County Clerk of ____ County on ____

NOTICE—THIS FICTITIOUS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THAT TIME.

THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION—14400 14411 ET SEQ., BUSINESS AND PROFESSIONS CODE).

(b) The statement shall contain the following information set forth in the manner indicated in the form provided by subdivision

(a):

(1) Where the asterisk (*) appears in the form, insert the fictitious business name or names. Only those businesses operated at the same address may be listed on one statement.

(2) Where the two asterisks (**) appear in the form: If the registrant has a place of business in this state, insert the street address of his or her principal place of business in this state. If the



1 registrant has no place of business in this state, insert the street
2 address of his or her principal place of business outside this state.

3 (3) Where the three asterisks (***) appear in the form: If the
4 registrant is an individual, insert his or her full name and residence
5 address. If the registrant is a partnership or other association of
6 persons, insert the full name and residence address of each general
7 partner. If the registrant is a limited liability company, insert the
8 name of the limited liability company as set out in its articles of
9 organization and the state of organization. If the registrant is a
10 business trust, insert the full name and address of each trustee. If
11 the registrant is a corporation, insert the name of the corporation
12 as set out in its articles of incorporation and the state of
13 incorporation.

14 (4) Where the four asterisks (****) appear in the form, insert
15 whichever of the following best describes the nature of the
16 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a
17 limited partnership,” (iv) “a limited liability company,” (v) “an
18 unincorporated association other than a partnership,” (vi) “a
19 corporation,” (vii) “a business trust,” (viii) “copartners,” (ix)
20 “husband and wife,” (x) “joint venture,” or (xi) “other—please
21 specify.”

22 (5) Where the five asterisks (*****) appear in the form, insert
23 the date on which the registrant first commenced to transact
24 business under the fictitious business name or names listed, if
25 already transacting business under that name or names. If the
26 registrant has not yet commenced to transact business under the
27 fictitious business name or names listed, insert the statement, “Not
28 applicable.”

29 (c) *The registrant shall declare that all of the information in the*
30 *statement is true and correct. A registrant who declares as true any*
31 *material matter pursuant to this section which he or she knows to*
32 *be false is guilty of a misdemeanor.*

33 *SEC. 66. Section 17917 of the Business and Professions Code*
34 *is amended to read:*

35 17917. (a) Within 30 days after a fictitious business name
36 statement has been filed pursuant to this chapter, the registrant
37 shall cause a statement in the form prescribed by subdivision (a)
38 of Section 17913 to be published pursuant to Government Code
39 Section 6064 in a newspaper of general circulation in the county
40 in which the principal place of business of the registrant is located



1 or, if there is no such newspaper in that county, then in a newspaper
2 of general circulation in an adjoining county. If the registrant does
3 not have a place of business in this state, the notice shall be
4 published in a newspaper of general circulation in Sacramento
5 County.

6 (b) Subject to the requirements of subdivision (a), the
7 newspaper selected for the publication of the statement should be
8 one that circulates in the area where the business is to be
9 conducted.

10 (c) ~~Where a new statement~~ *If a refiling* is required because the
11 prior statement has expired ~~under subdivision (a) of Section~~
12 ~~17920, the new statement, the refiling~~ need not be published unless
13 there has been a change in the information required in the expired
14 statement, *provided the refiling is filed within 40 days of the date*
15 *the statement expired.*

16 (d) An affidavit showing the publication of the statement shall
17 be filed with the county clerk within 30 days after the completion
18 of the publication.

19 *SEC. 67. Section 17923 of the Business and Professions Code*
20 *is amended to read:*

21 17923. (a) Any person who is a general partner in a
22 partnership that is or has been regularly transacting business in a
23 fictitious business name may, upon withdrawing as a general
24 partner, file a statement of withdrawal from partnership operating
25 under fictitious business name. The statement shall be executed by
26 the person filing the statement in the same manner as a fictitious
27 business name statement and shall be filed with the county clerk
28 of the county where the partnership filed its fictitious business
29 name statement.

30 (b) The statement shall include:

31 (1) The fictitious business name of the partnership.

32 (2) The date on which the fictitious business name statement
33 for the partnership was filed and the county where filed.

34 (3) The street address of its principal place of business in this
35 state or, if it has no place of business in this state, the street address
36 of its principal place of business outside this state, if any.

37 (4) The full name and residence of the person withdrawing as
38 a partner.

39 (c) ~~Unless a notice of the dissolution of the partnership has been~~
40 ~~published pursuant to Section 15035.5 of the Corporations Code,~~



1 ~~the~~ The statement of withdrawal from *the* partnership operating
2 under a fictitious business name shall be published in the same
3 manner as the fictitious business name statement and an affidavit
4 showing the publication of the statement shall be filed with the
5 county clerk after the completion of the publication.

6 (d) The withdrawal of a general partner does not cause a
7 fictitious business name statement to expire if the withdrawing
8 partner files a statement of withdrawal in accordance with
9 subdivisions (a) and (b) and the requirement of subdivision (c) is
10 satisfied.

11 *SEC. 68. Section 22355 of the Business and Professions Code*
12 *is amended to read:*

13 22355. (a) The county clerk shall maintain a register of
14 process servers and assign a number and issue an identification
15 card to each process server. *The county clerk shall issue a*
16 *temporary identification card to applicants who are required to*
17 *submit fingerprint cards for background checks to the Federal*
18 *Bureau of Investigation and the Department of Justice. This card*
19 *shall be valid for 120 days. If clearance is received from the*
20 *Federal Bureau of Investigation and the Department of Justice*
21 *within 120 days, the county clerk shall immediately issue a*
22 *permanent identification card to the applicant. Upon renewal of*
23 *a certificate of registration, the same number shall be assigned,*
24 *provided there is no lapse in the period of registration.*

25 (b) ~~The temporary and permanent identification-card cards~~
26 ~~shall be a card~~ $3\frac{3}{8}$ inches by $2\frac{1}{4}$ inches and shall contain at the
27 top the title, “Registered Process Server,” followed by the
28 registrant’s name, address, registration number, date of expiration,
29 and county of registration. In the case of a natural person, it shall
30 also contain a photograph of the registrant in the lower left corner.

31 *SEC. 69. Section 22453.1 of the Business and Professions*
32 *Code is amended to read:*

33 22453.1. Notwithstanding Section 22453, any person
34 registered pursuant to Chapter 16 (commencing with Section
35 22350) shall pay a fee of one hundred dollars (\$100) instead of the
36 fee of one hundred seventy-five dollars (\$175) otherwise required
37 by Section ~~22452.1~~ 22453.

38 *SEC. 70. Section 109948.1 of the Health and Safety Code is*
39 *amended to read:*



1 109948.1. (a) “Home medical device services” means the
2 delivery, installation, maintenance, replacement of, or instruction
3 in the use of, home medical devices used by a sick or disabled
4 individual to allow the individual to be maintained in a residence.

5 (b) “Home medical device” means a device intended for use
6 in a home care setting including, but not limited to, all of the
7 following:

8 (1) Oxygen ~~and oxygen~~ delivery systems *and prefilled*
9 *cylinders*.

10 (2) Ventilators.

11 (3) Continuous Positive Airway Pressure devices (CPAP).

12 (4) Respiratory disease management devices.

13 (5) Hospital beds and commodes.

14 (6) Electronic and computer driven wheelchairs and seating
15 systems.

16 (7) Apnea monitors.

17 (8) Low air loss continuous pressure management devices.

18 (9) Transcutaneous Electrical Nerve Stimulator (TENS) units.

19 (10) Prescription devices.

20 (11) ~~Medical gases for human consumption.~~

21 ~~(12)~~ Disposable medical supplies including, but not limited to,
22 incontinence supplies as defined in Section 14125.1 of the Welfare
23 and Institutions Code.

24 ~~(13)~~

25 (12) In vitro diagnostic tests.

26 ~~(14)~~

27 (13) Any other similar device as defined in regulations adopted
28 by the department.

29 (c) The term “home medical device” does not include any of
30 the following:

31 (1) Devices used or dispensed in the normal course of treating
32 patients by hospitals and nursing facilities, other than devices
33 delivered or dispensed by a separate unit or subsidiary corporation
34 of a hospital or nursing facility or agency that is in the business of
35 delivering home medical devices to an individual’s residence.

36 (2) Prosthetics and orthotics.

37 (3) Automated external defibrillators (AEDs).

38 (4) Devices provided through a physician’s office incident to a
39 physician’s service.



1 (5) Devices provided by a licensed pharmacist that are used to
2 administer drugs that can be dispensed only by a licensed
3 pharmacist.

4 (6) Enteral and parenteral devices provided by a licensed
5 pharmacist.

6 *SEC. 71. Section 111656 of the Health and Safety Code is*
7 *amended to read:*

8 111656. (a) No person shall conduct a home medical device
9 retail facility business in the State of California unless he or she has
10 obtained a license from the department. A license shall be required
11 for each home medical device retail facility owned or operated by
12 a specific person. A separate license shall be required for each of
13 the premises of any person operating a home medical device retail
14 facility in more than one location. The license shall be renewed
15 annually and shall not be transferable. The licensee shall be
16 responsible for assuring compliance with all requirements of this
17 article pertaining to home medical device retail facilities.

18 (b) Applications for a home medical device retail facility
19 license shall be made on a form furnished by the department. The
20 department may require any information it deems reasonably
21 necessary to carry out the purposes of this section.

22 (c) A warehouse owned by a home medical device retail facility
23 the primary purpose of which is storage, not dispensing of
24 ~~prescription~~ home medical devices to patients, shall be licensed at
25 a fee one-half of that for a home medical device retail facility.
26 There shall be no separate or additional license fee for warehouse
27 premises owned by a home medical device retail facility that are
28 physically connected to the retail premises or that share common
29 access.

30 (d) The department may, at its discretion, issue a temporary
31 license when the ownership of a home medical device retail
32 facility is transferred from one person to another upon any
33 conditions and for the periods of time as the department
34 determines to be in the public interest. A temporary license fee
35 shall be established by the department at an amount not to exceed
36 the annual fee for renewal of a license to conduct a home medical
37 device retail facility.

38 (e) Notwithstanding any other provision of law, a licensed
39 home medical device retail facility may furnish a prescription
40 device to a licensed health care facility for storage in a secured



1 emergency pharmaceutical supplies container maintained within
2 the facility in accordance with facility regulations of the State
3 Department of Health Services set forth in Title 22 of the
4 California Code of Regulations.

5 (f) The licensure requirements of this section shall not apply to
6 the following entities or practitioners, unless the entities or
7 practitioners furnish home medical devices or home medical
8 device services through a separate entity including, but not limited
9 to, a corporate entity, division, or other business entity:

10 (1) Home health agencies that do not have a Part B Medicare
11 supplier number.

12 (2) Hospitals, excluding providers of home medical devices
13 that are owned or related to a hospital.

14 (3) Manufacturers and wholesale distributors, if not selling
15 directly to the patient.

16 (4) Health care practitioners authorized to prescribe or order
17 home medical devices or who use home medical devices or who
18 use home medical devices to treat their patients.

19 (5) Licensed pharmacists and pharmacies. Pharmacies that sell
20 or rent home medical devices shall be governed by the provisions
21 of Chapter 9 (commencing with Section 4000) of Division 2 of the
22 Business and Professions Code and any rules and regulations
23 adopted by the California State Board of Pharmacy.

24 (6) Licensed hospice programs.

25 (7) Licensed nursing homes.

26 (8) Licensed veterinarians.

27 (9) Licensed dentists.

28 (10) Emergency medical services provider.

29 (11) *Breast feeding support programs.*

30 *SEC. 72. Section 111656.2 of the Health and Safety Code is*
31 *amended to read:*

32 111656.2. (a) The following standards shall apply to all home
33 medical device retail facilities:

34 (1) Each retail facility shall store prescription devices in a
35 ~~secure, lockable area~~ *manner that does not allow a customer direct*
36 *access or self-service.*

37 (2) Each retail facility shall maintain the premises, fixtures,
38 and equipment in a clean and orderly condition.

39 (3) Each retail facility shall maintain the premises in a dry,
40 well-ventilated condition, free from contamination or other



1 conditions that may render home medical devices unfit for their
2 intended use.

3 (b) The department may by regulation impose any other
4 standards pertaining to the acquisition, storage, and maintenance
5 of prescription devices or other goods or to the maintenance or
6 condition of the licensed premises of any home medical device
7 retail facility as the department determines are reasonably
8 necessary.

9 *SEC. 73. Section 29.2 of this bill incorporates amendments to*
10 *Section 4115 of the Business and Professions Code proposed by*
11 *both this bill and AB 536. It shall only become operative if (1) both*
12 *bills are enacted and become effective on or before January 1,*
13 *2002, (2) each bill amends Section 4115 of the Business and*
14 *Professions Code, and (3) this bill is enacted after AB 536, in*
15 *which case Section 29 of this bill shall not become operative.*

16 *SEC. 74. No reimbursement is required by this act pursuant*
17 *to Section 6 of Article XIII B of the California Constitution for*
18 *certain costs that may be incurred by a local agency or school*
19 *district because in that regard this act creates a new crime or*
20 *infraction, eliminates a crime or infraction, or changes the penalty*
21 *for a crime or infraction, within the meaning of Section 17556 of*
22 *the Government Code, or changes the definition of a crime within*
23 *the meaning of Section 6 of Article XIII B of the California*
24 *Constitution.*

25 *However, notwithstanding Section 17610 of the Government*
26 *Code, if the Commission on State Mandates determines that this*
27 *act contains other costs mandated by the state, reimbursement to*
28 *local agencies and school districts for those costs shall be made*
29 *pursuant to Part 7 (commencing with Section 17500) of Division*
30 *4 of Title 2 of the Government Code. If the statewide cost of the*
31 *claim for reimbursement does not exceed one million dollars*
32 *(\$1,000,000), reimbursement shall be made from the State*
33 *Mandates Claims Fund.*

