AMENDED IN ASSEMBLY SEPTEMBER 10, 2001

AMENDED IN ASSEMBLY AUGUST 23, 2001

SENATE BILL No. 724

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 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, *2570.3*, 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, *22251*, *22254*, 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*, and 111656.4* 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. 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~~ *2007*.

(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.~~ *Existing law, the Occupational Therapy Practice Act, sets forth the requirements for licensure as an occupational therapist and for certification by the Hand Therapy Certification Commission of a therapist providing hand therapy services.*

This bill would delay until January 1, 2003, the ability of an occupational therapist to satisfy the experience requirement for this certification by performing hand therapy services under the supervision of an occupational or physical therapist who is certified by the commission.

(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~~ *and the* criminal penalties *that* exist ~~when~~ *if* 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~~ *The* 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~~ *the* bill would impose a state-mandated local program. ~~This~~ *The* 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 requires that a provider of tax preparer education meet standards and procedures approved by the California Tax Education Council or the Bureau for Private Postsecondary and Vocational Education.*

This bill would delete the bureau from these provisions and would require the council to include 2 tax preparers in its membership.

(22) 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)~~

(23) 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.

Vote: $^{2}/_{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 125.3 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

125.9. (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the department, the board created by the Chiropractic Initiative *Act*, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

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

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

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

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

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

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

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

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

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

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

650. Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership,

proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

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

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

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

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

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

802. (a) Every settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for

death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a person who holds a license, certificate or other similar authority from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(b) Every settlement over thirty thousand dollars ($30,000), or arbitration award of any amount, of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, or the Osteopathic Initiative Act, who does not possess professional liability insurance as to the claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the arbitration award on the parties, be reported to the agency that issued the license, certificate or similar authority. A complete report including the name and license number of the physician and surgeon shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) This section shall remain in effect until January 1, ~~2006~~ *2007*, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, ~~2006~~ *2007*, deletes or extends that date.

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

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

(a) Satisfactory completion of a postgraduate program in oral and maxillofacial surgery, pediatric dentistry, or periodontics at a dental school approved by either the Commission on Dental

Accreditation or a comparable organization approved by the board.

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

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

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

1716.1. (a) Notwithstanding Section 1716, the board may, by regulation, reduce the renewal fee for a licensee who has practiced dentistry for 20 years or more in this state, has reached the age of retirement under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), and customarily provides his or her services free of charge to any person, organization, or agency. In the event that charges are made, these charges shall be nominal. In no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full social security benefits. The board shall not reduce the renewal fee under this section to an amount less than one-half of the regular renewal fee.

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

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

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

(a) One member who is a public member of the board, one member who is a licensed dentist and who has been appointed by the board as an examiner pursuant to Section 1621, one member who is a licensed dentist who is neither a board member nor appointed by the board as an examiner pursuant to Section 1621, three members who are licensed as registered dental hygienists, at least one of whom is actively employed in a private dental office, and three members who are licensed as registered dental assistants. If available, an individual licensed as a registered dental hygienist in extended functions shall be appointed in place of one of the members licensed as a registered dental hygienist. If available, an individual licensed as a registered dental assistant in extended functions shall be appointed in place of one of the members licensed as a registered dental assistant.

(b) The public member of the board shall not have been licensed under Chapter 4 (commencing with Section 1600) of the Business and Professions Code within five years of the appointment date and shall not have any current financial interest in a dental-related business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2072. Notwithstanding any other provision of law and subject to the provisions of the State Civil Service Act, any person who is licensed to practice medicine in any other state, who meets the requirements for application set forth in this chapter and who registers with and is approved by the Division of Licensing, may be appointed to the medical staff within a state institution and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons under the jurisdiction of any state institution. Qualified physicians and surgeons licensed in this state shall not be recruited pursuant to this section.

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

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

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

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

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

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

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

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

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

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

(c) This section shall remain in effect until January 1, ~~2006~~ *2007*, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, ~~2006~~ *2007*, deletes or extends that date.

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

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

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

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to the applicant of a document acceptable to the division that shows final and successful completion of the course. However, nothing in this section shall be construed to require the division to evaluate for equivalency any coursework obtained at a medical school disapproved by the division pursuant to this section.

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

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

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

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

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

2245. A violation of Article 2.7 (commencing with Section 1646) of Chapter 4 or Section 1682 by a physician and surgeon who possesses a permit issued by the Dental Board of California to administer general anesthesia in a dental office may constitute unprofessional conduct.

This section shall remain in effect until January 1, ~~2004~~ *2007*, and as of that date is repealed, unless a later enacted statute which is enacted on or before January 1, ~~2004~~ *2007*, deletes or extends that date.

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

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

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

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

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

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

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

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

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

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

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

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

(k) The application fee for certification under Section ~~2473~~ *2472* shall be fifty dollars ($50). The examination and reexamination fee for this certification shall be seven hundred dollars ($700).

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

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

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

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

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

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

2532.6. (a) The Legislature recognizes that the education and experience requirements of this chapter constitute only minimal requirements to assure the public of professional competence. The Legislature encourages all professionals licensed and registered by the board under this chapter to regularly engage in continuing professional development and learning that is related and relevant to the professions of speech-language pathology and audiology.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 22.7. Section 2570.3 of the Business and Professions Code is amended to read:

2570.3. (a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is certified as an occupational therapy assistant under the provisions of this chapter.

(b) Only an individual may be licensed or certified under this chapter.

(c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.

(d) An occupational therapist may provide feeding or swallowing assessment, evaluation, or intervention if the therapist has demonstrated to the satisfaction of the board that he or she has met educational training, and competency requirements that the board shall develop in collaboration with the Speech-Language Pathology and Audiology Board.

(e) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.

(f) ‘‘Supervision of an occupational therapy assistant’’ means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client's record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist's appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.

(1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.

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

(g) On and after January 1, 2005, any occupational therapist providing hand therapy services shall be certified by the Hand Therapy Certification Commission and shall maintain this certification in order to continue to provide hand therapy services.

(1) Techniques used by hand therapists to augment occupational therapy treatment are physical agent modalities and massage.

(2) On and after January 1, ~~2002~~ *2003*, occupational therapists who are seeking certification by the Hand Therapy Certification Commission, and who have duly notified the board in writing of their intent to seek that certification, may provide hand therapy services under the supervision of an occupational therapist or physical therapist certified by the Hand Therapy Certification Commission in order to complete the experience requirements for certification.

(3) The board shall promulgate rules and regulations specifically pertaining to the practice of hand therapy by a person licensed under this chapter.

(h) In developing the rules and regulations required under this section, the board shall collaborate with the Physical Therapy Board of California and the Board of Registered Nursing.

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

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

2878.7. (a) A person whose license has been revoked, suspended, surrendered, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the disciplinary order or if any portion of the order is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

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

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

(3) At least one year for the early termination of a probation period of less than three years.

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

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

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

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

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

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

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

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

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

The application of ~~such~~ *these* principles and methods includes, but is not restricted to: diagnosis, prevention, treatment, and amelioration of psychological problems and emotional and mental disorders of individuals and groups.

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

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

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

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

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

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school.

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

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

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

If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

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

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

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

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

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

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

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

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4052.7. (a) A pharmacy may, at a patient’s request, repackage a drug previously dispensed to the patient or to the patient’s agent pursuant to a prescription.

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

(1) All the information required by Section 4076.

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

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

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

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

(b) An individual employed by a manufacturer, veterinary food-animal drug retailer, or wholesaler may apply for an exemption from Section 4051. In order to obtain and maintain that exemption, the individual shall meet the following requirements:

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience related to the distribution or dispensing of dangerous drugs or dangerous devices or meet all of the prerequisites to take the examination required for licensure as a pharmacist by the board.

(3) He or she shall complete a training program *approved by the board* that, at a minimum, addresses each of the following subjects:

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

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

(C) Knowledge and understanding of quality control systems.

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

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

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

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

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

(c) The manufacturer, veterinary food-animal drug retailer, or wholesaler shall not operate without a pharmacist or an individual in possession of a certificate of exemption on its premises.

(d) Only a pharmacist or an individual in possession of a certificate of exemption shall prepare and affix the label to veterinary food-animal drugs.

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

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

(b) The board may, at its discretion, issue a temporary permit, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary permit fee shall be established by the board at an amount not to exceed the annual fee for renewal of a permit to conduct a pharmacy. A temporary permit may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary permit was issued by mistake or denies the application for a permanent license or registration, the temporary license or registration shall terminate upon either personal service of the notice of termination upon the permitholder or service by certified mail, return receipt requested, at the permitholder’s address of record with the board, whichever comes first. Neither for purposes of retaining a temporary permit nor for purposes of any disciplinary of license denial proceeding before the board shall the temporary permitholder be deemed to have a vested property right or interest in the permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her

professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

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

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

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

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

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

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

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

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

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

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

(c) The Legislature, by enacting this section, does not intend a license issued to any out-of-state manufacturer or wholesaler pursuant to this section to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any out-of-state manufacturer or wholesaler.

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

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

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

(b) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct a veterinary food-animal drug retailer.

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

(d) The board shall not issue or renew a veterinary food-animal retailer license until the veterinary food-animal drug retailer designates an exemptee-in-charge and notifies the board in writing of the identity and license number of that exemptee. The exemptee-in-charge shall be responsible for the veterinary food-animal drug retailer's compliance with state and federal laws governing veterinary food-animal drug ~~retailer~~ *retailers*. Each veterinary food-animal drug retailer shall designate, and notify the board of, a new exemptee-in-charge within 30 days of the date that the prior exemptee-in-charge ceases to be exemptee-in-charge. A pharmacist may be designated as the exemptee-in-charge.

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

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

4200.5. (a) The board shall issue, upon application and payment of the fee established by Section 4400, a retired license to a pharmacist who has been licensed by the board. The board shall not issue a retired license to a pharmacist whose license has been revoked.

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

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

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

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

4301. The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.

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

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

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

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

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

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

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

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

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

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

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

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

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

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

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

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

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

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

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

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

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

(b) Any person who has obtained a license to conduct a veterinary food-animal drug retailer and who fails to place in charge of that veterinary food-animal drug retailer a pharmacist or exemptee, or any person who, by himself or herself, or by any other person, permits the dispensing of prescriptions, except by a pharmacist or exemptee, or as otherwise provided in this chapter, is guilty of a misdemeanor.

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

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

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

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

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

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

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

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

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

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

(h) The fee for application and investigation for an exemptee license under Sections 4053 and 4054 shall be seventy-five dollars ($75) and may be increased to one hundred dollars ($100), except for a veterinary food-animal drug retailer exemptee, for whom the fee shall be one hundred dollars ($100).

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

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

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

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

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

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

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

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

(q) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, is sixty dollars ($60) and may be increased to one hundred dollars ($100).

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

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

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

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

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

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

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

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

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

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

(3) At least one year for the early termination of a probation period of less than three years.

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

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

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

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

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

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

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

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

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

(a) Applicants applying for licensure on or after January 1, 1988, shall possess a doctor’s or master’s degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of accreditation or approval. For purposes of this chapter, the term ‘‘approved by the Bureau for Private Postsecondary and Vocational Education’’ shall mean unconditional approval existing at the time of the applicant’s graduation from the school, college, or university. In order to qualify for licensure pursuant to this subdivision, any doctor’s or master’s degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry and who is described in subdivision (f) of Section 4980.40, whichever is applicable. Continued employment as an unlicensed marriage, family, and child counselor intern shall cease after six years unless the requirements of subdivision (b) are met. No registration shall be renewed or reinstated beyond the six years from initial issuance regardless of whether it has been revoked.

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

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

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

The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct which would constitute grounds to deny licensure.

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

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

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

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

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

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

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

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

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

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

(c) He or she shall not have committed any acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or any other state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

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

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

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

(g) He or she shall have at least one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist, or ~~such~~ *a* suitable alternative experience as determined by the board in regulations duly adopted under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Administering to himself or herself any controlled substance or using ~~of~~ any of the dangerous drugs specified in Section 4022~~,~~ or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

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

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

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

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

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

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

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

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

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

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

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

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

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

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

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

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

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

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

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

(a) Is at least 21 years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notwithstanding the requirements of subdivision (a), up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) ~~consultation~~ *Consultation* shall not be considered to be supervision.

(2) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of *Title 16 of* the California Code of Regulations and shall sign under penalty of perjury the ‘‘Responsibility Statement for Supervisors of an Associate Clinical Social Worker’’ form.

(3) Supervised experience shall include at least one hour of direct supervisor contact for each week of experience claimed. A registrant shall receive an average of at least one hour of direct supervisor contact for every 10 hours of face-to-face psychotherapy performed in each setting in which experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 3,200 hours of supervised experience required in subdivision (a), 1,600 hours must be individual supervision. The remaining hours may be group supervision. For purposes of this section, ‘‘one hour of direct supervisor contact’’ means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.

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

~~(c)~~

(e) Acceptable settings for gaining experience are private practice, *a* governmental entity, a school, college, or university, a nonprofit and charitable corporation, a licensed health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code, a social rehabilitation facility or a community ~~treatment~~ *care* facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, a pediatric day health and respite care facility, as defined in Section 1760.2 of ~~he~~ *the* Health

and Safety Code, or a licensed alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety ~~Code, that meet the following criteria:~~ *Code.*

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

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

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

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

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

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

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

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

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

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

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

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

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a

physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Section 1758 et seq., as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage, family and child counselor pursuant to Chapter 13 (commencing with Section 4980), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals as identified in subparagraph (A) that are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and operating consistent with the laws governing their respective scopes of practice.

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

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

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

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

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

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

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

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

(c) For the purposes of this chapter, ‘‘health care professional’’ is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, a dentist pursuant to Chapter 4 (commencing with Section 1600), a dental hygienist pursuant to Section 1758 et seq., a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), an optometrist pursuant to Chapter 7 (commencing with Section 3000), a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

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

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

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

7006. The board shall meet at least once each calendar quarter for the purpose of transacting business as may properly come before it.

Special meetings of the board may be held at times as the board may provide in its bylaws. Four members of the board may call a special meeting at any time.

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

7026. ‘‘Contractor,’’ for the purposes of this chapter, is synonymous with ‘‘builder’’ and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. ‘‘Contractor’’ includes subcontractor and specialty contractor. ‘‘Roadway’’ includes, but is not limited to, public or city streets, highways, or any public conveyance.

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

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

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

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Within 72 hours of receiving notice that a public entity is intending to award, or has awarded, a contract to an unlicensed contractor, the registrar shall give written notice to the public entity that a citation may be issued if a contract is awarded to an unlicensed contractor. If after receiving the written notice from the registrar *that* the public entity has awarded or awards the contract to an unlicensed contractor, the registrar may issue a citation to the responsible officer or employee of the public entity as specified in Section 7028.15. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars ($200) nor more than fifteen thousand dollars ($15,000). With the approval of the Contractors' State License Board, the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations. The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

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

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

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

(c) Notwithstanding any other provision of law, the registrar shall have the authority to assign the rights to the civil penalty, or a portion thereof, for adequate consideration. The assignee and the registrar shall have all the rights afforded under the ordinary laws of assignment of rights and delegation of duties. The registrar shall not assign the order of abatement. The assignee may apply to the appropriate superior court for a judgment based upon the assigned rights upon the same evidentiary showing as set forth in subdivision (a).

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

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

7059.1. (a) A licensee shall not use any business name that indicates the licensee is qualified to perform work in classifications other than those issued for that license, or any business name that is incompatible with the type of business entity licensed.

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

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

7071.11. (a) A copy of the complaint in a civil action commenced by a person claiming against a bond required by this article shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars ($4,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims. Any action, other than an action to recover wages or fringe benefits, against a contractor's bond or a bond of a qualifying individual filed by an active licensee shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover wages or fringe benefits, against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the wage or fringe benefit contributions were due.

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

(c) Any judgment or admitted claim against, or good faith payment from, a bond required by this article shall constitute grounds for disciplinary action against the licensee, except in those cases of good faith payment where the licensee has, in writing, timely instructed the surety not to make payment from the bond on his or her account, upon the specific grounds that (1) the claim is opposed by the licensee, and (2) the licensee has, in writing, previously directed to the surety a specific and reasonable basis for his or her opposition to payment. The license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied. Further, the license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8.

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

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

(f) Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a contractor's bond or bond of a qualifying individual filed by an active licensee shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years after the date the license was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within three years after the last date for which a deposit given in lieu of a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. If the board is notified of a complaint relative to a claim against the deposit, the deposit shall not be released until the complaint has been adjudicated.

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

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

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

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

(3) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within 18 months after the application has been deemed acceptable by the board.

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

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

(6) After filing, the applicant withdraws the application.

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

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

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

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

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

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

(b) A complaint against a licensee alleging commission of any latent acts or omissions that may be grounds for legal action pursuant to subdivision (a) of Section 7109 regarding structural defects, as defined by regulation, shall be filed in writing with the registrar within 10 years after the act or omission alleged as the ground for the disciplinary action. An accusation and citation against a licensee shall be filed within 10 years after the latent act or omission alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later, except that with respect to an accusation alleging a violation of Section 7112, the accusation may be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 7112. As used in this section ‘‘latent act or omission’’ means an act or omission that is not apparent by reasonable inspection.

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

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

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

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

7112. Omission or misrepresentation of a material fact by an applicant or a licensee in obtaining, or renewing a license, or in adding a classification to an existing license constitutes a cause for disciplinary action.

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

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

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

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

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

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

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

17910.5. (a) No person shall adopt any fictitious business name which includes ‘‘Corporation,’’ ‘‘Corp.,’’ ‘‘Incorporated,’’ or ‘‘Inc.’’ unless that person is a corporation organized pursuant to the laws of this state or some other jurisdiction.

(b) No person shall adopt any fictitious business name that includes ‘‘Limited Liability Company’’ or ‘‘LLC’’ or ‘‘LC’’ unless that person is a limited liability company organized pursuant to the laws of this state or some other jurisdiction. A person is not prohibited from using the complete words ‘‘Limited’’ or ‘‘Company’’ or their abbreviations in the person’s business name as long as that use does not imply that the person is a limited liability company.

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

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

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall 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 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 registrant has no place of business in this state, insert the street address of his or her principal place of business outside this state.

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

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

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

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

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

17917. (a) Within 30 days after a fictitious business name statement has been filed pursuant to this chapter, the registrant shall cause a statement in the form prescribed by subdivision (a) of Section 17913 to be published pursuant to Government Code Section 6064 in a newspaper of general circulation in the county in which the principal place of business of the registrant is located or, if there is no such newspaper in that county, then in a newspaper of general circulation in an adjoining county. If the registrant does not have a place of business in this state, the notice shall be published in a newspaper of general circulation in Sacramento County.

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

(c) If a refiling is required because the prior statement has expired, the refiling need not be published unless there has been a change in the information required in the expired statement, provided the refiling is filed within 40 days of the date the statement expired.

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

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

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

(b) The statement shall include:

(1) The fictitious business name of the partnership.

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

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

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

(c) The statement of withdrawal from the partnership operating under a fictitious business name shall be published in the same manner as the fictitious business name statement and an affidavit showing the publication of the statement shall be filed with the county clerk after the completion of the publication.

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

SEC. 67.2. Section 22251 of the Business and Professions Code is amended to read:

22251. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), ''tax preparer'' includes:

(A) A person who, for a fee or for other consideration, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), ''tax preparer'' does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns.

(b) ''Tax return'' means a return, declaration, statement, refund claim, or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

(c) An ''approved curriculum provider,'' for purposes of basic instruction as described in subdivision (a) of Section 22255, and continuing education as described in subdivision (b) of Section 22255, is one who has been approved by the council as defined in subdivision (d)~~, or by the Bureau for Private Postsecondary and Vocational Education under Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code~~. A curriculum provider who is approved by the tax education council is exempt from Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code.

(d) "Council" means the California Tax Education Council ~~which~~ *that* is a single organization made up of not more than one representative from each professional society, association, or other entity operating as a California nonprofit corporation ~~which~~ *that* chooses to participate in the council and ~~which~~ *that* represents tax preparers, enrolled agents, attorneys, or certified public accountants with a membership of at least 200 for the last three years, and not more than one representative from each for-profit tax preparation corporation ~~which~~ *that* chooses to participate in the council and ~~which~~ *that* has at least 200 employees and has been operating in California for the last three years. *The council shall establish a process by which two individuals who are tax preparers pursuant to Section 22255 are appointed to the council with full voting privileges to serve terms as determined by the council, with their initial terms being served on a staggered basis. A person exempt from the requirements of this chapter pursuant to Section 22258 is not eligible for appointment to the council, other than an employee of an individual in an exempt category.*

SEC. 67.4. Section 22254 of the Business and Professions Code is amended to read:

22254. A provider of tax preparer education for tax preparers shall meet standards and procedures as approved by the council~~, or by the Bureau for Private Postsecondary and Vocational Education~~. The council shall either approve or decline to approve providers of tax preparer education within 120 days of receiving a request for approval. If approval is not declined within 120 days, the provider shall be deemed approved. A listing of those providers approved by the council shall be made available to tax preparers upon request.

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

22355. (a) The county clerk shall maintain a register of process servers and assign a number and issue an identification card to each process server. The county clerk shall issue a temporary identification card, *for no additional fee,* to applicants who are required to submit fingerprint cards for background checks to the Federal Bureau of Investigation and the Department of Justice. This card shall be valid for 120 days. If clearance is received from the Federal Bureau of Investigation and the Department of Justice within 120 days, the county clerk shall immediately issue a permanent identification card to the applicant. *Upon request of the applicant, the permanent identification card shall be mailed to the applicant at his or her address of record.* Upon renewal of a certificate of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

(b) The temporary and permanent identification cards shall be $3^3/_8$ inches by $2^1/_4$ inches and shall contain at the top the title, ‘‘Registered Process Server,’’ followed by the registrant’s name, address, registration number, date of expiration, and county of registration. In the case of a natural person, it shall also contain a photograph of the registrant in the lower left corner.

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

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

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

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

(b) ‘‘Home medical device’’ means a device intended for use in a home care setting including, but not limited to, all of the following:

(1) Oxygen delivery systems and prefilled cylinders.

(2) Ventilators.

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

(4) Respiratory disease management devices.

(5) Hospital beds and commodes.

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

(7) Apnea monitors.

(8) Low air loss continuous pressure management devices.

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

(10) Prescription devices.

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

(12) In vitro diagnostic tests.

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

(c) The term ‘‘home medical device’’ does not include any of the following:

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

(2) Prosthetics and orthotics.

(3) Automated external defibrillators (AEDs).

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

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

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

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

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

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

(c) A warehouse owned by a home medical device retail facility the primary purpose of which is storage, not dispensing of home medical devices to patients, shall be licensed at a fee one-half of that for a home medical device retail facility. There shall be no separate or additional license fee for warehouse premises owned by a home medical device retail facility that are physically connected to the retail premises or that share common access.

(d) The department may, at its discretion, issue a temporary license when the ownership of a home medical device retail facility is transferred from one person to another upon any conditions and for the periods of time as the department determines to be in the public interest. A temporary license fee shall be established by the department at an amount not to exceed the annual fee for renewal of a license to conduct a home medical device retail facility.

(e) Notwithstanding any other provision of law, a licensed home medical device retail facility may furnish a prescription device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Code of Regulations.

(f) The licensure requirements of this section shall not apply to the following entities or practitioners, unless the entities or practitioners furnish home medical devices or home medical device services through a separate entity including, but not limited to, a corporate entity, division, or other business entity:

(1) Home health agencies that do not have a Part B Medicare supplier number.

(2) Hospitals, excluding providers of home medical devices that are owned or related to a hospital.

(3) Manufacturers and wholesale distributors, if not selling directly to the patient.

(4) Health care practitioners authorized to prescribe or order home medical devices or who use home medical devices or who use home medical devices to treat their patients.

(5) Licensed pharmacists and pharmacies. Pharmacies that sell or rent home medical devices shall be governed by the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code and any rules and regulations adopted by the California State Board of Pharmacy.

(6) Licensed hospice programs.

(7) Licensed nursing homes.

(8) Licensed veterinarians.

(9) Licensed dentists.

(10) Emergency medical services provider.

(11) Breast feeding support programs.

SEC. 72. Section 111656.2 of the Health and Safety Code is amended to read:

111656.2. (a) The following standards shall apply to all home medical device retail facilities:

(1) Each retail facility shall store prescription devices in a manner that does not allow a customer direct access or self-service.

(2) Each retail facility shall maintain the premises, fixtures, and equipment in a clean and orderly condition.

(3) Each retail facility shall maintain the premises in a dry, well-ventilated condition, free from contamination or other conditions that may render home medical devices unfit for their intended use.

(b) The department may by regulation impose any other standards pertaining to the acquisition, storage, and maintenance of prescription devices or other goods or to the maintenance or condition of the licensed premises of any home medical device retail facility as the department determines are reasonably necessary.

SEC. 73. *Section 111656.4 of the Health and Safety Code is amended to read:*

111656.4. Section 4051 of the Business and Professions Code shall not prohibit a home medical device retail facility from selling or dispensing prescription devices if the department finds that sufficient qualified supervision is employed by the home medical device retail facility to adequately safeguard and protect the public health. Each person applying to the department for this exemption shall meet the following requirements to obtain and maintain the exemption:

(a) A licensed pharmacist or an exemptee who ~~has taken and passed an examination administered by the department~~ *meets the requirements set forth in paragraphs (1) to (5), inclusive,* and whose ~~certificate~~ *license* of exemption is currently valid, shall be in charge of the home medical device retail facility.

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience related to the distribution or dispensing of dangerous drugs or dangerous devices.

(3) He or she shall complete a training program that addresses each of the following subjects that are applicable to him or her:

(A) Knowledge and understanding of state and federal laws relating the distribution of dangerous drugs and dangerous devices.

(B) Knowledge and understanding of state and federal laws relating the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

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

(E) Knowledge and understanding relating to the safe storage and handling of home medical devices.

(F) Knowledge and understanding of prescription terminology, abbreviations, and format.

(4) The department may, by regulation, require training programs that include additional material.

(5) The department shall not issue an exemptee license until the applicant provides proof of completion of the required training that the department determines is adequate to fulfill these requirements.

(b) The licensed pharmacist or exemptee shall be on the premises at all times that prescription devices are available for sale or fitting unless the prescription devices are stored separately from other merchandise and are under the exclusive control of the licensed pharmacist or exemptee. A licensed pharmacist or an exemptee need not be present in the warehouse facility of a home medical device retail facility unless the department establishes that requirement by regulation based upon the need to protect the public.

(c) The department may require an exemptee to complete a designated number of hours of coursework in department-approved courses of home health education in the disposition of any disciplinary action taken against the exemptee.

(d) Each premises maintained by a home medical device retail facility shall have a license issued by the department and shall have a licensed pharmacist or exemptee on the premises if prescription devices are furnished, sold, or dispensed.

(e) A home medical device retail facility may establish locked storage (a lock box or locked area) for emergency or after working hours furnishing of prescription devices. Locked storage may be installed or placed in a service vehicle of the home medical device retail facility for emergency or after hours service to patients having prescriptions for prescription devices.

(f) The department may by regulation authorize a licensed pharmacist or exemptee to direct an employee of the home medical device retail facility who operates the service vehicle equipped with locked storage described in subdivision (e) to deliver a prescription device from the locked storage to patients having prescriptions for prescription devices. These regulations shall establish inventory requirements for the locked storage by a licensed pharmacist or exemptee to take place shortly after a prescription device has been delivered from the locked storage to a patient.

SEC. 74. Section 29.2 of this bill incorporates amendments to Section 4115 of the Business and Professions Code proposed by both this bill and AB 536. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 4115 of the Business and Professions Code, and (3) this bill is enacted after AB 536, in which case Section 29 of this bill shall not become operative.

~~SEC. 74.~~

SEC. 75. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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