

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 707

Introduced by Senator DeSaulnier
(Coauthor: Assembly Member Beall)

February 27, 2009

An act to add Part 4 (commencing with Section 11975.10) to Division 10.5 of, and to repeal Section 11975.30 of, the Health and Safety Code, to amend Section 11165.7 of the Penal Code, and to amend Section 15630 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as amended, DeSaulnier. Alcohol and other drug counselor licensing and certification.

Existing law provides for the licensure, registration, and certification of the various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities.

This bill would establish similar licensure, registration, and certification provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs, *and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2011.* The bill would make a violation of these provisions a crime. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.

By establishing a new crime, this bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Part 4 (commencing with Section 11975.10) is added to Division 10.5 of the Health and Safety Code, to read:

PART 4. ALCOHOL AND OTHER DRUG COUNSELOR
LICENSING AND CERTIFICATION

CHAPTER 1. GENERAL PROVISIONS

11975.10. (a) This part shall be known, and may be cited, as the Alcohol and Other Drug Counselor Licensing and Certification Act.

(b) This part shall be liberally construed to achieve its objectives.

11975.15. For purposes of this part, the following terms have the following meanings:

(a) “Certified Alcohol and Other Drug Counselor” or “CAODC” means a person certified by the department pursuant to ~~subdivision (a) of Section 11975.35~~ *Section 11975.35 or 11975.36* to practice alcohol and drug counseling under clinical supervision in a program licensed or certified by the department under this division.

(b) “Certified Alcohol and Other Drug Counselor-Advanced” or “CAODC-A” means a person certified by the department pursuant to ~~subdivision (b) of Section 11975.35~~ *Section 11975.37 or 11975.38* to practice alcohol and drug counseling in a program licensed or certified by the department under this division.

(c) “Certified Alcohol and Other Drug Counselor-Clinical Supervisor” or “CAODC-CS” means a person certified by the department pursuant to ~~subdivision (c) of Section 11975.35~~ *Section 11975.39 or 11975.40* to practice alcohol and drug counseling in

1 a program licensed or certified by the department under this
2 division, and who may provide clinical supervision to registrants,
3 CAODCs, and CAODC-As.

4 (d) “Licensed Alcohol and Other Drug Counselor” or “LAODC”
5 means a person licensed by the department pursuant to Section
6 ~~11975.40~~ 11975.41 or 11975.42 to practice alcohol and other drug
7 counseling, and who may provide clinical supervision to any other
8 person licensed, certified, or registered under this part and who
9 may maintain an independent counseling practice.

10 (e) “Clinical supervision” means the ongoing process in which
11 the supervisor participates with one or more supervisees to ensure
12 ~~quality care~~ *high quality service delivery across domains of*
13 *counselor development, professional and ethical standards,*
14 *program development, quality assurance, performance evaluation,*
15 *and administration*, as described in “Competencies for Substance
16 Abuse Treatment Clinical Supervisors,” Technical Assistance
17 Publication Series No. 21-A, 2007, published by the United States
18 Department of Health and Human Services, Substance Abuse and
19 Mental Health Services Administration Center for Substance Abuse
20 Treatment, or other sources as the department may specify by
21 regulation.

22 (f) “Advertise” includes, but is not limited to, the issuance of
23 any card, sign, or device to any person, or the causing, permitting,
24 or allowing of any sign or marking on or in any building or
25 structure, or in any newspaper or magazine or in any directory, or
26 any printed matter, with or without any limiting qualification. It
27 also includes business solicitations communicated by radio or
28 television broadcasting, the Internet, or any other electronic
29 medium.

30 (g) “Registrant” means an uncertified or unlicensed person who
31 is in the course of completing the requirements for certification or
32 licensure under this part and is registered with the department who
33 has completed no less than 12 semester units or 18 quarter units
34 of the education required under this part.

35 (h) “Supervision” means responsibility for, and control of, the
36 quality of alcohol and other drug counseling services being
37 provided. Consultation or peer discussion shall not be considered
38 to be supervision. “Supervisee” means a registrant or certified or
39 licensed counselor under this part, as the case may be, who is

1 seeking to meet the supervised experience requirements of this
2 part.

3
4 CHAPTER 2. ADMINISTRATION
5

6 11975.20. (a) The department shall administer and enforce
7 this part.

8 (b) The department may enter into an agreement with any
9 governmental agency or other entity, public or private, to
10 administer any portion of this part.

11 11975.25. In order to carry out the provisions of this part, the
12 department shall do, but shall not be limited to, all of the following:

13 (a) Adopt rules and regulations as necessary to administer and
14 enforce this part. The adoption, amendment, and repeal of those
15 rules and regulations shall be made in accordance with the
16 rulemaking provisions of the Administrative Procedure Act
17 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3 of Title 2 of the Government Code).

19 (b) Develop standards for ~~certification~~ *registration, certification,*
20 and licensure of alcohol and other drug counselors, including those
21 persons presently certified pursuant to regulations adopted by the
22 department so that they have an opportunity for certification or
23 licensure under this part with appropriate credit for the education,
24 training, and experience obtained prior to the department's
25 implementation of this part. The department shall establish
26 standards for multiple levels of alcohol and other drug counselors
27 and may establish subspecialties with distinct requirements.

28 (c) Issue licenses, certificates, and registrations beginning
29 January 1, 2011, to those who meet the qualifications of this part
30 and any regulations promulgated pursuant to this part.

31 (d) Take disciplinary action against counselors where
32 appropriate, including reprimand or probation, suspension, or
33 revocation of the license, certificate, or registration, issuance of
34 administrative citations, or imposition of administrative fines not
35 to exceed five thousand dollars (\$5,000), or any combination of
36 these.

37 (e) Establish continuing education requirements.

38 (f) Establish procedures for the receipt, investigation, and
39 resolution of complaints.

(g) Establish criteria to determine whether the curriculum of an educational institution satisfies the requirements imposed by this part.

(h) Establish parameters of unprofessional conduct that are consistent with generally accepted ethics codes for the profession.

(i) Establish reinstatement procedures for an expired or revoked certificate or license.

(j) Establish registration and supervision requirements for registrants, including those persons presently registered pursuant to regulations adopted by the department, so that they have an opportunity for registration, certification, and licensure under this part with appropriate credit for the education, training, and experience obtained prior to the department's implementation of this part.

(k) Develop or adopt one or more examinations for administering to prospective *certificants and* licensees. The test may be administered by the department or by any public or private entity selected by the department.

(l) Maintain a database of certified and licensed counselors and registrants, including the individual's status, any public record of discipline, and other information as the department may require.

CHAPTER 3. LICENSING AND CERTIFICATION

11975.30. (a) ~~The department shall provisionally certify as a Certified Alcohol and Other Drug Counselor~~ *certify or license, at the appropriate level specified in Section 11975.36, 11975.38, 11975.40, or 11975.42, as applicable, each person who the department determines was certified as a counselor on January 1, December 31, 2010, in accordance with regulations of the department in effect immediately prior to January 1, 2010 in effect on that date.*

(b) ~~Provisional certification~~ *Certification or licensure provided pursuant to this section shall be in force for at least two, but not more than four, years, as the department may determine by regulation and shall, thereafter, be renewable in the same manner as any other certification or licensure pursuant to this part.*

(c) ~~The department may withdraw or condition a provisional certification for any reason for which it could~~

1 (c) *The registration, certification, or licensure issued pursuant*
2 *to this section shall be subject to all of the same actions to deny,*
3 *suspend, revoke, or condition-a any other registration, certificate,*
4 *or license under this part.*

5 ~~(d) The department may specify, by regulations, conditions~~
6 ~~under which eligible persons may be provisionally certified at the~~
7 ~~level of Certified Alcohol and Other Drug Counselor-Advanced~~
8 ~~or Certified Alcohol and Other Drug Counselor-Clinical~~
9 ~~Supervisor.~~

10 (e)
11 (d) The department shall specify by regulation the conditions
12 under which persons registered to become certified, pursuant to
13 the department's regulations in effect immediately prior to January
14 1, on December 31, 2010, may be eligible to be registered or
15 certified under this part and receive appropriate credit for
16 education, supervised experience, and work experience previously
17 completed.

18 ~~(f) This section shall remain in effect only until January 1, 2017,~~
19 ~~and as of that date is repealed, unless a later enacted statute, that~~
20 ~~is enacted before January 1, 2017, deletes or extends that date.~~

21 ~~11975.35. (a) Commencing January 1, 2011, the department~~
22 ~~shall issue CAODC certificates to a person who meets all of the~~
23 ~~following requirements:~~

24 ~~(1) Meets one or more of the following:~~

25 ~~(A) Completes 350 hours of education as specified in Section~~
26 ~~11975.45 and possesses a high school diploma or GED.~~

27 ~~(B) Possesses an earned Associate of Arts, Associate of Science~~
28 ~~in alcohol and drug counseling, or other major or an equivalent~~
29 ~~degree recognized by the department by regulation, from an~~
30 ~~institution of higher learning accredited by the Western Association~~
31 ~~of Schools and Colleges or an equivalent regional accrediting~~
32 ~~agency approved by the United States Department of Education.~~

33 ~~(2) Passes the test specified in Section 11975.50.~~

34 ~~(3) Completes 250 hours of supervised experience as specified~~
35 ~~in Section 11975.55.~~

36 ~~(4) Completes 2,080 hours of work experience as specified in~~
37 ~~Section 11975.60.~~

38 ~~(5) Submits to a state and federal level criminal offender record~~
39 ~~information search and passes both background checks as specified~~
40 ~~in Section 11976.10.~~

1 ~~(6) Pays the required fees as set by the department.~~

2 ~~(7) Completes the application for a certificate and satisfies all~~
3 ~~other requirements of this part for certification as a CAODC.~~

4 ~~(b) Commencing January 1, 2011, the department shall issue~~
5 ~~CAODC-A certificates to a person who meets all of the following~~
6 ~~requirements:~~

7 ~~(1) Meets either of the following:~~

8 ~~(A) Possesses an earned Bachelor of Arts, Bachelor of Science~~
9 ~~in alcohol and drug counseling, or other major or an equivalent~~
10 ~~degree recognized by the department by regulation, from an~~
11 ~~institution of higher learning accredited by the Western Association~~
12 ~~of Schools and Colleges or an equivalent regional accrediting~~
13 ~~agency approved by the United States Department of Education.~~

14 ~~(B) Completes 10,000 hours of work experience as specified in~~
15 ~~Section 11975.60, within a period not exceeding 10 years prior to~~
16 ~~the date the application for certification was filed and possesses a~~
17 ~~high school diploma or GED.~~

18 ~~(2) Meets all of the requirements of paragraphs (2) to (6),~~
19 ~~inclusive, of subdivision (a), plus both of the following additional~~
20 ~~requirements:~~

21 ~~(A) Completes an additional 150 hours of supervised experience~~
22 ~~as specified in Section 11975.55.~~

23 ~~(B) Completes the application for a certificate and satisfies all~~
24 ~~other requirements of this part for certification as a CAODC-A.~~

25 ~~(c) Commencing January 1, 2011, the department shall issue~~
26 ~~CAODC-CS certificates to a person who meets all of the following~~
27 ~~requirements:~~

28 ~~(1) Meets both of the following:~~

29 ~~(A) Possesses an earned Bachelor of Arts, Bachelor of Science~~
30 ~~in alcohol and drug counseling, or other major or an equivalent~~
31 ~~degree recognized by the department by regulation, from an~~
32 ~~institution of higher learning accredited by the Western Association~~
33 ~~of Schools and Colleges or an equivalent regional accrediting~~
34 ~~agency approved by the United States Department of Education.~~

35 ~~(B) Completes a course of education as specified in paragraph~~
36 ~~(3) of subdivision (b) of Section 11976.50 specifically directed to~~
37 ~~the competencies of clinical supervision.~~

38 ~~(2) Meets all of the requirements of subparagraph (A) of~~
39 ~~paragraph (2) of subdivision (b), plus both of the following~~
40 ~~additional requirements:~~

1 ~~(A) Completes an additional 150 hours of supervised experience~~
2 ~~as specified in Section 11975.55.~~

3 ~~(B) Completes the application for a certificate and satisfies all~~
4 ~~other requirements of this part for certification as a CAODC-CS,~~
5 ~~including any additional requirements specified by the department~~
6 ~~related to clinical supervision.~~

7 *(e) The department shall not issue a registration, certification,*
8 *or license pursuant to this section unless a complete application*
9 *is received by December 31, 2013.*

10 11975.35. Commencing January 1, 2011, the department shall
11 issue a Certified Alcohol and Other Drug Counselor (CAODC)
12 certificate to each person who meets all of the following
13 requirements:

14 *(a) Meets either of the following:*

15 *(1) Completes 350 hours of education as specified in Section*
16 *11975.45 and possesses a high school diploma or GED.*

17 *(2) Possesses an earned Associate of Arts, Associate of Science*
18 *in alcohol and drug counseling, or other major or an equivalent*
19 *degree recognized by the department by regulation, from an*
20 *institution of higher learning accredited by the Western Association*
21 *of Schools and Colleges or an equivalent regional accrediting*
22 *agency approved by the United States Department of Education.*

23 *(b) Passes the test specified in Section 11975.50.*

24 *(c) Completes 250 hours of supervised experience as specified*
25 *in Section 11975.55.*

26 *(d) Completes 2,080 hours of work experience as specified in*
27 *Section 11975.60.*

28 *(e) Submits to a state and federal level criminal offender record*
29 *information search and passes both background checks as specified*
30 *in Section 11976.45.*

31 *(f) Pays the required fees as set by the department.*

32 *(g) Completes the application for a certificate and satisfies all*
33 *other requirements of this part for certification as a CAODC.*

34 11975.36. Commencing January 1, 2011, and ceasing with the
35 disposition of all complete applications actually received by the
36 department by December 31, 2013, the department shall issue a
37 Certified Alcohol and Other Drug Counselor (CAODC)/ Previously
38 Certified certificate pursuant to Section 11975.30 to each person
39 who the department determines was certified as a counselor on
40 December 31, 2010, in accordance with regulations of the

1 department in effect on that date, and who meets all of the
2 following requirements:

3 (a) Submits to a state and federal level criminal offender record
4 information search not later than June 30, 2011, and passes both
5 background checks as specified in Section 11976.45.

6 (b) Pays the required fees as set by the department.

7 (c) Completes the application for a certificate.

8 11975.37. Commencing January 1, 2011, the department shall
9 issue a Certified Alcohol and Other Drug Counselor-Advanced
10 (CAODC-A) certificate to each person who meets all of the
11 following requirements:

12 (a) Meets either of the following:

13 (1) Possesses an earned Bachelor of Arts, Bachelor of Science
14 in alcohol and drug counseling, or other major or an equivalent
15 degree recognized by the department by regulation, from an
16 institution of higher learning accredited by the Western Association
17 of Schools and Colleges or an equivalent regional accrediting
18 agency approved by the United States Department of Education.

19 (2) Completes 10,000 hours of work experience as specified in
20 Section 11975.60, within a period not exceeding 10 years prior to
21 the date the application for certification was filed and possesses
22 a high school diploma or GED.

23 (b) Passes the test specified in Section 11975.50.

24 (c) Completes 400 hours of supervised experience as specified
25 in Section 11975.55. Up to 250 hours credited to obtain a CAODC
26 certificate may be applied toward this requirement.

27 (d) Completes 2,080 hours of work experience as specified in
28 Section 11975.60.

29 (e) Submits to a state and federal level criminal offender record
30 information search and passes both background checks as specified
31 in Section 11976.45.

32 (f) Pays the required fees as set by the department.

33 (g) Completes the application for a certificate and satisfies all
34 other requirements of this part for certification as a CAODC-A.

35 11975.38. Commencing January 1, 2011, and ceasing with the
36 disposition of all complete applications actually received by the
37 department by December 31, 2013, the department shall issue a
38 Certified Alcohol and Other Drug Counselor-Advanced
39 (CAODC-A)/ Previously Certified certificate pursuant to Section
40 11975.30 to each person who the department determines was

1 *certified as a counselor on December 31, 2010, in accordance*
2 *with regulations of the department in effect on that date, and who*
3 *meets all of the following requirements:*

4 *(a) Submits to a state and federal level criminal offender record*
5 *information search not later than June 30, 2011, and passes both*
6 *background checks as specified in Section 11976.45.*

7 *(b) Pays the required fees as set by the department.*

8 *(c) Completes the application for a certificate.*

9 *(d) Prior to January 1, 2011, meets the requirements of Section*
10 *11975.37, or possesses an advanced certification issued by one of*
11 *the certifying organizations recognized by the department under*
12 *its regulations in effect on December 31, 2010, which certification*
13 *the department determines by regulation makes the holder eligible*
14 *for certification at the CAODC-A level.*

15 *11975.39. Commencing January 1, 2011, the department shall*
16 *issue a Certified Alcohol and Other Drug Counselor-Clinical*
17 *Supervisor (CAODC-CS) certificate to each person who meets all*
18 *of the following requirements:*

19 *(a) Meets both of the following:*

20 *(1) Possesses an earned Bachelor of Arts, Bachelor of Science*
21 *in alcohol and drug counseling, or other major or an equivalent*
22 *degree recognized by the department by regulation, from an*
23 *institution of higher learning accredited by the Western Association*
24 *of Schools and Colleges or an equivalent regional accrediting*
25 *agency approved by the United States Department of Education.*

26 *(2) Completes 40 hours of continuing education specifically*
27 *directed to the competencies of clinical supervision, as approved*
28 *by the department.*

29 *(b) Passes the test specified in Section 11975.50.*

30 *(c) Completes 550 hours of supervised experience as specified*
31 *in Section 11975.55. Up to 400 hours credited to obtain a*
32 *CAODC-A certificate, that may include up to 250 hours credited*
33 *to obtain a CAODC certificate, may be applied toward this*
34 *requirement.*

35 *(d) Completes 2,080 hours of work experience as specified in*
36 *Section 11975.60.*

37 *(e) Submits to a state and federal level criminal offender record*
38 *information search and passes both background checks as specified*
39 *in Section 11976.45.*

40 *(f) Pays the required fees as set by the department.*

1 (g) Completes the application for a certificate and satisfies all
2 other requirements of this part for certification as a CAODC-CS,
3 including any additional requirements specified by the department
4 related to clinical supervision.

5 11975.40. Commencing January 1, 2011, and ceasing with the
6 disposition of all complete applications actually received by the
7 department by December 31, 2013, the department shall issue a
8 Certified Alcohol and Other Drug Counselor-Clinical Supervisor
9 (CAODC-CS)/ Previously Certified certificate pursuant to Section
10 11975.30 to each person who the department determines was
11 certified as a counselor on December 31, 2010, in accordance
12 with regulations of the department in effect on that date, and who
13 meets all of the following requirements:

14 (a) Submits to a state and federal level criminal offender record
15 information search not later than June 30, 2011, and passes both
16 background checks as specified in Section 11976.45.

17 (b) Pays the required fees as set by the department.

18 (c) Completes the application for a certificate.

19 (d) Prior to January 1, 2011, complies with all of the following:

20 (1) Meets the requirements of Section 11975.39.

21 (2) Possesses an advanced certification issued by one of the
22 certifying organizations recognized by the department under its
23 regulations in effect on December 31, 2010, which certification
24 the department determines by regulation makes the holder eligible
25 for certification at the CAODC-CS level.

26 (3) (A) Completes 10,000 hours of work experience in clinical
27 supervision as specified in Section 11975.60, within a period not
28 exceeding 10 years prior to the date the application for certification
29 was filed.

30 (B) Completes 40 hours of continuing education specifically
31 directed to the competencies of clinical supervision, as approved
32 by the department.

33 ~~11975.40.~~

34 11975.41. Commencing January 1, 2011, the department shall
35 issue an ~~LAODC~~ Licensed Alcohol and Other Drug Counselor
36 (LAODC) license to a person who meets all of the following
37 requirements:

38 (a) Possesses an earned Master of Arts, Master of ~~Science~~
39 Science, or Doctorate degree in alcohol and drug counseling,
40 psychology, or social work, or other major or an equivalent degree

1 recognized by the department by regulation, from an institution
2 of higher learning accredited by the Western Association of
3 Schools and Colleges or an equivalent regional accrediting agency
4 approved by the United States Department of Education.

5 (b) Completes a course of education as specified in paragraph
6 (3) of subdivision (b) of Section 11976.50 specifically directed to
7 the competencies of clinical supervision.

8 (c) Passes the test specified in Section 11975.50.

9 (d) Completes 2,000 hours of supervised experience as specified
10 in Section 11975.55.

11 (e) Completes 6,000 hours of work experience as specified in
12 Section 11975.60.

13 (f) Submits to a state and federal level criminal offender record
14 information search and passes both background checks as specified
15 in Section 11976.45.

16 (g) Pays the required fees as set by the department.

17 (h) Completes the application for a license and satisfies all other
18 requirements of this part for licensure as an LAODC.

19 *11975.42. Commencing January 1, 2011, and ceasing with the*
20 *disposition of all complete applications actually received by the*
21 *department by December 31, 2013, the department shall issue a*
22 *Licensed Alcohol and Other Drug Counselor (LAODC)/ Previously*
23 *Certified Counselor license pursuant to Section 11975.30 to each*
24 *person who the department determines was certified as a counselor*
25 *on December 31, 2010, in accordance with regulations of the*
26 *department in effect on that date, and who meets all of the*
27 *following requirements:*

28 (a) *Submits to a state and federal level criminal offender record*
29 *information search not later than June 30, 2011, and passes both*
30 *background checks as specified in Section 11976.45.*

31 (b) *Pays the required fees as set by the department.*

32 (c) *Completes the application for a certificate.*

33 (d) *Prior to January 1, 2011, meets the requirements of Section*
34 *11975.41, or possesses an advanced certification issued by one of*
35 *the certifying organizations recognized by the department under*
36 *its regulations in effect on December 31, 2010, which certification*
37 *the department determines by regulation makes the holder eligible*
38 *for licensure as an LAODC.*

39 ~~11975.45. The education required in Sections 11975.35 and~~
40 ~~11975.40 educational qualifications required for registration,~~

1 *certification, or licensure pursuant to this part* shall meet both of
2 the following requirements:

3 (a) The curriculum shall include all of the following:

4 (1) *For all counselors, “Addiction Counseling Competencies,”*
5 *Technical Assistance Publication Series No. 21, 2006, published*
6 *by the United States Department of Health and Human Services,*
7 *Substance Abuse and Mental Health Services Administration,*
8 *Center for Substance Abuse Treatment.*

9 (2) *For counselors at the CAODC-CS or LAODC level,*
10 *“Competencies for Substance Abuse Treatment Clinical*
11 *Supervisors,” Technical Assistance Publication Series No. 21-A,*
12 *2007, published by the United States Department of Health and*
13 *Human Services, Substance Abuse and Mental Health Services*
14 *Administration, Center for Substance Abuse Treatment.*

15 (3) Other materials, sources, and requirements in addition to,
16 or in lieu of, the above, including, but not limited to, more specific
17 subject matter requirements, as the department may specify by
18 regulation.

19 (b) Education provided by ~~either~~ any of the following, as
20 applicable:

21 (1) An institution of higher learning accredited by the Western
22 Association of Schools and Colleges or an equivalent regional
23 accrediting agency approved by the United States Department of
24 Education.

25 (2) Other providers as approved by the department, whether
26 individually, through accreditation by another entity recognized
27 by the department, or otherwise as the department may specify by
28 regulation.

29 (3) *An education provider accredited in the alcohol and other*
30 *drug counseling field by the National Commission for Certifying*
31 *Agencies, provided that any education delivered on or after*
32 *January 1, 2011, shall be recognized by the department only if it*
33 *has been validated to effectively cover the curriculum specified*
34 *pursuant to this part.*

35 ~~11975.50. The test required for certification under Sections~~
36 ~~11975.35 and 11975.40 shall be any, or all, of the following as~~
37 ~~determined by the department:~~

38 ~~(a) The written examination offered by the International~~
39 ~~Certification & Reciprocity Consortium/Alcohol & Other Drug~~
40 ~~Abuse, Inc., an organization comprised of domestic and~~

1 international organizations involved in credentialing and licensing
2 alcohol and other drug counselors.

3 ~~(b) Alternate or additional test or tests as the department may~~
4 ~~develop.~~

5 ~~(c) Alternate or additional test or tests as the department may~~
6 ~~recognize and approve, whether individually, through accreditation~~
7 ~~by another entity recognized by the department, or otherwise as~~
8 ~~the department may specify by regulation.~~

9 *11975.50. The department shall develop or recognize a test*
10 *for each level of certification or licensure provided in this part. A*
11 *test recognized by the department shall meet all of the following*
12 *criteria, as determined by the department:*

13 *(a) Nationally recognized.*

14 *(b) Validated to cover the curriculum specified pursuant to this*
15 *part.*

16 *(c) Administered at a frequency and under conditions providing*
17 *reasonable access and security.*

18 *11975.55. The supervised experience required for certification*
19 *under Sections 11975.35 and 11975.40 by this part shall meet all*
20 *of the following criteria:*

21 *(a) The required supervised experience may be gained under*
22 *the clinical supervision of a CAODC-CS, an LAODC, or another*
23 *licensed mental health professional specified by the department*
24 *by regulation. This experience shall consist of all of the following:*

25 *(1) A minimum of 70 percent of the required hours shall be*
26 *face-to-face individual or group counseling provided to clients in*
27 *the context of alcohol and other drug services, unless the*
28 *department modifies this requirement by regulation.*

29 *(2) A maximum of 30 percent of the required hours may be in*
30 *case management, client-centered advocacy, consultation,*
31 *evaluation, and research, unless the department modifies this*
32 *requirement by regulation.*

33 *(3) The required hours of supervised experience shall be*
34 *obtained over a period of not less than one year and shall have*
35 *been gained within the six years immediately preceding the date*
36 *on which the application for certification or licensure was filed.*

37 *(4) Experience shall not be credited for more than 40 hours in*
38 *any week.*

(b) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements for supervisors as established by the department by regulation.

(2) A supervisee shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face counseling is performed in each setting where experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. 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, addressing the substance of the supervisory plan required in subdivision (c).

(c) 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 supervisee shall submit to the department the initial original supervisory plan upon application for licensure or certification.

(d) Experience shall be gained only in a setting that meets both of the following:

(1) Lawfully and regularly provides alcohol and other drug counseling.

(2) Provides oversight to ensure that the supervisee’s work at the setting meets the experience and supervision requirements set forth in this part and is within the scope of practice for the profession as defined in Section 11975.75.

(e) Experience shall not be gained ~~until the applicant has been registered as a supervisee~~ *prior to becoming a registrant*.

(f) A supervisee may be either a paid employee or a volunteer. Employers are encouraged to provide fair remuneration to supervisees.

(g) A supervisee shall not receive any remuneration from patients or clients, and shall be paid only by his or her employer. A supervisee shall not have any proprietary interest in the employer’s business.

(h) A supervisee may receive supervision from a person not employed by the supervisee’s employer if that person has signed a written agreement with the employer to take supervisory

1 responsibility for the supervisee's alcohol and other drug
2 counseling.

3 (i) Notwithstanding any other provision of law, a supervisee
4 shall receive a minimum of one hour of supervision per week for
5 each setting in which he or she is working.

6 (j) The department may limit, by regulation, the number of
7 registrants that any one supervisor may supervise, the number of
8 registrants that may be supervised in any given program or setting,
9 and the proportion of the workforce in any given program or setting
10 which may be comprised of registrants, or any of these.

11 11975.60. The supervised work experience required by Sections
12 11975.35 and 11975.40 *this part* shall meet all of the following
13 criteria:

14 (a) Not more than 40 hours of work in any seven consecutive
15 days shall be recognized.

16 (b) No hours of experience may be gained more than six years
17 prior to the date the application for registration, certification, or
18 licensure, as applicable, was filed, except as ~~provided in~~
19 ~~subparagraph (B) of paragraph (1) of subdivision (b) of Section~~
20 ~~11975.35.~~

21 ~~(c) All work experience shall be at all times under the~~
22 ~~supervision of a person authorized to provide clinical supervision~~
23 ~~pursuant to this part, who shall be responsible for ensuring that~~
24 ~~the extent, kind, and quality of counseling performed is consistent~~
25 ~~with the training and experience of the person being supervised,~~
26 ~~and who shall be responsible to the department for compliance~~
27 ~~with all laws, rules, and regulations governing the practice of~~
28 ~~alcohol and other drug counseling. Supervised experience shall be~~
29 ~~gained either as an employee or as a volunteer. Experience shall~~
30 ~~not be gained as an independent contractor. *specifically otherwise*~~
31 ~~*provided in this part.*~~

32 *(c) Work experience shall not be gained as an independent*
33 *contractor.*

34 (1) Supervision shall include at least one hour of direct
35 supervisor contact in each week for which experience is credited
36 in each work setting, as specified.

37 (2) For purposes of this section, "one hour of direct supervisor
38 contact" means one hour of face-to-face contact on an individual
39 basis or two hours of face-to-face contact in a group of not more
40 than eight persons.

(d) Work experience may be completed in any setting that meets all of the following:

(1) Lawfully and regularly provides alcohol and other drug counseling.

(2) Provides oversight to ensure that the registrant's work at the setting meets the requirements set forth in this part *and is within the scope of practice for the profession as defined in Section 11975.75*.

(3) Experience may be gained solely as part of the position for which the individual volunteers or is employed. Employers are encouraged to provide fair remuneration to registrants.

(e) Except to the extent that the department provides otherwise by regulation, all persons shall register with the department in order to be credited for the work experience necessary for licensure or certification.

(f) A registrant shall not receive any remuneration from patients or clients, and shall be paid only by his or her employer.

11975.65. Nothing in this part shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Act (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)) of Division 2 of the Business and Professions Code.

11975.70. This part shall not apply to any of the following, provided that this exception shall not preclude the department from considering any conduct in any setting in its determination of fitness for registration, certification, or licensure or in any disciplinary matter:

(a) A person who engages in the practice of alcohol and drug counseling exclusively for any of the following:

(1) For in-custody services of the California Department of Corrections and Rehabilitation.

(2) As an employee or volunteer of the State of California.

(3) As an employee or volunteer of an agency of the United States government.

(b) A person who is an unpaid member of a peer or self-help group who performs peer group or self-help activities if the person

1 does not use a title stating or implying that he or she is a licensed
2 alcohol and drug counselor or any other designation listed in
3 Section 11975.85.

4 (c) A cleric or other religious leader who provides advice and
5 guidance to members of his or her congregation or order free of
6 charge.

7 (d) A director, officer, or staff member of a program described
8 in Section 8001 of the Penal Code.

9 11975.75. (a) An individual licensed or certified under this
10 part may engage in the practice of alcohol and drug counseling.
11 For purposes of this part, the “practice of alcohol and drug
12 counseling” means performing any of the following services for
13 the purpose of treating alcohol and drug abuse:

14 (1) Initial intake.

15 (2) Assessment.

16 (3) Orientation.

17 (4) Treatment planning.

18 (5) Alcohol and drug counseling, including individual, group,
19 and significant others.

20 (6) Case management.

21 (7) Crisis intervention.

22 (8) Client education.

23 (9) Referral.

24 (10) Reports and recordkeeping.

25 (11) Consultation with other professionals with regard to client
26 treatment or services.

27 (b) A counselor or registrant may perform the acts listed in this
28 section only for the purpose of treating alcohol and other drug
29 problems.

30 11975.80. The department shall issue a license or certification
31 to each applicant meeting the requirements of this part, which
32 license or certification permits the holder to engage in alcohol and
33 other drug counseling as defined in Section 11975.75, entitles the
34 holder to use the title of licensed or certified alcohol and other
35 drug counselor, as applicable, and authorizes the holder to hold
36 himself or herself out as qualified to perform the functions
37 delineated by this part, subject to any limitations relating to the
38 level of the license or certification or other conditions that may be
39 imposed by the department. The form and content of the license
40 or certification shall be determined by the department.

11975.85. A person who has received a certificate or license under this part may use the title “Certified Alcohol and Other Drug Counselor” or “CAODC,” “Certified Alcohol and Other Drug Counselor – Advanced” or “CAODC-A,” “Certified Alcohol and Other Drug Counselor – Clinical Supervisor” or “CAODC-CS,” or “Licensed Alcohol and Other Drug Counselor” or “LAODC,” in accordance with the type of certificate or license possessed. Every person who styles himself or herself or who holds himself or herself out to be a Certified Alcohol and Other Drug Counselor, Certified Alcohol and Other Drug Counselor—Advanced, Certified Alcohol and Other Drug Counselor—Clinical Supervisor, or Licensed Alcohol and Other Drug Counselor without holding a license or certification in good standing under this part, is guilty of a misdemeanor.

11975.90. It is unlawful for a person to engage in the practice of alcohol and other drug counseling unless at the time of so doing the person holds a valid, unexpired, and unrevoked certificate or license under this part.

11975.95. The department may deny, revoke, suspend, or impose conditions upon a license, certification, or registration for unprofessional conduct. Unprofessional conduct, includes, but is not limited to, any of the following:

(a) The conviction of a crime which permits denial of a license, certification, or registration pursuant to Section 11976.45.

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

(c) Administering to himself or herself any controlled substance as defined in Section 4021 of the Business and Professions Code, or using any of the dangerous drugs or devices specified in Section 4022 of the Business and Professions Code or using 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~~ *license, certification, or registration, or holding a license, certification, or registration* under this part, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for

1 or holding a ~~registration or license~~, *license, certification, or*
2 *registration*, to conduct with safety to the public the counseling
3 authorized by the ~~registration or license~~ *this part*. The department
4 may deny an application for a ~~registration or license~~ or ~~revoke the~~
5 ~~license or registration~~ *license, certification, or registration, or may*
6 *revoke the license, certification, or registration* of any person who
7 uses or offers to use a controlled substance as defined in Section
8 4021 of the Business and Professions Code, a dangerous drug or
9 device specified in Section 4022 of the Business and Professions
10 Code, or alcohol in the course of performing alcohol and other
11 drug counseling. This provision does not apply to any person also
12 licensed as a physician and surgeon under Chapter 5 (commencing
13 with Section 2000) of the Business and Professions Code or the
14 Osteopathic Act who lawfully prescribes drugs to a patient under
15 his or her care.

16 (d) Gross negligence or incompetence in the performance of
17 alcohol and other drug counseling.

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

20 (f) Misrepresentation as to the type or status of a license,
21 certification, or registration held by the person, or otherwise
22 misrepresenting or permitting misrepresentation of his or her
23 education, professional qualifications, or professional affiliations
24 to any person or entity.

25 (g) Impersonation of another by any counselor or registrant, or
26 applicant for a ~~license~~ *license, certification, or registration*, or, in
27 the case of a counselor, allowing any other person to use his or
28 her ~~license~~ *license, certification, or registration*.

29 (h) Aiding or abetting any unlicensed, uncertified, or
30 unregistered person to engage in conduct for which a license,
31 certification, or registration is required under this part.

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

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

37 (k) ~~Engaging-Soliciting or engaging~~ in sexual relations with a
38 client or with a former client within two years from the termination
39 date of ~~therapy with the client, soliciting sexual relations with a~~
40 ~~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 an alcohol and other drug counselor: treatment.

(l) Engaging in a social or business relationship for personal gain with a current client, a current client's family member, or other persons significant to a client.

~~(t)~~

(m) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any licensee under supervision to perform any professional services beyond the scope of the license authorized by this part.

~~(m)~~

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, including, but not limited to, Part 2 (commencing with Section 2.1) of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations.

~~(n)~~

(o) 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)~~

(p) 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)~~ (o).

~~(p)~~

(q) Advertising or using a name in a manner that is false, misleading, or deceptive.

~~(q)~~

(r) Conduct in the supervision of any individual licensed, certified, or registered counselor that violates this part or rules or regulations adopted by the department.

~~(r)~~

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

4 (~~s~~)

5 (t) Failure to comply with the child abuse reporting requirements
6 of Section 11166 of the Penal Code.

7 (~~t~~)

8 (u) Failure to comply with the elder and dependent adult abuse
9 reporting requirements of Section 15630 of the Welfare and
10 Institutions Code.

11 (~~u~~)

12 (v) Willful denial of access to client records as otherwise
13 provided by law.

14 11976.10. The department shall revoke a license, certification,
15 or registration issued under this part upon a decision made in
16 accordance with the procedures set forth in the adjudication
17 provisions of the Administrative Procedure Act (Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code) that contains any finding of fact that
20 the counselor or registrant engaged in any act of sexual contact,
21 as defined in Section 729 of the Business and Professions Code,
22 when that act is with a client, or with a former client when the
23 relationship was terminated primarily for the purpose of engaging
24 in that act. The revocation shall not be stayed by the administrative
25 law judge or the department.

26 11976.15. The department may deny an application, or may
27 suspend or revoke a license, certification, or registration issued
28 under this part, for denial of licensure, revocation, suspension,
29 restriction, or other disciplinary action imposed by another state
30 or territory of the United States, or by any other governmental
31 agency, on a license, certificate, or registration to practice alcohol
32 and other drug counseling or other healing art. A certified copy of
33 the disciplinary action decision or judgment shall be conclusive
34 evidence of that action.

35 11976.20. The director may temporarily suspend a license,
36 certification, or registration prior to a hearing when, in the opinion
37 of the director, the action is necessary to protect a client from
38 physical or mental abuse, abandonment, or other substantial threat
39 to health or safety. The director shall give notice of the temporary
40 suspension and the effective date of the temporary suspension and,

1 at the same time, shall serve an accusation. Upon receipt of a notice
2 of defense to the accusation, the director shall, within 15 days, set
3 the matter for hearing, and the hearing shall be held as soon as
4 possible. The temporary suspension shall remain in effect until the
5 time the hearing is completed and the director has made a final
6 determination on the need for the temporary suspension to remain
7 in place pending resolution of the accusation. However, the
8 temporary suspension shall be deemed vacated if the director fails
9 to make a final determination on the merits within 30 days after
10 the hearing, if the director hears the matter personally or within
11 30 days after the department receives the proposed decision from
12 the Office of Administrative Hearings, or if the matter is heard by
13 a hearing officer.

14 11976.25. (a) ~~A person licensed, certified, or registered by~~
15 ~~who has applied for or received a license, certification, or~~
16 ~~registration from the department under this part has the right to~~
17 ~~appeal an adverse decision of the department with regard to his or~~
18 ~~her application, license, certificate, or registration.~~

19 (b) Unless the department specifies additional or different due
20 process provisions by regulation, an appeal shall be determined in
21 accordance with the adjudication provisions of the Administrative
22 Procedure Act (Chapter 5 (commencing with Section 11500) of
23 Part 1 of Division 3 of Title 2 of the Government Code).

24 11976.30. The department may impose reasonable terms,
25 conditions, or restrictions on a disciplinary action to protect the
26 health, safety, and welfare of the public.

27 11976.35. A person may request reinstatement of a license or
28 certification, or a reduction of discipline, by applying for
29 reinstatement or reduction pursuant to Section 11522 of the
30 Government Code.

31 11976.40. An applicant who fails a written or oral examination
32 administered by or on behalf of the department may within one
33 year from the notification date of failure retake that examination
34 at the next regularly scheduled examination date, without further
35 application, upon payment of the required examination fees.
36 Thereafter, the applicant shall not be eligible for further
37 examination until he or she files a new application, meets all
38 current requirements, and pays all required fees.

39 11976.45. (a) An applicant for a license, certification, or
40 registration under this part shall consent to a state and federal level

1 criminal offender record information search as part of a criminal
2 history background check. Refusal to consent to the criminal
3 history background check, as delineated in this section, shall result
4 in denial of the license, certification, or registration.

5 ~~(b) In addition to the persons specified in subdivision (a), this~~
6 ~~section also applies to all employees and volunteers of programs,~~
7 ~~facilities, or services licensed or certified by the department, who~~
8 ~~may have unsupervised contact with clients.~~

9 (e)

10 (b) The following procedure shall be followed for criminal
11 offender record information searches:

12 (1) The department shall submit to the Department of Justice
13 fingerprint images and related information required by the
14 Department of Justice of all alcohol and other drug counselor
15 licensure, certification, or registration applicants, as defined by
16 Section 11975.25, ~~and all employees and volunteers of programs,~~
17 ~~facilities, or services licensed or certified by the department, who~~
18 ~~may have unsupervised contact with clients~~ for the purposes of
19 obtaining information as to the existence and content of a record
20 of state or federal convictions and state or federal arrests and also
21 information as to the existence and content of a record of state or
22 federal arrests for which the Department of Justice establishes that
23 the person is free on bail or on his or her own recognizance pending
24 trial or appeal.

25 (2) When received, the Department of Justice shall forward to
26 the Federal Bureau of Investigation requests for federal summary
27 criminal history information received pursuant to this section. The
28 Department of Justice shall review the information returned from
29 the Federal Bureau of Investigation and compile and disseminate
30 a response to the department.

31 (3) The Department of Justice shall provide a response to the
32 department pursuant to paragraph (1) of subdivision (p) of Section
33 11105 of the Penal Code.

34 (4) The department shall request from the Department of Justice
35 subsequent arrest notification service, as provided pursuant to
36 Section 11105.2 of the Penal Code, for persons described in
37 paragraph (1).

38 (5) The Department of Justice shall charge fees sufficient to
39 cover the cost of processing the request described in this section.
40 The applicant shall be responsible for payment of these fees.

1 (6) The applicant shall pay the fingerprint image rolling -
2 electronic submission fee charged by the Live Scan device operator.

3 ~~(d)~~

4 (c) Before issuing a registration, certification, or license to an
5 individual defined in subdivision (a) or a clearance to an individual
6 defined in subdivision (b), the department shall ensure that the
7 state and federal level criminal history of the applicant is reviewed.

8 ~~(e) The department shall deny or revoke a license, certification,~~
9 ~~or registration to an individual if, at the time of the department's~~
10 ~~determination, the person would be ineligible to be sentenced to~~
11 ~~probation pursuant to Section 1210.1 of the Penal Code, subject~~
12 ~~to all of the following conditions:~~

13 ~~(1) The department shall treat its date of determination as~~
14 ~~equivalent to the date of conviction of a nonviolent drug possession~~
15 ~~offense under Section 1210.1 of the Penal Code.~~

16 ~~(2) The department shall apply the five-year clearing period in~~
17 ~~paragraph (1) of subdivision (b) of Section 1210.1 of the Penal~~
18 ~~Code to all of the exclusions described in subdivision (b) of Section~~
19 ~~1210.1 of the Penal Code.~~

20 ~~(f) Notwithstanding subdivision (e), and unless the individual~~
21 ~~concerned has obtained a certificate of rehabilitation as provided~~
22 ~~in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of~~
23 ~~Title 6 of the Penal Code, the department shall permanently deny~~
24 ~~or revoke a license, certification, or registration to a person~~
25 ~~convicted of any violent felony as defined in subdivision (c) of~~
26 ~~Section 667.5 of the Penal Code, except that a person convicted~~
27 ~~of robbery, as specified in paragraph (9) of subdivision (c) of~~
28 ~~Section 667.5 of the Penal Code, or burglary as specified in~~
29 ~~paragraph (21) of subdivision (c) of Section 667.5 of the Penal~~
30 ~~Code, is not excluded for this reason after a period of 10 years in~~
31 ~~which the person remained free of both prison custody and the~~
32 ~~commission of an offense that results in a felony conviction other~~
33 ~~than a nonviolent drug possession offense, or a misdemeanor~~
34 ~~conviction involving physical injury or the threat of physical injury~~
35 ~~to another person.~~

36 ~~(g) Notwithstanding subdivision (e) or (f), and unless the person~~
37 ~~concerned has obtained a certificate of rehabilitation as provided~~
38 ~~in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of~~
39 ~~Title 6 of the Penal Code, the department shall permanently deny~~
40 ~~or revoke a license, certification, or registration to a person~~

1 convicted of driving under the influence of any alcoholic beverage
2 or drug, or under the combined influence of any alcoholic beverage
3 and drug, as specified in Section 23153 of the Vehicle Code, until
4 a period of 10 years has passed since that conviction, during which
5 period the individual remained free of both prison custody and the
6 commission of an offense that results in a felony conviction other
7 than a nonviolent drug possession offense, or a misdemeanor
8 conviction involving physical injury or the threat of physical injury
9 to another person.

10 (d) The department shall deny or revoke a license, certification,
11 or registration to an individual if, at the time of the department's
12 determination, the person meets one or more of the following:

13 (1) Has been convicted of five or more criminal offenses within
14 a 30-month period ending two years or less prior to the date of
15 the department's determination.

16 (2) Is required to register as a sex offender pursuant to Section
17 290 of the Penal Code.

18 (3) Has been convicted of a violent felony, as defined in Section
19 667.5 of the Penal Code, within three years prior to the date of
20 the department's determination.

21 ~~(h)~~

22 (e) The department may establish by regulation additional
23 criteria to implement subdivision ~~(g)~~ (d), which may include, but
24 not be limited to, standards, exemptions, and terms of
25 rehabilitation, and may include rebuttable presumptions with regard
26 to any of those.

27 ~~(i)~~

28 (f) This section shall become operative July 1, 2010.

29 11976.50. (a) Licenses or certifications issued under this part
30 shall expire within two years after the issue date. The expiration
31 date of the original license or certification shall be set by the
32 department.

33 (b) To renew an unexpired license or certification, the counselor
34 shall, on or before the expiration date of the license or certification,
35 complete the following actions:

36 (1) Apply for a renewal on a form prescribed by the department.

37 (2) Pay a two-year renewal fee prescribed by the department.

38 (3) Complete at least 40 hours of continuing education, as
39 approved by the department.

1 (4) Notify the department whether he or she has been convicted,
2 as defined in subdivision (a) of Section 11975.95 of a misdemeanor
3 or felony, or whether any disciplinary action has been taken by
4 any regulatory or licensing board in this or any other state,
5 subsequent to the licensee's last renewal.

6 (c) To renew an expired license or certification within three
7 years of its expiration, the counselor shall, as a condition precedent
8 to renewal, do all of the following:

9 (1) Apply for renewal on a form prescribed by the department
10 within three years of the expiration date of the license.

11 (2) Pay the renewal fees that would have been paid if the license
12 had not been delinquent.

13 (3) Pay all delinquency fees.

14 (4) Complete the applicable continuing education requirements.

15 (5) Notify the department whether he or she has been subject
16 to, or whether another department or board has taken, disciplinary
17 action since the last renewal.

18 (d) A license or certification that is not renewed within three
19 years after its expiration is ~~prohibited from being renewed, restored,~~
20 ~~reinstated, or reissued thereafter. However, the counselor may~~
21 ~~apply for and obtain a new license or certification if he or she~~
22 ~~satisfies all of the following requirements:~~

23 (1) ~~No fact, circumstance, or condition exists that, if the license~~
24 ~~or certification were issued, would justify its revocation or~~
25 ~~suspension.~~

26 (2) ~~He or she submits an application for examination eligibility.~~

27 (3) ~~He or she takes and passes the current licensing~~
28 ~~examinations.~~

29 (4) ~~He or she submits the fees for examination eligibility and~~
30 ~~for initial license or certification issuance. may be reinstated if the~~
31 *counselor satisfies requirements set forth in regulation.*

32 11976.55. A counselor shall display his or her license or
33 certification in a conspicuous place in the counselor's primary
34 place of business. The current renewal receipt shall be displayed
35 near the license.

36 11976.60. A licensed alcohol and other drug counselor who
37 conducts a private practice under a fictitious business name shall
38 not use a name that is false, misleading, or deceptive, and shall
39 inform the patient, prior to the commencement of treatment, of the

1 name and license designation of the owner or owners of the
2 practice.

3 ~~11976.65. A license or certification that is not renewed within~~
4 ~~three years after its expiration is prohibited from being renewed,~~
5 ~~restored, reinstated, or reissued thereafter, but the former licensed~~
6 ~~or certified individual may apply for and obtain a new license or~~
7 ~~certification if all of the following are satisfied:~~

8 ~~(a) No fact, circumstance, or condition exists that, if the license~~
9 ~~or certification were issued, would justify its revocation or~~
10 ~~suspension.~~

11 ~~(b) He or she pays the fees that would be required if he or she~~
12 ~~were applying for a license or certification for the first time.~~

13 ~~(c) He or she meets the current requirements for licensure or~~
14 ~~certification as a licensed or certified alcohol and other drug~~
15 ~~counselor under Section 11975.35 or 11975.40.~~

16 11976.70. A suspended license or certification is subject to
17 expiration and may be renewed as provided in this part, but the
18 renewal does not entitle the counselor, while it remains suspended
19 and until it is reinstated, to engage in the activity to which the
20 license or certification relates, or in any other activity or conduct
21 in violation of the order or judgment by which it was suspended.

22 ~~11976.75. An individual whose license or certificate has been~~
23 ~~revoked may apply for reinstatement pursuant to Section 11522~~
24 ~~of the Government Code.~~

25 11976.80. A licensed or certified alcohol and other drug
26 counselor may apply to the department to request that his or her
27 license or certification be placed on inactive status. A person who
28 holds an inactive license or certification shall pay a biennial fee
29 of one-half of the active renewal fee and shall be exempt from
30 continuing education requirements specified in paragraph (3) of
31 subdivision (b) of Section 11976.50, but shall otherwise be subject
32 to this part and shall not engage in the practice of alcohol and other
33 drug counseling in this state. A counselor on inactive status who
34 has not committed any acts or crimes constituting grounds for
35 denial of licensure or certification may, upon his or her request,
36 have his or her license or certification to practice alcohol other
37 and drug counseling placed on active status. A person requesting
38 his or her license or certification to be placed on active status at
39 any time during a renewal cycle shall pay a pro rata portion of the
40 renewal fees. A person requesting to reactivate from an inactive

1 status whose license or certification will expire less than one year
2 from the date of the request shall be required to complete 20 hours
3 of continuing education for license renewal. A person requesting
4 to reactivate from an inactive status whose license or certification
5 will expire more than one year from the date of the request shall
6 be required to complete 40 hours of continuing education for
7 license or certification renewal.

8 11976.85. A person licensed, certified, or registered under this
9 part shall comply with both of the following:

10 (a) Provide written notice to the department within 30 days of
11 any change of address.

12 (b) Provide written notice to the department within 30 days of
13 a name change giving both the old and the new names along with
14 a copy of the legal document authorizing the name change,
15 including, but not limited to, a court order or marriage license.

16 11976.90. (a) Except as otherwise provided in this part, an
17 accusation filed pursuant to Section 11503 of the Government
18 Code against a person licensed, certified, or registered under this
19 part shall be filed within three years from the date the department
20 discovers the alleged act or omission that is the basis for
21 disciplinary action or within seven years from the date the alleged
22 act or omission that is the basis for disciplinary action occurred,
23 whichever occurs first.

24 (b) An accusation filed against a person licensed, certified, or
25 registered alleging the procurement of a license, certification, or
26 registration by fraud or misrepresentation is not subject to the
27 limitations set forth in subdivision (a).

28 (c) An accusation alleging sexual misconduct shall be filed
29 within three years after the department discovers the act or
30 omission alleged as the grounds for disciplinary action or within
31 10 years after the act or omission alleged as the grounds for
32 disciplinary action occurred, whichever occurs first.

33 (d) If an alleged act or omission involves a minor, the seven-year
34 limitation period provided for by subdivision (a) and the 10-year
35 limitation period provided for by subdivision (d) shall be tolled
36 until the minor reaches the age of majority.

37 (e) The limitation period provided by subdivision (a) shall be
38 tolled during any period if material evidence necessary for
39 prosecuting or determining whether a disciplinary action would

1 be appropriate is unavailable to the department due to an ongoing
2 criminal investigation.

3 (f) For purposes of this section, “discovers” means the latest of
4 the occurrence of any of the following with respect to each act or
5 omission alleged as the basis for disciplinary action:

6 (1) The date the department received a complaint or report
7 describing the act or omission.

8 (2) The date, subsequent to the original complaint or report, on
9 which the department became aware of any additional acts or
10 omissions alleged as the basis for disciplinary action against the
11 same individual.

12 (3) The date the department receives from the complainant a
13 written release of information pertaining to the complainant’s
14 diagnosis and treatment.

15 11976.95. Nothing in this part shall apply to any alcohol and
16 other drug counselor from outside this state, when in actual
17 consultation with a licensed practitioner of this state, or when an
18 invited guest of a professional association, or of an educational
19 institution for the sole purpose of engaging in professional
20 education through lectures, clinics, or demonstrations, if he or she
21 is at the time of the consultation, lecture, or demonstration licensed
22 to practice alcohol and other drug counseling in the state or country
23 in which he or she resides. These alcohol and other drug counselors
24 shall not open an office or appoint a place to meet clients or receive
25 calls from clients within the limits of this state.

26 11976.97. (a) Education, supervised experience, and work
27 experience gained outside of California may be accepted toward
28 the licensure or certification requirements if it is substantially the
29 equivalent of the requirements of this part.

30 (b) The department may issue a license or certification to any
31 person who, at the time of application, meets all of the following
32 requirements:

33 (1) Has held a valid active alcohol and other drug counseling
34 license or certification issued by a board of alcohol and other drug
35 counseling examiners or corresponding authority of any state.

36 (2) ~~Passes the licensing examinations as specified in Section~~
37 ~~11975.35 or 11975.40.~~ *current applicable examination.*

38 (3) Pays the required fees.

39 (4) Passes the required background check.

1 (5) Is not subject to denial of licensure *or certification* under
2 this part.

3
4 CHAPTER 4. FISCAL PROVISIONS
5

6 11977.10. The Alcohol and Other Drug Counselors License
7 Fund is hereby established in the State Treasury. All fees and fines
8 collected by the department in accordance with this part shall be
9 deposited in this fund. The money in the fund shall be available,
10 upon appropriation by the Legislature, for the purpose of supporting
11 the counselor licensing activities of the department.

12 11977.15. (a) Until the department establishes different fees
13 by regulation, the department shall assess the following fees
14 relating to the licensure, certification, or registration of alcohol
15 and other drug counselors:

16 (1) The application fee for registration as a registrant shall be
17 seventy-five dollars (\$75).

18 (2) The fee for renewal of a registration shall be seventy-five
19 dollars (\$75).

20 (3) The fee for application for examination eligibility shall be
21 one hundred dollars (\$100).

22 (4) The fee for a written examination administered by or on
23 behalf of the department shall be one hundred fifty dollars (\$150).

24 (5) The fee for an oral examination, if any, administered by or
25 on behalf of the department, shall be one hundred dollars (\$100).

26 (A) An applicant who fails to appear for an examination, after
27 having been scheduled to take the examination, shall forfeit the
28 examination fee.

29 (B) This subdivision shall not establish or limit the examination
30 fee charged for the examination recognized in subdivision (a) of
31 Section 11975.50 or any other examination that is recognized by
32 the department but not administered by or on behalf of the
33 department.

34 (6) The fee for rescoring an examination shall be twenty dollars
35 (\$20).

36 (7) The fee for issuance of an initial license or certification shall
37 be one hundred fifty-five dollars (\$155).

38 (8) The fee for a license or certification renewal shall be one
39 hundred fifty-five dollars (\$155).

1 (9) The fee for an inactive license or certification renewal shall
2 be seventy-seven dollars and fifty cents (\$77.50).

3 (10) The renewal delinquency fee shall be seventy-five dollars
4 (\$75). A person who permits his or her license or certification to
5 expire is subject to the delinquency fee.

6 (11) The fee for issuance of a replacement registration, license,
7 or certificate shall be twenty dollars (\$20).

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

10 (13) The fee for department review of the criminal records
11 information shall be thirty dollars (\$30).

12 (14) The fee for the state level criminal offender record
13 information search shall be set by the Department of Justice and
14 the fee for the federal level criminal offender record information
15 search shall be set by the Federal Bureau of Investigation.

16 (b) The department may establish fees based on other categories
17 or classifications that the department deems necessary or
18 convenient to maintain an effective and equitable fee structure.
19 However, the total fees collected by the department pursuant to
20 this part shall not exceed the total cost to the department of
21 administering this part.

22 (c) Unless funds are specifically appropriated from the General
23 Fund in the annual Budget Act or other legislation to support the
24 activities of the department pursuant to this part, those activities
25 shall be supported entirely by federal funds and special funds.

26 SEC. 2. Section 11165.7 of the Penal Code is amended to read:
27 11165.7. (a) As used in this article, “mandated reporter” is
28 defined as any of the following:

29 (1) A teacher.

30 (2) An instructional aide.

31 (3) A teacher’s aide or teacher’s assistant employed by any
32 public or private school.

33 (4) A classified employee of any public school.

34 (5) An administrative officer or supervisor of child welfare and
35 attendance, or a certificated pupil personnel employee of any public
36 or private school.

37 (6) An administrator of a public or private day camp.

38 (7) An administrator or employee of a public or private youth
39 center, youth recreation program, or youth organization.

1 (8) An administrator or employee of a public or private
2 organization whose duties require direct contact and supervision
3 of children.

4 (9) Any employee of a county office of education or the State
5 Department of Education, whose duties bring the employee into
6 contact with children on a regular basis.

7 (10) A licensee, an administrator, or an employee of a licensed
8 community care or child day care facility.

9 (11) A Head Start program teacher.

10 (12) A licensing worker or licensing evaluator employed by a
11 licensing agency as defined in Section 11165.11.

12 (13) A public assistance worker.

13 (14) An employee of a child care institution, including, but not
14 limited to, foster parents, group home personnel, and personnel of
15 residential care facilities.

16 (15) A social worker, probation officer, or parole officer.

17 (16) An employee of a school district police or security
18 department.

19 (17) Any person who is an administrator or presenter of, or a
20 counselor in, a child abuse prevention program in any public or
21 private school.

22 (18) A district attorney investigator, inspector, or local child
23 support agency caseworker unless the investigator, inspector, or
24 caseworker is working with an attorney appointed pursuant to
25 Section 317 of the Welfare and Institutions Code to represent a
26 minor.

27 (19) A peace officer, as defined in Chapter 4.5 (commencing
28 with Section 830) of Title 3 of Part 2, who is not otherwise
29 described in this section.

30 (20) A firefighter, except for volunteer firefighters.

31 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
32 resident, intern, podiatrist, chiropractor, licensed nurse, dental
33 hygienist, optometrist, marriage, family and child counselor,
34 clinical social worker, or any other person who is currently licensed
35 under Division 2 (commencing with Section 500) of the Business
36 and Professions Code.

37 (22) Any emergency medical technician I or II, paramedic, or
38 other person certified pursuant to Division 2.5 (commencing with
39 Section 1797) of the Health and Safety Code.

1 (23) A psychological assistant registered pursuant to Section
2 2913 of the Business and Professions Code.

3 (24) A marriage, family, and child therapist trainee, as defined
4 in subdivision (c) of Section 4980.03 of the Business and
5 Professions Code.

6 (25) An unlicensed marriage, family, and child therapist intern
7 registered under Section 4980.44 of the Business and Professions
8 Code.

9 (26) A state or county public health employee who treats a minor
10 for venereal disease or any other condition.

11 (27) A coroner.

12 (28) A medical examiner, or any other person who performs
13 autopsies.

14 (29) A commercial film and photographic print processor, as
15 specified in subdivision (e) of Section 11166. As used in this
16 article, “commercial film and photographic print processor” means
17 any person who develops exposed photographic film into negatives,
18 slides, or prints, or who makes prints from negatives or slides, for
19 compensation. The term includes any employee of such a person;
20 it does not include a person who develops film or makes prints for
21 a public agency.

22 (30) A child visitation monitor. As used in this article, “child
23 visitation monitor” means any person who, for financial
24 compensation, acts as monitor of a visit between a child and any
25 other person when the monitoring of that visit has been ordered
26 by a court of law.

27 (31) An animal control officer or humane society officer. For
28 the purposes of this article, the following terms have the following
29 meanings:

30 (A) “Animal control officer” means any person employed by a
31 city, county, or city and county for the purpose of enforcing animal
32 control laws or regulations.

33 (B) “Humane society officer” means any person appointed or
34 employed by a public or private entity as a humane officer who is
35 qualified pursuant to Section 14502 or 14503 of the Corporations
36 Code.

37 (32) A clergy member, as specified in subdivision (d) of Section
38 11166. As used in this article, “clergy member” means a priest,
39 minister, rabbi, religious practitioner, or similar functionary of a
40 church, temple, or recognized denomination or organization.

1 (33) Any custodian of records of a clergy member, as specified
2 in this section and subdivision (d) of Section 11166.

3 (34) Any employee of any police department, county sheriff's
4 department, county probation department, or county welfare
5 department.

6 (35) An employee or volunteer of a Court Appointed Special
7 Advocate program, as defined in Rule 1424 of the California Rules
8 of Court.

9 (36) A custodial officer as defined in Section 831.5.

10 (37) Any person providing services to a minor child under
11 Section 12300 or 12300.1 of the Welfare and Institutions Code.

12 (38) An alcohol and other drug counselor or supervisor licensed,
13 certified, or registered under Part 4 (commencing with Section
14 11975.10) of Division 10.5 of the Health and Safety Code.
15 However, alcohol or drug abuse, or both alcohol and drug abuse,
16 is not in and of itself a sufficient basis for reporting child abuse or
17 neglect.

18 (b) Except as provided in paragraph (35) of subdivision (a),
19 volunteers of public or private organizations whose duties require
20 direct contact with and supervision of children are not mandated
21 reporters but are encouraged to obtain training in the identification
22 and reporting of child abuse and neglect and are further encouraged
23 to report known or suspected instances of child abuse or neglect
24 to an agency specified in Section 11165.9.

25 (c) Employers are strongly encouraged to provide their
26 employees who are mandated reporters with training in the duties
27 imposed by this article. This training shall include training in child
28 abuse and neglect identification and training in child abuse and
29 neglect reporting. Whether or not employers provide their
30 employees with training in child abuse and neglect identification
31 and reporting, the employers shall provide their employees who
32 are mandated reporters with the statement required pursuant to
33 subdivision (a) of Section 11166.5.

34 (d) School districts that do not train their employees specified
35 in subdivision (a) in the duties of mandated reporters under the
36 child abuse reporting laws shall report to the State Department of
37 Education the reasons why this training is not provided.

38 (e) Unless otherwise specifically provided, the absence of
39 training shall not excuse a mandated reporter from the duties
40 imposed by this article.

1 (f) Public and private organizations are encouraged to provide
2 their volunteers whose duties require direct contact with and
3 supervision of children with training in the identification and
4 reporting of child abuse and neglect.

5 SEC. 3. Section 15630 of the Welfare and Institutions Code is
6 amended to read:

7 15630. (a) Any person who has assumed full or intermittent
8 responsibility for the care or custody of an elder or dependent
9 adult, whether or not he or she receives compensation, including
10 administrators, supervisors, and any licensed staff of a public or
11 private facility that provides care or services for elder or dependent
12 adults, or any elder or dependent adult care custodian, health
13 practitioner, clergy member, or employee of a county adult
14 protective services agency or a local law enforcement agency, is
15 a mandated reporter. An alcohol and other drug counselor or
16 supervisor licensed, certified, or registered pursuant to Part 4
17 (commencing with Section 11975.10) of Division 10.5 of the
18 Health and Safety Code is also a mandated reporter.

19 (b) (1) Any mandated reporter who, in his or her professional
20 capacity, or within the scope of his or her employment, has
21 observed or has knowledge of an incident that reasonably appears
22 to be physical abuse, as defined in Section 15610.63, abandonment,
23 abduction, isolation, financial abuse, or neglect, or is told by an
24 elder or dependent adult that he or she has experienced behavior,
25 including an act or omission, constituting physical abuse, as defined
26 in Section 15610.63, abandonment, abduction, isolation, financial
27 abuse, or neglect, or reasonably suspects that abuse, shall report
28 the known or suspected instance of abuse by telephone immediately
29 or as soon as practicably possible, and by written report sent within
30 two working days, as follows:

31 (A) If the abuse has occurred in a long-term care facility, except
32 a state mental health hospital or a state developmental center, the
33 report shall be made to the local ombudsperson or the local law
34 enforcement agency.

35 The local ombudsperson and the local law enforcement agency
36 shall, as soon as practicable, except in the case of an emergency
37 or pursuant to a report required to be made pursuant to clause (v),
38 in which case these actions shall be taken immediately, do all of
39 the following:

1 (i) Report to the State Department of Public Health any case of
2 known or suspected abuse occurring in a long-term health care
3 facility, as defined in subdivision (a) of Section 1418 of the Health
4 and Safety Code.

5 (ii) Report to the State Department of Social Services any case
6 of known or suspected abuse occurring in a residential care facility
7 for the elderly, as defined in Section 1569.2 of the Health and
8 Safety Code, or in an adult day care facility, as defined in paragraph
9 (2) of subdivision (a) of Section 1502.

10 (iii) Report to the State Department of Public Health and the
11 California Department of Aging any case of known or suspected
12 abuse occurring in an adult day health care center, as defined in
13 subdivision (b) of Section 1570.7 of the Health and Safety Code.

14 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse
15 any case of known or suspected criminal activity.

16 (v) Report all cases of known or suspected physical abuse and
17 financial abuse to the local district attorney's office in the county
18 where the abuse occurred.

19 (B) If the suspected or alleged abuse occurred in a state mental
20 hospital or a state developmental center, the report shall be made
21 to designated investigators of the State Department of Mental
22 Health or the State Department of Developmental Services, or to
23 the local law enforcement agency.

24 Except in an emergency, the local law enforcement agency shall,
25 as soon as practicable, report any case of known or suspected
26 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

27 (C) If the abuse has occurred any place other than one described
28 in subparagraph (A), the report shall be made to the adult protective
29 services agency or the local law enforcement agency.

30 (2) (A) A mandated reporter who is a clergy member who
31 acquires knowledge or reasonable suspicion of elder or dependent
32 adult abuse during a penitential communication is not subject to
33 paragraph (1). For purposes of this subdivision, "penitential
34 communication" means a communication that is intended to be in
35 confidence, including, but not limited to, a sacramental confession
36 made to a clergy member who, in the course of the discipline or
37 practice of his or her church, denomination, or organization is
38 authorized or accustomed to hear those communications and under
39 the discipline tenets, customs, or practices of his or her church,

1 denomination, or organization, has a duty to keep those
2 communications secret.

3 (B) Nothing in this subdivision shall be construed to modify or
4 limit a clergy member's duty to report known or suspected elder
5 and dependent adult abuse when he or she is acting in the capacity
6 of a care custodian, health practitioner, or employee of an adult
7 protective services agency.

8 (C) Notwithstanding any other provision in this section, a clergy
9 member who is not regularly employed on either a full-time or
10 part-time basis in a long-term care facility or does not have care
11 or custody of an elder or dependent adult shall not be responsible
12 for reporting abuse or neglect that is not reasonably observable or
13 discernible to a reasonably prudent person having no specialized
14 training or experience in elder or dependent care.

15 (3) (A) A mandated reporter who is a physician and surgeon,
16 a registered nurse, or a psychotherapist, as defined in Section 1010
17 of the Evidence Code, shall not be required to report, pursuant to
18 paragraph (1), an incident where all of the following conditions
19 exist:

20 (i) The mandated reporter has been told by an elder or dependent
21 adult that he or she has experienced behavior constituting physical
22 abuse, as defined in Section 15610.63, abandonment, abduction,
23 isolation, financial abuse, or neglect.

24 (ii) The mandated reporter is not aware of any independent
25 evidence that corroborates the statement that the abuse has
26 occurred.

27 (iii) The elder or dependent adult has been diagnosed with a
28 mental illness or dementia, or is the subject of a court-ordered
29 conservatorship because of a mental illness or dementia.

30 (iv) In the exercise of clinical judgment, the physician and
31 surgeon, the registered nurse, or the psychotherapist, as defined
32 in Section 1010 of the Evidence Code, reasonably believes that
33 the abuse did not occur.

34 (B) This paragraph shall not be construed to impose upon
35 mandated reporters a duty to investigate a known or suspected
36 incident of abuse and shall not be construed to lessen or restrict
37 any existing duty of mandated reporters.

38 (4) (A) In a long-term care facility, a mandated reporter shall
39 not be required to report as a suspected incident of abuse, as defined

1 in Section 15610.07, an incident where all of the following
2 conditions exist:

3 (i) The mandated reporter is aware that there is a proper plan
4 of care.

5 (ii) The mandated reporter is aware that the plan of care was
6 properly provided or executed.

7 (iii) A physical, mental, or medical injury occurred as a result
8 of care provided pursuant to clause (i) or (ii).

9 (iv) The mandated reporter reasonably believes that the injury
10 was not the result of abuse.

11 (B) This paragraph shall not be construed to require a mandated
12 reporter to seek, nor to preclude a mandated reporter from seeking,
13 information regarding a known or suspected incident of abuse prior
14 to reporting. This paragraph shall apply only to those categories
15 of mandated reporters that the State Department of Public Health
16 determines, upon approval by the Bureau of Medi-Cal Fraud and
17 Elder Abuse and the state long-term care ombudsperson, have
18 access to plans of care and have the training and experience
19 necessary to determine whether the conditions specified in this
20 section have been met.

21 (c) (1) Any mandated reporter who has knowledge, or
22 reasonably suspects, that types of elder or dependent adult abuse
23 for which reports are not mandated have been inflicted upon an
24 elder or dependent adult, or that his or her emotional well-being
25 is endangered in any other way, may report the known or suspected
26 instance of abuse.

27 (2) If the suspected or alleged abuse occurred in a long-term
28 care facility other than a state mental health hospital or a state
29 developmental center, the report may be made to the long-term
30 care ombudsperson program. Except in an emergency, the local
31 ombudsperson shall report any case of known or suspected abuse
32 to the State Department of Public Health and any case of known
33 or suspected criminal activity to the Bureau of Medi-Cal Fraud
34 and Elder Abuse, as soon as is practicable.

35 (3) If the suspected or alleged abuse occurred in a state mental
36 health hospital or a state developmental center, the report may be
37 made to the designated investigator of the State Department of
38 Mental Health or the State Department of Developmental Services
39 or to a local law enforcement agency or to the local ombudsperson.
40 Except in an emergency, the local ombudsperson and the local law

1 enforcement agency shall report any case of known or suspected
2 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,
3 as soon as is practicable.

4 (4) If the suspected or alleged abuse occurred in a place other
5 than a place described in paragraph (2) or (3), the report may be
6 made to the county adult protective services agency.

7 (5) If the conduct involves criminal activity not covered in
8 subdivision (b), it may be immediately reported to the appropriate
9 law enforcement agency.

10 (d) When two or more mandated reporters are present and jointly
11 have knowledge or reasonably suspect that types of abuse of an
12 elder or a dependent adult for which a report is or is not mandated
13 have occurred, and when there is agreement among them, the
14 telephone report may be made by a member of the team selected
15 by mutual agreement, and a single report may be made and signed
16 by the selected member of the reporting team. Any member who
17 has knowledge that the member designated to report has failed to
18 do so shall thereafter make the report.

19 (e) A telephone report of a known or suspected instance of elder
20 or dependent adult abuse shall include, if known, the name of the
21 person making the report, the name and age of the elder or
22 dependent adult, the present location of the elder or dependent
23 adult, the names and addresses of family members or any other
24 adult responsible for the elder's or dependent adult's care, the
25 nature and extent of the elder's or dependent adult's condition, the
26 date of the incident, and any other information, including
27 information that led that person to suspect elder or dependent adult
28 abuse, as requested by the agency receiving the report.

29 (f) The reporting duties under this section are individual, and
30 no supervisor or administrator shall impede or inhibit the reporting
31 duties, and no person making the report shall be subject to any
32 sanction for making the report. However, internal procedures to
33 facilitate reporting, ensure confidentiality, and apprise supervisors
34 and administrators of reports may be established, provided they
35 are not inconsistent with this chapter.

36 (g) (1) Whenever this section requires a county adult protective
37 services agency to report to a law enforcement agency, the law
38 enforcement agency shall, immediately upon request, provide a
39 copy of its investigative report concerning the reported matter to
40 that county adult protective services agency.

1 (2) Whenever this section requires a law enforcement agency
2 to report to a county adult protective services agency, the county
3 adult protective services agency shall, immediately upon request,
4 provide to that law enforcement agency a copy of its investigative
5 report concerning the reported matter.

6 (3) The requirement to disclose investigative reports pursuant
7 to this subdivision shall not include the disclosure of social services
8 records or case files that are confidential, nor shall this subdivision
9 be construed to allow disclosure of any reports or records if the
10 disclosure would be prohibited by any other provision of state or
11 federal law.

12 (h) Failure to report, or impeding or inhibiting a report of,
13 physical abuse, as defined in Section 15610.63, abandonment,
14 abduction, isolation, financial abuse, or neglect of an elder or
15 dependent adult, in violation of this section, is a misdemeanor,
16 punishable by not more than six months in the county jail, by a
17 fine of not more than one thousand dollars (\$1,000), or by both
18 that fine and imprisonment. Any mandated reporter who willfully
19 fails to report, or impedes or inhibits a report of, physical abuse,
20 as defined in Section 15610.63, abandonment, abduction, isolation,
21 financial abuse, or neglect of an elder or dependent adult, in
22 violation of this section, where that abuse results in death or great
23 bodily injury, shall be punished by not more than one year in a
24 county jail, by a fine of not more than five thousand dollars
25 (\$5,000), or by both that fine and imprisonment. If a mandated
26 reporter intentionally conceals his or her failure to report an
27 incident known by the mandated reporter to be abuse or severe
28 neglect under this section, the failure to report is a continuing
29 offense until a law enforcement agency specified in paragraph (1)
30 of subdivision (b) of Section 15630 discovers the offense.

31 (i) For purposes of this section, “dependent adult” shall have
32 the same meaning as in Section 15610.23.

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O