

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 819**

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**Introduced by Committee on Business, Professions and Economic Development (Negrete McLeod (chair), Aanestad, Corbett, Correa, Florez, Oropeza, Romero, Walters, Wyland, and Yee)**

March 10, 2009

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An act to amend Sections 27, 101, 128.5, 144, 146, 149, 683, 733, 800, 801, 801.01, 803, 2089.5, 2096, 2102, 2107, 2135, 2168.4, 2175, 2221, 2307, 2335, 2486, 2488, 2570.5, 2570.6, 2570.7, 2570.185, 2760.1, 3503, 3517, 3518, 3625, 3633.1, 3635, 3636, 3685, ~~3750.5~~, 3753.5, ~~3773~~, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4161, 4174, 4231, 4301, 4305, 4329, 4330, 4857, 4980.30, 4980.43, 4996.2, 4996.17, 4996.18, 5801, 6534, 6536, 6561, 7616, 7629, 8740, and 8746 of, to add Sections 2169, 2570.36, 4036.5, 4980.04, 4990.09, 5515.5, and 9855.15 to, and to repeal Sections 2172, 2173, 2174, 4981, 4994.1, 4996.20, 4996.21, and 6761 of, the Business and Professions Code, to amend Section 8659 of the Government Code, to amend Sections 8778.5, 11150, and 11165 of the Health and Safety Code, and to amend Section 14132.100 of the Welfare and Institutions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs.

Existing law requires certain boards and bureaus to disclose on the Internet information on licensees.

This bill would require the Cemetery and Funeral Bureau to disclose on the Internet information on specified licensees.

(2) Under existing law, if, upon investigation, a specified state regulatory agency has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with that agency, the agency is authorized to issue a specified citation.

This bill would add the Physical Therapy Board of California to those authorized agencies.

Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the names of its licensees and to prescribe and promulgate written complaint forms, as specified.

Existing law requires specified healing arts licensees, insurers providing professional liability insurance to those licensees, and governmental agencies that self-insure those licensees to report settlements over \$30,000 to the licensee's board if the settlement is for damages for death or personal injury caused by or is based on the licensee's alleged negligence, error, or omission in practice, or his or her rendering unauthorized professional services.

This bill would instead require that report if the settlement is based on the licensee's alleged negligence, error, or omission in practice in California or rendering unauthorized professional services in California.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice

of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met. Under existing law, any person who meets certain eligibility requirements, including, but not limited to, the requirement that the person is academically eminent, as defined, may apply for a special faculty permit that authorizes the holder to practice medicine, without a physician's and surgeon's certificate, within the medical school itself and certain affiliated institutions.

This bill would revise the training requirements for a physician and surgeon's license, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2070. The bill would revise the requirements for a petition for reinstatement or modification, as specified. The bill would require the holder of a special faculty permit to meet the same continuing medical education requirements as the holder of a physician's and surgeon's certificate and would also require a special faculty permit holder to show that he or she meets these requirements at the time of permit renewal.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(4) Existing law, the Occupational Therapy Practice Act, provides for the licensure of occupational therapists and the certification of occupational therapy assistants by the California Board of Occupational Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice. Existing law requires an applicant applying for a license or certification to file with the board a written application provided by and satisfactory to the board, showing that he or she meets certain requirements, including, but not limited to, successful completion of an educational program's academic requirements approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) and successful completion of a period of supervised fieldwork experience. Existing law also specifies the curriculum requirements for an education program for occupational therapists and occupational therapy assistants.

This bill would require an occupational therapy assistant to document in the patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign the patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. The bill would require that the applicant successfully complete the educational program's academic requirements approved by the board and accredited by ACOTE, or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program. The bill would also revise those curriculum requirements for an educational program. The bill would authorize an applicant who is a graduate of an educational program and is unable to provide evidence of having met the curriculum requirements to demonstrate passage of a specified examination as evidence of having successfully satisfied the curriculum requirements. The bill would require an applicant who completed AOTA's Career Mobility Program to demonstrate participation in the program and passage of a specified examination as evidence of having successfully satisfied the educational

program and curriculum requirements. The bill would revise the supervised fieldwork experience requirement. The bill would require a licensee to report to the board violations of the Occupational Therapy Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(5) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(6) Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician's assistants by the Physician Assistant Committee of the Medical Board of California. Existing law authorizes the committee to grant interim approval to an applicant for licensure as a physician assistant.

This bill would delete that authority to grant interim approval and would make conforming changes.

(7) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of

members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(8) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. ~~Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.~~

~~This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee or applicant for a license uses, while licensed or applying for a license, any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize the board to direct a practitioner or applicant who is found to have violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.~~

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(9) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law prohibits a person from acting as a wholesaler of any dangerous drug or device without a license from the board. Existing law requires a nonresident wholesaler, as defined, to be licensed prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

This bill would modify that definition and would also require a nonresident wholesaler to be licensed prior to selling, brokering, or distributing dangerous drugs or devices within this state. By subjecting these nonresident wholesalers to these licensure requirements which include, among other things, payment of specified fees, the bill would increase that part of the revenue in the Pharmacy Board Contingent Fund that is continuously appropriated and would thereby make an appropriation.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

Because this bill would impose new requirements and prohibitions under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(10) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of veterinarians by the Veterinary Medical Board. Existing law prohibits the disclosure of information about an animal receiving veterinary services, the client responsible for that animal, or the veterinary care provided to an animal, except under specified circumstances, including, but not limited to, as may be required to ensure compliance with any federal, state, county, or city law or regulation.

This bill would specify that such disclosure is prohibited except as may be required to ensure compliance with the California Public Records Act.

(11) Existing law provides for the licensure and regulation of educational psychologists, clinical social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

(12) Existing law, the Professional Fiduciaries Act, provides for the licensure and regulation of professional fiduciaries by the Professional Fiduciaries Bureau until July 1, 2011. Existing law also requires

applicants to provide certain boards and bureaus with a full set of fingerprints for the purpose of conducting criminal history record checks. Existing law requires licensees to file and the bureau to maintain certain information in each licensee's file, including whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or demonstrated a pattern of negligent conduct, as specified.

This bill would require the bureau to disclose on the Internet information on its licensees and would require applicants to the bureau to comply with that fingerprint requirement. The bill would require licensees to file and the bureau to maintain information regarding whether the licensee has ever been removed for cause or resigned as a conservator, guardian, trustee, or personal representative, as well as various other details relating to that removal or resignation. The bill would also make a conforming change.

(13) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.

This bill would modify the term length for certain members of the board.

(14) Existing law provides a comprehensive scheme for the certification and regulation of interior designers. Under existing law, a stamp from an interior design organization certifies that an interior designer has passed a specified examination and that he or she has met certain other education or experience requirements, such as a combination of interior design education and diversified interior design experience that together total at least 8 years.

This bill would revise that provision by specifying that an interior designer may meet these requirements by having at least 8 years of interior design education, or at least 8 years of diversified interior design experience, or a combination of interior design education and diversified interior design experience that together total at least 8 years.

(15) Existing law provides for the registration of professional engineers and the licensure of land surveyors by the Board for Professional Engineers and Land Surveyors. Under existing law, in

determining the qualifications of an applicant for registration or licensure, a majority vote of the board is required.

This bill would delete that majority vote requirement.

(16) Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of funeral establishments and directors by the Cemetery and Funeral Bureau. Under existing law, every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal, be issued a funeral establishment license.

This bill would delete that provision.

(17) The Electronic and Appliance Repair Dealer Registration Law provides for registration and regulation of service contractors by the Bureau of Electronic and Appliance Repair. Existing law makes it unlawful to act as a service contractor unless that person maintains a valid registration.

This bill would make it an infraction to violate that provision. The bill would also make conforming changes. By creating a new crime, the bill would impose a state-mandated local program.

(18) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law provides that federally qualified health center services and rural health clinic services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. For those purposes, a "visit" is defined as a face-to-face encounter between a patient of a federally qualified health center or a rural health clinic and a "physician," which is defined to include a medical doctor, osteopath, podiatrist, dentist, optometrist, and chiropractor.

This bill would instead provide that the term "physician" includes a physician and surgeon, podiatrist, dentist, optometrist, and chiropractor.

(19) 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: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Board shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

(3) The Dental Board of California shall disclose information on its licensees.

1 (4) The State Board of Optometry shall disclose information  
2 regarding certificates of registration to practice optometry,  
3 statements of licensure, optometric corporation registrations, branch  
4 office licenses, and fictitious name permits of its licensees.

5 (5) The Board for Professional Engineers and Land Surveyors  
6 shall disclose information on its registrants and licensees.

7 (6) The Structural Pest Control Board shall disclose information  
8 on its licensees, including applicators, field representatives, and  
9 operators in the areas of fumigation, general pest and wood  
10 destroying pests and organisms, and wood roof cleaning and  
11 treatment.

12 (7) The Bureau of Automotive Repair shall disclose information  
13 on its licensees, including auto repair dealers, smog stations, lamp  
14 and brake stations, smog check technicians, and smog inspection  
15 certification stations.

16 (8) The Bureau of Electronic and Appliance Repair shall disclose  
17 information on its licensees, including major appliance repair  
18 dealers, combination dealers (electronic and appliance), electronic  
19 repair dealers, service contract sellers, and service contract  
20 administrators.

21 (9) The Cemetery and Funeral Bureau shall disclose information  
22 on its licensees, including cemetery brokers, cemetery salespersons,  
23 cemetery managers, crematory managers, cemetery authorities,  
24 crematories, cremated remains disposers, embalmers, funeral  
25 establishments, and funeral directors.

26 (10) The Professional Fiduciaries Bureau shall disclose  
27 information on its licensees.

28 (11) The Contractors' State License Board shall disclose  
29 information on its licensees in accordance with Chapter 9  
30 (commencing with Section 7000) of Division 3. In addition to  
31 information related to licenses as specified in subdivision (a), the  
32 board shall also disclose information provided to the board by the  
33 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

34 (12) The Board of Psychology shall disclose information on its  
35 licensees, including psychologists, psychological assistants, and  
36 registered psychologists.

37 (c) "Internet" for the purposes of this section has the meaning  
38 set forth in paragraph (6) of subdivision (e) of Section 17538.

1 SEC. 2. Section 101 of the Business and Professions Code, as  
2 amended by Section 1 of Chapter 31 of the Statutes of 2008, is  
3 amended to read:

4 101. The department is comprised of:

- 5 (a) The Dental Board of California.
- 6 (b) The Medical Board of California.
- 7 (c) The State Board of Optometry.
- 8 (d) The California State Board of Pharmacy.
- 9 (e) The Veterinary Medical Board.
- 10 (f) The California Board of Accountancy.
- 11 (g) The California Architects Board.
- 12 (h) The Bureau of Barbering and Cosmetology.
- 13 (i) The Board for Professional Engineers and Land Surveyors.
- 14 (j) The Contractors' State License Board.
- 15 (k) The Bureau for Private Postsecondary and Vocational  
16 Education.
- 17 (l) The Structural Pest Control Board.
- 18 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 19 (n) The Board of Registered Nursing.
- 20 (o) The Board of Behavioral Sciences.
- 21 (p) The State Athletic Commission.
- 22 (q) The Cemetery and Funeral Bureau.
- 23 (r) The State Board of Guide Dogs for the Blind.
- 24 (s) The Bureau of Security and Investigative Services.
- 25 (t) The Court Reporters Board of California.
- 26 (u) The Board of Vocational Nursing and Psychiatric  
27 Technicians.
- 28 (v) The Landscape Architects Technical Committee.
- 29 (w) The Bureau of Electronic and Appliance Repair.
- 30 (x) The Division of Investigation.
- 31 (y) The Bureau of Automotive Repair.
- 32 (z) The State Board of Registration for Geologists and  
33 Geophysicists.
- 34 (aa) The Respiratory Care Board of California.
- 35 (ab) The Acupuncture Board.
- 36 (ac) The Board of Psychology.
- 37 (ad) The California Board of Podiatric Medicine.
- 38 (ae) The Physical Therapy Board of California.
- 39 (af) The Arbitration Review Program.
- 40 (ag) The Hearing Aid Dispensers Bureau.

- 1 (ah) The Physician Assistant Committee.
- 2 (ai) The Speech-Language Pathology and Audiology Board.
- 3 (aj) The California Board of Occupational Therapy.
- 4 (ak) The Osteopathic Medical Board of California.
- 5 (al) The Bureau of Naturopathic Medicine.
- 6 (am) The Dental Hygiene Committee of California.
- 7 (an) The Professional Fiduciaries Bureau.
- 8 (ao) Any other boards, offices, or officers subject to its
- 9 jurisdiction by law.

10 SEC. 3. Section 128.5 of the Business and Professions Code  
11 is amended to read:

12 128.5. (a) Notwithstanding any other provision of law, if at  
13 the end of any fiscal year, an agency within the Department of  
14 Consumer Affairs, except the agencies referred to in subdivision  
15 (b), has unencumbered funds in an amount that equals or is more  
16 than the agency's operating budget for the next two fiscal years,  
17 the agency shall reduce license or other fees, whether the license  
18 or other fees be fixed by statute or may be determined by the  
19 agency within limits fixed by statute, during the following fiscal  
20 year in an amount that will reduce any surplus funds of the agency  
21 to an amount less than the agency's operating budget for the next  
22 two fiscal years.

23 (b) Notwithstanding any other provision of law, if at the end of  
24 any fiscal year, the California Architects Board, the Board of  
25 Behavioral Sciences, the Veterinary Medical Board, the Court  
26 Reporters Board of California, the Medical Board of California,  
27 the Board of Vocational Nursing and Psychiatric Technicians, or  
28 the Bureau of Security and Investigative Services has  
29 unencumbered funds in an amount that equals or is more than the  
30 agency's operating budget for the next two fiscal years, the agency  
31 shall reduce license or other fees, whether the license or other fees  
32 be fixed by statute or may be determined by the agency within  
33 limits fixed by statute, during the following fiscal year in an amount  
34 that will reduce any surplus funds of the agency to an amount less  
35 than the agency's operating budget for the next two fiscal years.

36 SEC. 4. Section 144 of the Business and Professions Code is  
37 amended to read:

38 144. (a) Notwithstanding any other provision of law, an agency  
39 designated in subdivision (b) shall require an applicant to furnish  
40 to the agency a full set of fingerprints for purposes of conducting

1 criminal history record checks. Any agency designated in  
2 subdivision (b) may obtain and receive, at its discretion, criminal  
3 history information from the Department of Justice and the United  
4 States Federal Bureau of Investigation.

5 (b) Subdivision (a) applies to the following:

- 6 (1) California Board of Accountancy.
- 7 (2) State Athletic Commission.
- 8 (3) Board of Behavioral Sciences.
- 9 (4) Court Reporters Board of California.
- 10 (5) State Board of Guide Dogs for the Blind.
- 11 (6) California State Board of Pharmacy.
- 12 (7) Board of Registered Nursing.
- 13 (8) Veterinary Medical Board.
- 14 (9) Registered Veterinary Technician Committee.
- 15 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 16 (11) Respiratory Care Board of California.
- 17 (12) Hearing Aid Dispensers Advisory Commission.
- 18 (13) Physical Therapy Board of California.
- 19 (14) Physician Assistant Committee of the Medical Board of  
20 California.
- 21 (15) Speech-Language Pathology and Audiology Board.
- 22 (16) Medical Board of California.
- 23 (17) State Board of Optometry.
- 24 (18) Acupuncture Board.
- 25 (19) Cemetery and Funeral Bureau.
- 26 (20) Bureau of Security and Investigative Services.
- 27 (21) Division of Investigation.
- 28 (22) Board of Psychology.
- 29 (23) The California Board of Occupational Therapy.
- 30 (24) Structural Pest Control Board.
- 31 (25) Contractors' State License Board.
- 32 (26) Bureau of Naturopathic Medicine.
- 33 (27) The Professional Fiduciaries Bureau.

34 (c) The provisions of paragraph (24) of subdivision (b) shall  
35 become operative on July 1, 2004. The provisions of paragraph  
36 (25) of subdivision (b) shall become operative on the date on which  
37 sufficient funds are available for the Contractors' State License  
38 Board and the Department of Justice to conduct a criminal history  
39 record check pursuant to this section or on July 1, 2005, whichever  
40 occurs first.

1 SEC. 5. Section 146 of the Business and Professions Code is  
2 amended to read:

3 146. (a) Notwithstanding any other provision of law, a  
4 violation of any code section listed in subdivision (c) or (d) is an  
5 infraction subject to the procedures described in Sections 19.6 and  
6 19.7 of the Penal Code when either of the following applies:

7 (1) A complaint or a written notice to appear in court pursuant  
8 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part  
9 2 of the Penal Code is filed in court charging the offense as an  
10 infraction unless the defendant, at the time he or she is arraigned,  
11 after being advised of his or her rights, elects to have the case  
12 proceed as a misdemeanor.

13 (2) The court, with the consent of the defendant and the  
14 prosecution, determines that the offense is an infraction in which  
15 event the case shall proceed as if the defendant has been arraigned  
16 on an infraction complaint.

17 (b) Subdivision (a) does not apply to a violation of the code  
18 sections listed in subdivisions (c) and (d) if the defendant has had  
19 his or her license, registration, or certificate previously revoked  
20 or suspended.

21 (c) The following sections require registration, licensure,  
22 certification, or other authorization in order to engage in certain  
23 businesses or professions regulated by this code:

24 (1) Sections 2052 and 2054.

25 (2) Section 2630.

26 (3) Section 2903.

27 (4) Section 3660.

28 (5) Sections 3760 and 3761.

29 (6) Section 4080.

30 (7) Section 4825.

31 (8) Section 4935.

32 (9) Section 4980.

33 (10) Section 4996.

34 (11) Section 5536.

35 (12) Section 6704.

36 (13) Section 6980.10.

37 (14) Section 7317.

38 (15) Section 7502 or 7592.

39 (16) Section 7520.

40 (17) Section 7617 or 7641.

1 (18) Subdivision (a) of Section 7872.

2 (19) Section 8016.

3 (20) Section 8505.

4 (21) Section 8725.

5 (22) Section 9681.

6 (23) Section 9840.

7 (24) Subdivision (c) of Section 9891.24.

8 (25) Section 19049.

9 (d) Institutions that are required to register with the Bureau for  
10 Private Postsecondary and Vocational Education pursuant to  
11 Section 94931 of the Education Code.

12 (e) Notwithstanding any other provision of law, a violation of  
13 any of the sections listed in subdivision (c) or (d), which is an  
14 infraction, is punishable by a fine of not less than two hundred  
15 fifty dollars (\$250) and not more than one thousand dollars  
16 (\$1,000). No portion of the minimum fine may be suspended by  
17 the court unless as a condition of that suspension the defendant is  
18 required to submit proof of a current valid license, registration, or  
19 certificate for the profession or vocation the absence of which was  
20 the basis for his or her conviction.

21 SEC. 6. Section 149 of the Business and Professions Code is  
22 amended to read:

23 149. (a) If, upon investigation, an agency designated in  
24 subdivision (e) has probable cause to believe that a person is  
25 advertising in a telephone directory with respect to the offering or  
26 performance of services, without being properly licensed by or  
27 registered with the agency to offer or perform those services, the  
28 agency may issue a citation under Section 148 containing an order  
29 of correction that requires the violator to do both of the following:

30 (1) Cease the unlawful advertising.

31 (2) Notify the telephone company furnishing services to the  
32 violator to disconnect the telephone service furnished to any  
33 telephone number contained in the unlawful advertising.

34 (b) This action is stayed if the person to whom a citation is  
35 issued under subdivision (a) notifies the agency in writing that he  
36 or she intends to contest the citation. The agency shall afford an  
37 opportunity for a hearing, as specified in Section 125.9.

38 (c) If the person to whom a citation and order of correction is  
39 issued under subdivision (a) fails to comply with the order of  
40 correction after that order is final, the agency shall inform the

1 Public Utilities Commission of the violation and the Public Utilities  
2 Commission shall require the telephone corporation furnishing  
3 services to that person to disconnect the telephone service furnished  
4 to any telephone number contained in the unlawful advertising.

5 (d) The good faith compliance by a telephone corporation with  
6 an order of the Public Utilities Commission to terminate service  
7 issued pursuant to this section shall constitute a complete defense  
8 to any civil or criminal action brought against the telephone  
9 corporation arising from the termination of service.

10 (e) Subdivision (a) shall apply to the following boards, bureaus,  
11 committees, commissions, or programs:

- 12 (1) The Bureau of Barbering and Cosmetology.
- 13 (2) The Funeral Directors and Embalmers Program.
- 14 (3) The Veterinary Medical Board.
- 15 (4) The Hearing Aid Dispensers Advisory Commission.
- 16 (5) The Landscape Architects Technical Committee.
- 17 (6) The California Board of Podiatric Medicine.
- 18 (7) The Respiratory Care Board of California.
- 19 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 20 (9) The Bureau of Security and Investigative Services.
- 21 (10) The Bureau of Electronic and Appliance Repair.
- 22 (11) The Bureau of Automotive Repair.
- 23 (12) The Tax Preparers Program.
- 24 (13) The California Architects Board.
- 25 (14) The Speech-Language Pathology and Audiology Board.
- 26 (15) The Board for Professional Engineers and Land Surveyors.
- 27 (16) The Board of Behavioral Sciences.
- 28 (17) The State Board for Geologists and Geophysicists.
- 29 (18) The Structural Pest Control Board.
- 30 (19) The Acupuncture Board.
- 31 (20) The Board of Psychology.
- 32 (21) The California Board of Accountancy.
- 33 (22) The Bureau of Naturopathic Medicine.
- 34 (23) The Physical Therapy Board of California.

35 SEC. 7. Section 683 of the Business and Professions Code is  
36 amended to read:

37 683. (a) A board shall report, within 10 working days, to the  
38 State Department of Health Care Services the name and license  
39 number of a person whose license has been revoked, suspended,  
40 surrendered, made inactive by the licensee, or placed in another

1 category that prohibits the licensee from practicing his or her  
2 profession. The purpose of the reporting requirement is to prevent  
3 reimbursement by the state for Medi-Cal and Denti-Cal services  
4 provided after the cancellation of a provider's professional license.

5 (b) "Board," as used in this section, means the Dental Board of  
6 California, the Medical Board of California, the Board of  
7 Psychology, the State Board of Optometry, the California State  
8 Board of Pharmacy, the Osteopathic Medical Board of California,  
9 the State Board of Chiropractic Examiners, and the California  
10 Board of Occupational Therapy.

11 SEC. 8. Section 733 of the Business and Professions Code is  
12 amended to read:

13 733. (a) No licentiate shall obstruct a patient in obtaining a  
14 prescription drug or device that has been legally prescribed or  
15 ordered for that patient. A violation of this section constitutes  
16 unprofessional conduct by the licentiate and shall subject the  
17 licentiate to disciplinary or administrative action by his or her  
18 licensing agency.

19 (b) Notwithstanding any other provision of law, a licentiate  
20 shall dispense drugs and devices, as described in subdivision (a)  
21 of Section 4024, pursuant to a lawful order or prescription unless  
22 one of the following circumstances exists:

23 (1) Based solely on the licentiate's professional training and  
24 judgment, dispensing pursuant to the order or the prescription is  
25 contrary to law, or the licentiate determines that the prescribed  
26 drug or device would cause a harmful drug interaction or would  
27 otherwise adversely affect the patient's medical condition.

28 (2) The prescription drug or device is not in stock. If an order,  
29 other than an order described in Section 4019, or prescription  
30 cannot be dispensed because the drug or device is not in stock, the  
31 licentiate shall take one of the following actions:

32 (A) Immediately notify the patient and arrange for the drug or  
33 device to be delivered to the site or directly to the patient in a  
34 timely manner.

35 (B) Promptly transfer the prescription to another pharmacy  
36 known to stock the prescription drug or device that is near enough  
37 to the site from which the prescription or order is transferred, to  
38 ensure the patient has timely access to the drug or device.

39 (C) Return the prescription to the patient and refer the patient.  
40 The licentiate shall make a reasonable effort to refer the patient to

1 a pharmacy that stocks the prescription drug or device that is near  
2 enough to the referring site to ensure that the patient has timely  
3 access to the drug or device.

4 (3) The licentiate refuses on ethical, moral, or religious grounds  
5 to dispense a drug or device pursuant to an order or prescription.  
6 A licentiate may decline to dispense a prescription drug or device  
7 on this basis only if the licentiate has previously notified his or  
8 her employer, in writing, of the drug or class of drugs to which he  
9 or she objects, and the licentiate's employer can, without creating  
10 undue hardship, provide a reasonable accommodation of the  
11 licentiate's objection. The licentiate's employer shall establish  
12 protocols that ensure that the patient has timely access to the  
13 prescribed drug or device despite the licentiate's refusal to dispense  
14 the prescription or order. For purposes of this section, "reasonable  
15 accommodation" and "undue hardship" shall have the same  
16 meaning as applied to those terms pursuant to subdivision (l) of  
17 Section 12940 of the Government Code.

18 (c) For the purposes of this section, "prescription drug or device"  
19 has the same meaning as the definition in Section 4022.

20 (d) The provisions of this section shall apply to the drug therapy  
21 described in Section 4052.3.

22 (e) This section imposes no duty on a licentiate to dispense a  
23 drug or device pursuant to a prescription or order without payment  
24 for the drug or device, including payment directly by the patient  
25 or through a third-party payer accepted by the licentiate or payment  
26 of any required copayment by the patient.

27 (f) The notice to consumers required by Section 4122 shall  
28 include a statement that describes patients' rights relative to the  
29 requirements of this section.

30 SEC. 9. Section 800 of the Business and Professions Code is  
31 amended to read:

32 800. (a) The Medical Board of California, the Board of  
33 Psychology, the Dental Board of California, the Osteopathic  
34 Medical Board of California, the State Board of Chiropractic  
35 Examiners, the Board of Registered Nursing, the Board of  
36 Vocational Nursing and Psychiatric Technicians, the State Board  
37 of Optometry, the Veterinary Medical Board, the Board of  
38 Behavioral Sciences, the Physical Therapy Board of California,  
39 the California State Board of Pharmacy, the Speech-Language  
40 Pathology and Audiology Board, the California Board of

1 Occupational Therapy, and the Acupuncture Board shall each  
2 separately create and maintain a central file of the names of all  
3 persons who hold a license, certificate, or similar authority from  
4 that board. Each central file shall be created and maintained to  
5 provide an individual historical record for each licensee with  
6 respect to the following information:

7 (1) Any conviction of a crime in this or any other state that  
8 constitutes unprofessional conduct pursuant to the reporting  
9 requirements of Section 803.

10 (2) Any judgment or settlement requiring the licensee or his or  
11 her insurer to pay any amount of damages in excess of three  
12 thousand dollars (\$3,000) for any claim that injury or death was  
13 proximately caused by the licensee's negligence, error or omission  
14 in practice, or by rendering unauthorized professional services,  
15 pursuant to the reporting requirements of Section 801 or 802.

16 (3) Any public complaints for which provision is made pursuant  
17 to subdivision (b).

18 (4) Disciplinary information reported pursuant to Section 805.

19 (b) Each board shall prescribe and promulgate forms on which  
20 members of the public and other licensees or certificate holders  
21 may file written complaints to the board alleging any act of  
22 misconduct in, or connected with, the performance of professional  
23 services by the licensee.

24 If a board, or division thereof, a committee, or a panel has failed  
25 to act upon a complaint or report within five years, or has found  
26 that the complaint or report is without merit, the central file shall  
27 be purged of information relating to the complaint or report.

28 Notwithstanding this subdivision, the Board of Psychology, the  
29 Board of Behavioral Sciences, and the Respiratory Care Board of  
30 California shall maintain complaints or reports as long as each  
31 board deems necessary.

32 (c) The contents of any central file that are not public records  
33 under any other provision of law shall be confidential except that  
34 the licensee involved, or his or her counsel or representative, shall  
35 have the right to inspect and have copies made of his or her  
36 complete file except for the provision that may disclose the identity  
37 of an information source. For the purposes of this section, a board  
38 may protect an information source by providing a copy of the  
39 material with only those deletions necessary to protect the identity  
40 of the source or by providing a comprehensive summary of the

1 substance of the material. Whichever method is used, the board  
2 shall ensure that full disclosure is made to the subject of any  
3 personal information that could reasonably in any way reflect or  
4 convey anything detrimental, disparaging, or threatening to a  
5 licensee's reputation, rights, benefits, privileges, or qualifications,  
6 or be used by a board to make a determination that would affect  
7 a licensee's rights, benefits, privileges, or qualifications. The  
8 information required to be disclosed pursuant to Section 803.1  
9 shall not be considered among the contents of a central file for the  
10 purposes of this subdivision.

11 The licensee may, but is not required to, submit any additional  
12 exculpatory or explanatory statement or other information that the  
13 board shall include in the central file.

14 Each board may permit any law enforcement or regulatory  
15 agency when required for an investigation of unlawful activity or  
16 for licensing, certification, or regulatory purposes to inspect and  
17 have copies made of that licensee's file, unless the disclosure is  
18 otherwise prohibited by law.

19 These disclosures shall effect no change in the confidential status  
20 of these records.

21 SEC. 10. Section 801 of the Business and Professions Code is  
22 amended to read:

23 801. (a) Except as provided in Section 801.01 and subdivisions  
24 (b), (c), and (d) of this section, every insurer providing professional  
25 liability insurance to a person who holds a license, certificate, or  
26 similar authority from or under any agency mentioned in  
27 subdivision (a) of Section 800 shall send a complete report to that  
28 agency as to any settlement or arbitration award over three  
29 thousand dollars (\$3,000) of a claim or action for damages for  
30 death or personal injury caused by that person's negligence, error,  
31 or omission in practice, or by his or her rendering of unauthorized  
32 professional services. The report shall be sent within 30 days after  
33 the written settlement agreement has been reduced to writing and  
34 signed by all parties thereto or within 30 days after service of the  
35 arbitration award on the parties.

36 (b) Every insurer providing professional liability insurance to  
37 a person licensed pursuant to Chapter 13 (commencing with  
38 Section 4980) or Chapter 14 (commencing with Section 4990)  
39 shall send a complete report to the Board of Behavioral Sciences  
40 as to any settlement or arbitration award over ten thousand dollars

(b) (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(f) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written

1 consent shall only be waived by both the insured and the insurer.  
2 This section shall only apply to a settlement on a policy of  
3 insurance executed or renewed on or after January 1, 1971.

4 SEC. 11. Section 801.01 of the Business and Professions Code  
5 is amended to read:

6 801.01. (a) A complete report shall be sent to the Medical  
7 Board of California, the Osteopathic Medical Board, or the  
8 California Board of Podiatric Medicine, with respect to a licensee  
9 of the board as to the following:

10 (1) A settlement over thirty thousand dollars (\$30,000) or  
11 arbitration award of any amount or a civil judgment of any amount,  
12 whether or not vacated by a settlement after entry of the judgment,  
13 that was not reversed on appeal, of a claim or action for damages  
14 for death or personal injury caused by the licensee's alleged  
15 negligence, error, or omission in practice in California, or by his  
16 or her rendering of unauthorized professional services in California.

17 (2) A settlement over thirty thousand dollars (\$30,000) if it is  
18 based on the licensee's alleged negligence, error, or omission in  
19 practice in California, or by the licensee's rendering of  
20 unauthorized professional services in California, and a party to the  
21 settlement is a corporation, medical group, partnership, or other  
22 corporate entity in which the licensee has an ownership interest  
23 or that employs or contracts with the licensee.

24 (b) The report shall be sent by the following:

25 (1) The insurer providing professional liability insurance to the  
26 licensee.

27 (2) The licensee, or his or her counsel, if the licensee does not  
28 possess professional liability insurance.

29 (3) A state or local governmental agency that self-insures the  
30 licensee.

31 (c) The entity, person, or licensee obligated to report pursuant  
32 to subdivision (b) shall send the complete report if the judgment,  
33 settlement agreement, or arbitration award is entered against or  
34 paid by the employer of the licensee and not entered against or  
35 paid by the licensee. "Employer," as used in this paragraph, means  
36 a professional corporation, a group practice, a health care facility  
37 or clinic licensed or exempt from licensure under the Health and  
38 Safety Code, a licensed health care service plan, a medical care  
39 foundation, an educational institution, a professional institution,  
40 a professional school or college, a general law corporation, a public

1 entity, or a nonprofit organization that employs, retains, or contracts  
2 with a licensee referred to in this section. Nothing in this paragraph  
3 shall be construed to authorize the employment of, or contracting  
4 with, any licensee in violation of Section 2400.

5 (d) The report shall be sent to the Medical Board of California,  
6 the Osteopathic Medical Board of California, or the California  
7 Board of Podiatric Medicine, as appropriate, within 30 days after  
8 the written settlement agreement has been reduced to writing and  
9 signed by all parties thereto, within 30 days after service of the  
10 arbitration award on the parties, or within 30 days after the date  
11 of entry of the civil judgment.

12 (e) If an insurer is required under subdivision (b) to send the  
13 report, the insurer shall notify the claimant, or if the claimant is  
14 represented by counsel, the claimant's counsel, that the insurer  
15 has sent the report to the Medical Board of California, the  
16 Osteopathic Medical Board of California, or the California Board  
17 of Podiatric Medicine. If the claimant, or his or her counsel, has  
18 not received this notice within 45 days after the settlement was  
19 reduced to writing and signed by all of the parties or the arbitration  
20 award was served on the parties or the date of entry of the civil  
21 judgment, the claimant or the claimant's counsel shall make the  
22 report to the appropriate board.

23 (f) If the licensee or his or her counsel is required under  
24 subdivision (b) to send the report, the licensee or his or her counsel  
25 shall send a copy of the report to the claimant or to his or her  
26 counsel if he or she is represented by counsel. If the claimant or  
27 his or her counsel has not received a copy of the report within 45  
28 days after the settlement was reduced to writing and signed by all  
29 of the parties or the arbitration award was served on the parties or  
30 the date of entry of the civil judgment, the claimant or the  
31 claimant's counsel shall make the report to the appropriate board.

32 (g) Failure of the licensee or claimant, or counsel representing  
33 the licensee or claimant, to comply with subdivision (f) is a public  
34 offense punishable by a fine of not less than fifty dollars (\$50) and  
35 not more than five hundred dollars (\$500). A knowing and  
36 intentional failure to comply with subdivision (f) or a conspiracy  
37 or collusion not to comply with subdivision (f), or to hinder or  
38 impede any other person in the compliance, is a public offense  
39 punishable by a fine of not less than five thousand dollars (\$5,000)  
40 and not more than fifty thousand dollars (\$50,000).

1 (h) (1) The Medical Board of California, the Osteopathic  
2 Medical Board of California, and the California Board of Podiatric  
3 Medicine may develop a prescribed form for the report.

4 (2) The report shall be deemed complete only if it includes the  
5 following information:

6 (A) The name and last known business and residential addresses  
7 of every plaintiff or claimant involved in the matter, whether or  
8 not the person received an award under the settlement, arbitration,  
9 or judgment.

10 (B) The name and last known business and residential address  
11 of every physician and surgeon or doctor of podiatric medicine  
12 who was alleged to have acted improperly, whether or not that  
13 person was a named defendant in the action and whether or not  
14 that person was required to pay any damages pursuant to the  
15 settlement, arbitration award, or judgment.

16 (C) The name, address, and principal place of business of every  
17 insurer providing professional liability insurance to any person  
18 described in subparagraph (B), and the insured's policy number.

19 (D) The name of the court in which the action or any part of the  
20 action was filed, and the date of filing and case number of each  
21 action.

22 (E) A brief description or summary of the facts of each claim,  
23 charge, or allegation, including the date of occurrence.

24 (F) The name and last known business address of each attorney  
25 who represented a party in the settlement, arbitration, or civil  
26 action, including the name of the client he or she represented.

27 (G) The amount of the judgment and the date of its entry; the  
28 amount of the arbitration award, the date of its service on the  
29 parties, and a copy of the award document; or the amount of the  
30 settlement and the date it was reduced to writing and signed by all  
31 parties. If an otherwise reportable settlement is entered into after  
32 a reportable judgment or arbitration award is issued, the report  
33 shall include both the settlement and the judgment or award.

34 (H) The specialty or subspecialty of the physician and surgeon  
35 or the doctor of podiatric medicine who was the subject of the  
36 claim or action.

37 (I) Any other information the Medical Board of California, the  
38 Osteopathic Medical Board of California, or the California Board  
39 of Podiatric Medicine may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or his or her counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon or podiatrist, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine. If confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental agency, or licensee or his or her counsel shall maintain the records and depositions referred to in this paragraph for at least one year from the date of filing of the report required by this section.

(i) If the board, within 60 days of its receipt of a report filed under this section, notifies a person named in the report, that person shall maintain for the period of three years from the date of filing of the report any records he or she has as to the matter in question and shall make those records available upon request to the board to which the report was sent.

(j) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

SEC. 12. Section 803 of the Business and Professions Code is amended to read:

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Sciences or from an agency mentioned in subdivision

(a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

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

SEC. 13. Section 2089.5 of the Business and Professions Code is amended to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall meet the requirements of this section and shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, family medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 40 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, a minimum of four weeks in family medicine, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school or school of osteopathic medicine.

(2) Has a residency program, approved by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC), in family

1 practice or in the clinical area of the instruction for which credit  
2 is being sought.

3 (3) Is formally affiliated with an approved medical school or  
4 school of osteopathic medicine located in the United States or  
5 Canada. If the affiliation is limited in nature, credit shall be given  
6 only in the subject areas covered by the affiliation agreement.

7 (4) Is formally affiliated with a medical school or a school of  
8 osteopathic medicine located outside the United States or Canada.

9 (e) If the institution, specified in subdivision (d), is formally  
10 affiliated with a medical school or a school of osteopathic medicine  
11 located outside the United States or Canada, it shall meet the  
12 following:

13 (1) The formal affiliation shall be documented by a written  
14 contract detailing the relationship between the medical school, or  
15 a school of osteopathic medicine, and hospital and the  
16 responsibilities of each.

17 (2) The school and hospital shall provide to the board a  
18 description of the clinical program. The description shall be in  
19 sufficient detail to enable the board to determine whether or not  
20 the program provides students an adequate medical education. The  
21 board shall approve the program if it determines that the program  
22 provides an adequate medical education. If the board does not  
23 approve the program, it shall provide its reasons for disapproval  
24 to the school and hospital in writing specifying its findings about  
25 each aspect of the program that it considers to be deficient and the  
26 changes required to obtain approval.

27 (3) The hospital, if located in the United States, shall be  
28 accredited by the Joint Commission on Accreditation of Hospitals,  
29 and if located in another country, shall be accredited in accordance  
30 with the law of that country.

31 (4) The clinical instruction shall be supervised by a full-time  
32 director of medical education, and the head of the department for  
33 each core clinical course shall hold a full-time faculty appointment  
34 of the medical school or school of osteopathic medicine and shall  
35 be board certified or eligible, or have an equivalent credential in  
36 that specialty area appropriate to the country in which the hospital  
37 is located.

38 (5) The clinical instruction shall be conducted pursuant to a  
39 written program of instruction provided by the school.

1 (6) The school shall supervise the implementation of the  
2 program on a regular basis, documenting the level and extent of  
3 its supervision.

4 (7) The hospital-based faculty shall evaluate each student on a  
5 regular basis and shall document the completion of each aspect of  
6 the program for each student.

7 (8) The hospital shall ensure a minimum daily census adequate  
8 to meet the instructional needs of the number of students enrolled  
9 in each course area of clinical instruction, but not less than 15  
10 patients in each course area of clinical instruction.

11 (9) The board, in reviewing the application of a foreign medical  
12 graduate, may require the applicant to submit a description of the  
13 clinical program, if the board has not previously approved the  
14 program, and may require the applicant to submit documentation  
15 to demonstrate that the applicant's clinical training met the  
16 requirements of this subdivision.

17 (10) The medical school or school of osteopathic medicine shall  
18 bear the reasonable cost of any site inspection by the board or its  
19 agents necessary to determine whether the clinical program offered  
20 is in compliance with this subdivision.

21 SEC. 14. Section 2096 of the Business and Professions Code  
22 is amended to read:

23 2096. In addition to other requirements of this chapter, before  
24 a physician's and surgeon's license may be issued, each applicant,  
25 including an applicant applying pursuant to Article 5 (commencing  
26 with Section 2100), shall show by evidence satisfactory to the  
27 board that he or she has satisfactorily completed at least one year  
28 of postgraduate training, which includes at least four months of  
29 general medicine, in a postgraduate training program approved by  
30 the Accreditation Council for Graduate Medical Education  
31 (ACGME) or the Royal College of Physicians and Surgeons of  
32 Canada (RCPSC).

33 The amendments made to this section at the 1987 portion of the  
34 1987–88 session of the Legislature shall not apply to applicants  
35 who completed their one year of postgraduate training on or before  
36 July 1, 1990.

37 SEC. 15. Section 2102 of the Business and Professions Code  
38 is amended to read:

39 2102. Any applicant whose professional instruction was  
40 acquired in a country other than the United States or Canada shall

1 provide evidence satisfactory to the board of compliance with the  
2 following requirements to be issued a physician's and surgeon's  
3 certificate:

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

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

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

29 (d) Pass the written examination as provided under Article 9  
30 (commencing with Section 2170). An applicant shall be required  
31 to meet the requirements specified in subdivision (b) prior to being  
32 admitted to the written examination required by this subdivision.

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

39 SEC. 16. Section 2107 of the Business and Professions Code  
40 is amended to read:

1     2107. (a) The Legislature intends that the board shall have the  
2 authority to substitute postgraduate education and training to  
3 remedy deficiencies in an applicant's medical school education  
4 and training. The Legislature further intends that applicants who  
5 substantially completed their clinical training shall be granted that  
6 substitute credit if their postgraduate education took place in an  
7 accredited program.

8     (b) To meet the requirements for licensure set forth in Sections  
9 2089 and 2089.5, the board may require an applicant under this  
10 article to successfully complete additional education and training.  
11 In determining the content and duration of the required additional  
12 education and training, the board shall consider the applicant's  
13 medical education and performance on standardized national  
14 examinations, and may substitute approved postgraduate training  
15 in lieu of specified undergraduate requirements. Postgraduate  
16 training substituted for undergraduate training shall be in addition  
17 to the postgraduate training required by Sections 2102 and 2103.

18     SEC. 17. Section 2135 of the Business and Professions Code  
19 is amended to read:

20     2135. The board shall issue a physician and surgeon's  
21 certificate to an applicant who meets all of the following  
22 requirements:

23     (a) The applicant holds an unlimited license as a physician and  
24 surgeon in another state or states, or in a Canadian province or  
25 Canadian provinces, which was issued upon:

26     (1) Successful completion of a resident course of professional  
27 instruction leading to a degree of medical doctor equivalent to that  
28 specified in Section 2089. However, nothing in this section shall  
29 be construed to require the board to evaluate for equivalency any  
30 coursework obtained at a medical school disapproved by the board  
31 pursuant to Article 4 (commencing with Section 2080).

32     (2) Taking and passing a written examination that is recognized  
33 by the board to be equivalent in content to that administered in  
34 California.

35     (b) The applicant has held an unrestricted license to practice  
36 medicine, in a state or states, in a Canadian province or Canadian  
37 provinces, or as a member of the active military, United States  
38 Public Health Services, or other federal program, for a period of  
39 at least four years. Any time spent by the applicant in an approved  
40 postgraduate training program or clinical fellowship acceptable to

1 the board shall not be included in the calculation of this four-year  
2 period.

3 (c) The board determines that no disciplinary action has been  
4 taken against the applicant by any medical licensing authority and  
5 that the applicant has not been the subject of adverse judgments  
6 or settlements resulting from the practice of medicine that the  
7 board determines constitutes evidence of a pattern of negligence  
8 or incompetence.

9 (d) The applicant (1) has satisfactorily completed at least one  
10 year of approved postgraduate training and is certified by a  
11 specialty board approved by the American Board of Medical  
12 Specialties or approved by the board pursuant to subdivision (h)  
13 of Section 651; (2) has satisfactorily completed at least two years  
14 of approved postgraduate training; or (3) has satisfactorily  
15 completed at least one year of approved postgraduate training and  
16 takes and passes the clinical competency written examination.

17 (e) The applicant has not committed any acts or crimes  
18 constituting grounds for denial of a certificate under Division 1.5  
19 (commencing with Section 475) or Article 12 (commencing with  
20 Section 2220).

21 (f) Any application received from an applicant who has held an  
22 unrestricted license to practice medicine, in a state or states, or  
23 Canadian province or Canadian provinces, or as a member of the  
24 active military, United States Public Health Services, or other  
25 federal program for four or more years shall be reviewed and  
26 processed pursuant to this section. Any time spent by the applicant  
27 in an approved postgraduate training program or clinical fellowship  
28 acceptable to the board shall not be included in the calculation of  
29 this four-year period. This subdivision does not apply to  
30 applications that may be reviewed and processed pursuant to  
31 Section 2151.

32 SEC. 18. Section 2168.4 of the Business and Professions Code  
33 is amended to read:

34 2168.4. (a) A special faculty permit expires and becomes  
35 invalid at midnight on the last day of the permitholder's birth  
36 month during the second year of a two-year term, if not renewed.

37 (b) A person who holds a special faculty permit shall show at  
38 the time of license renewal that he or she continues to meet the  
39 eligibility criteria set forth in Section 2168.1. After the first renewal  
40 of a special faculty permit, the permitholder shall not be required

1 to hold a full-time faculty position, and may instead be employed  
2 part-time in a position that otherwise meets the requirements set  
3 forth in paragraph (1) of subdivision (a) of Section 2168.1.

4 (c) A person who holds a special faculty permit shall show at  
5 the time of license renewal that he or she meets the continuing  
6 medical education requirements of Article 10 (commencing with  
7 Section 2190).

8 (d) In addition to the requirements set forth above, a special  
9 faculty permit shall be renewed in accordance with Article 19  
10 (commencing with Section 2420) in the same manner as a  
11 physician's and surgeon's certificate.

12 (e) Those fees applicable to a physician's and surgeon's  
13 certificate shall also apply to a special faculty permit and shall be  
14 paid into the State Treasury and credited to the Contingent Fund  
15 of the Medical Board of California.

16 SEC. 19. Section 2169 is added to the Business and Professions  
17 Code, to read:

18 2169. A person who holds a special faculty permit shall meet  
19 the continuing medical education requirements set forth in Article  
20 10 (commencing with Section 2190).

21 SEC. 20. Section 2172 of the Business and Professions Code  
22 is repealed.

23 SEC. 21. Section 2173 of the Business and Professions Code  
24 is repealed.

25 SEC. 22. Section 2174 of the Business and Professions Code  
26 is repealed.

27 SEC. 23. Section 2175 of the Business and Professions Code  
28 is amended to read:

29 2175. State examination records shall be kept on file by the  
30 board until June 1, 2070. Examinees shall be known and designated  
31 by number only, and the name attached to the number shall be kept  
32 secret until the examinee is sent notification of the results of the  
33 examinations.

34 SEC. 24. Section 2221 of the Business and Professions Code  
35 is amended to read:

36 2221. (a) The board may deny a physician's and surgeon's  
37 certificate to an applicant guilty of unprofessional conduct or of  
38 any cause that would subject a licensee to revocation or suspension  
39 of his or her license; or, the board in its sole discretion, may issue  
40 a probationary physician's and surgeon's certificate to an applicant

1 subject to terms and conditions, including, but not limited to, any  
2 of the following conditions of probation:

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

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

8 (3) Continuing medical or psychiatric treatment.

9 (4) Ongoing participation in a specified rehabilitation program.

10 (5) Enrollment and successful completion of a clinical training  
11 program.

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

13 (7) Restrictions against engaging in certain types of medical  
14 practice.

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

16 (9) Payment of the cost of probation monitoring.

17 (b) The board may modify or terminate the terms and conditions  
18 imposed on the probationary certificate upon receipt of a petition  
19 from the licensee. The board may assign the petition to an  
20 administrative law judge designated in Section 11371 of the  
21 Government Code. After a hearing on the petition, the  
22 administrative law judge shall provide a proposed decision to the  
23 board.

24 (c) The board shall deny a physician's and surgeon's certificate  
25 to an applicant who is required to register pursuant to Section 290  
26 of the Penal Code. This subdivision does not apply to an applicant  
27 who is required to register as a sex offender pursuant to Section  
28 290 of the Penal Code solely because of a misdemeanor conviction  
29 under Section 314 of the Penal Code.

30 (d) An applicant shall not be eligible to reapply for a physician's  
31 and surgeon's certificate for a minimum of three years from the  
32 effective date of the denial of his or her application, except that  
33 the board may, in its discretion and for good cause demonstrated,  
34 permit reapplication after not less than one year has elapsed from  
35 the effective date of the denial.

36 SEC. 25. Section 2307 of the Business and Professions Code  
37 is amended to read:

38 2307. (a) A person whose certificate has been surrendered  
39 while under investigation or while charges are pending or whose  
40 certificate has been revoked or suspended or placed on probation,

1 may petition the board for reinstatement or modification of penalty,  
2 including modification or termination of probation.

3 (b) The person may file the petition after a period of not less  
4 than the following minimum periods have elapsed from the  
5 effective date of the surrender of the certificate or the decision  
6 ordering that disciplinary action:

7 (1) At least three years for reinstatement of a license surrendered  
8 or revoked for unprofessional conduct, except that the board may,  
9 for good cause shown, specify in a revocation order that a petition  
10 for reinstatement may be filed after two years.

11 (2) At least two years for early termination of probation of three  
12 years or more.

13 (3) At least one year for modification of a condition, or  
14 reinstatement of a license surrendered or revoked for mental or  
15 physical illness, or termination of probation of less than three years.

16 (c) The petition shall state any facts as may be required by the  
17 board. The petition shall be accompanied by at least two verified  
18 recommendations from physicians and surgeons licensed in any  
19 state who have personal knowledge of the activities of the petitioner  
20 since the disciplinary penalty was imposed.

21 (d) The petition may be heard by a panel of the board. The board  
22 may assign the petition to an administrative law judge designated  
23 in Section 11371 of the Government Code. After a hearing on the  
24 petition, the administrative law judge shall provide a proposed  
25 decision to the board or the California Board of Podiatric Medicine,  
26 as applicable, which shall be acted upon in accordance with Section  
27 2335.

28 (e) The panel of the board or the administrative law judge  
29 hearing the petition may consider all activities of the petitioner  
30 since the disciplinary action was taken, the offense for which the  
31 petitioner was disciplined, the petitioner's activities during the  
32 time the certificate was in good standing, and the petitioner's  
33 rehabilitative efforts, general reputation for truth, and professional  
34 ability. The hearing may be continued from time to time as the  
35 administrative law judge designated in Section 11371 of the  
36 Government Code finds necessary.

37 (f) The administrative law judge designated in Section 11371  
38 of the Government Code reinstating a certificate or modifying a  
39 penalty may recommend the imposition of any terms and conditions  
40 deemed necessary.

1 (g) No petition shall be considered while the petitioner is under  
2 sentence for any criminal offense, including any period during  
3 which the petitioner is on court-imposed probation or parole. No  
4 petition shall be considered while there is an accusation or petition  
5 to revoke probation pending against the person. The board may  
6 deny without a hearing or argument any petition filed pursuant to  
7 this section within a period of two years from the effective date  
8 of the prior decision following a hearing under this section.

9 (h) This section is applicable to and may be carried out with  
10 regard to licensees of the California Board of Podiatric Medicine.  
11 In lieu of two verified recommendations from physicians and  
12 surgeons, the petition shall be accompanied by at least two verified  
13 recommendations from doctors of podiatric medicine licensed in  
14 any state who have personal knowledge of the activities of the  
15 petitioner since the date the disciplinary penalty was imposed.

16 (i) Nothing in this section shall be deemed to alter Sections 822  
17 and 823.

18 SEC. 26. Section 2335 of the Business and Professions Code  
19 is amended to read:

20 2335. (a) All proposed decisions and interim orders of the  
21 Medical Quality Hearing Panel designated in Section 11371 of the  
22 Government Code shall be transmitted to the executive director  
23 of the board, or the executive director of the California Board of  
24 Podiatric Medicine as to the licensees of that board, within 48  
25 hours of filing.

26 (b) All interim orders shall be final when filed.

27 (c) A proposed decision shall be acted upon by the board or by  
28 any panel appointed pursuant to Section 2008 or by the California  
29 Board of Podiatric Medicine, as the case may be, in accordance  
30 with Section 11517 of the Government Code, except that all of the  
31 following shall apply to proceedings against licensees under this  
32 chapter:

33 (1) When considering a proposed decision, the board or panel  
34 and the California Board of Podiatric Medicine shall give great  
35 weight to the findings of fact of the administrative law judge,  
36 except to the extent those findings of fact are controverted by new  
37 evidence.

38 (2) The board's staff or the staff of the California Board of  
39 Podiatric Medicine shall poll the members of the board or panel  
40 or of the California Board of Podiatric Medicine by written mail

1 ballot concerning the proposed decision. The mail ballot shall be  
2 sent within 10 calendar days of receipt of the proposed decision,  
3 and shall poll each member on whether the member votes to  
4 approve the decision, to approve the decision with an altered  
5 penalty, to refer the case back to the administrative law judge for  
6 the taking of additional evidence, to defer final decision pending  
7 discussion of the case by the panel or board as a whole, or to  
8 nonadopt the decision. No party to the proceeding, including  
9 employees of the agency that filed the accusation, and no person  
10 who has a direct or indirect interest in the outcome of the  
11 proceeding or who presided at a previous stage of the decision,  
12 may communicate directly or indirectly, upon the merits of a  
13 contested matter while the proceeding is pending, with any member  
14 of the panel or board, without notice and opportunity for all parties  
15 to participate in the communication. The votes of a majority of the  
16 board or of the panel, and a majority of the California Board of  
17 Podiatric Medicine, are required to approve the decision with an  
18 altered penalty, to refer the case back to the administrative law  
19 judge for the taking of further evidence, or to nonadopt the  
20 decision. The votes of two members of the panel or board are  
21 required to defer final decision pending discussion of the case by  
22 the panel or board as a whole. If there is a vote by the specified  
23 number to defer final decision pending discussion of the case by  
24 the panel or board as a whole, provision shall be made for that  
25 discussion before the 100-day period specified in paragraph (3)  
26 expires, but in no event shall that 100-day period be extended.

27 (3) If a majority of the board or of the panel, or a majority of  
28 the California Board of Podiatric Medicine vote to do so, the board  
29 or the panel or the California Board of Podiatric Medicine shall  
30 issue an order of nonadoption of a proposed decision within 100  
31 calendar days of the date it is received by the board. If the board  
32 or the panel or the California Board of Podiatric Medicine does  
33 not refer the case back to the administrative law judge for the  
34 taking of additional evidence or issue an order of nonadoption  
35 within 100 calendar days, the decision shall be final and subject  
36 to review under Section 2337. Members of the board or of any  
37 panel or of the California Board of Podiatric Medicine who review  
38 a proposed decision or other matter and vote by mail as provided  
39 in paragraph (2) shall return their votes by mail to the board within  
40 30 days from receipt of the proposed decision or other matter.

1 (4) The board or the panel or the California Board of Podiatric  
2 Medicine shall afford the parties the opportunity to present oral  
3 argument before deciding a case after nonadoption of the  
4 administrative law judge's decision.

5 (5) A vote of a majority of the board or of a panel, or a majority  
6 of the California Board of Podiatric Medicine, are required to  
7 increase the penalty from that contained in the proposed  
8 administrative law judge's decision. No member of the board or  
9 panel or of the California Board of Podiatric Medicine may vote  
10 to increase the penalty except after reading the entire record and  
11 personally hearing any additional oral argument and evidence  
12 presented to the panel or board.

13 SEC. 27. Section 2486 of the Business and Professions Code  
14 is amended to read:

15 2486. The Medical Board of California shall issue, upon the  
16 recommendation of the board, a certificate to practice podiatric  
17 medicine if the applicant has submitted directly to the board from  
18 the credentialing organizations verification that he or she meets  
19 all of the following requirements:

20 (a) The applicant has graduated from an approved school or  
21 college of podiatric medicine and meets the requirements of Section  
22 2483.

23 (b) The applicant, within the past 10 years, has passed parts I,  
24 II, and III of the examination administered by the National Board  
25 of Podiatric Medical Examiners of the United States or has passed  
26 a written examination that is recognized by the board to be the  
27 equivalent in content to the examination administered by the  
28 National Board of Podiatric Medical Examiners of the United  
29 States.

30 (c) The applicant has satisfactorily completed the postgraduate  
31 training required by Section 2484.

32 (d) The applicant has passed within the past 10 years any oral  
33 and practical examination that may be required of all applicants  
34 by the board to ascertain clinical competence.

35 (e) The applicant has committed no acts or crimes constituting  
36 grounds for denial of a certificate under Division 1.5 (commencing  
37 with Section 475).

38 (f) The board determines that no disciplinary action has been  
39 taken against the applicant by any podiatric licensing authority  
40 and that the applicant has not been the subject of adverse judgments

1 or settlements resulting from the practice of podiatric medicine  
2 that the board determines constitutes evidence of a pattern of  
3 negligence or incompetence.

4 (g) A disciplinary databank report regarding the applicant is  
5 received by the board from the Federation of Podiatric Medical  
6 Boards.

7 SEC. 28. Section 2488 of the Business and Professions Code  
8 is amended to read:

9 2488. Notwithstanding any other provision of law, the Medical  
10 Board of California shall issue, upon the recommendation of the  
11 board, a certificate to practice podiatric medicine by credentialing  
12 if the applicant has submitted directly to the board from the  
13 credentialing organizations verification that he or she is licensed  
14 as a doctor of podiatric medicine in any other state and meets all  
15 of the following requirements:

16 (a) The applicant has graduated from an approved school or  
17 college of podiatric medicine.

18 (b) The applicant, within the past 10 years, has passed either  
19 part III of the examination administered by the National Board of  
20 Podiatric Medical Examiners of the United States or a written  
21 examination that is recognized by the board to be the equivalent  
22 in content to the examination administered by the National Board  
23 of Podiatric Medical Examiners of the United States.

24 (c) The applicant has satisfactorily completed a postgraduate  
25 training program approved by the Council on Podiatric Medical  
26 Education.

27 (d) The applicant, within the past 10 years, has passed any oral  
28 and practical examination that may be required of all applicants  
29 by the board to ascertain clinical competence.

30 (e) The applicant has committed no acts or crimes constituting  
31 grounds for denial of a certificate under Division 1.5 (commencing  
32 with Section 475).

33 (f) The board determines that no disciplinary action has been  
34 taken against the applicant by any podiatric licensing authority  
35 and that the applicant has not been the subject of adverse judgments  
36 or settlements resulting from the practice of podiatric medicine  
37 that the board determines constitutes evidence of a pattern of  
38 negligence or incompetence.

1 (g) A disciplinary databank report regarding the applicant is  
2 received by the board from the Federation of Podiatric Medical  
3 Boards.

4 SEC. 29. Section 2570.5 of the Business and Professions Code  
5 is amended to read:

6 2570.5. (a) A limited permit may be granted to any person  
7 who has completed the education and experience requirements of  
8 this chapter.

9 (b) A person who meets the qualifications to be admitted to the  
10 examination for licensure or certification under this chapter and  
11 is waiting to take the examination or awaiting the announcement  
12 of the results of the examination, according to the application  
13 requirements for a limited permit, may practice as an occupational  
14 therapist or as an occupational therapy assistant under the direction  
15 and appropriate supervision of an occupational therapist duly  
16 licensed under this chapter. If that person fails to pass the  
17 examination during the initial eligibility period, all privileges under  
18 this section shall automatically cease upon due notice to the  
19 applicant of that failure and may not be renewed.

20 (c) A limited permit shall be subject to other requirements set  
21 forth in rules adopted by the board.

22 SEC. 30. Section 2570.6 of the Business and Professions Code  
23 is amended to read:

24 2570.6. An applicant applying for a license as an occupational  
25 therapist or certification as an occupational therapy assistant shall  
26 file with the board a written application provided by the board,  
27 showing to the satisfaction of the board that he or she meets all of  
28 the following requirements:

29 (a) That the applicant is in good standing and has not committed  
30 acts or crimes constituting grounds for denial of a license under  
31 Section 480.

32 (b) (1) That the applicant has successfully completed the  
33 academic requirements of an educational program for occupational  
34 therapists or occupational therapy assistants that is approved by  
35 the board and accredited by the American Occupational Therapy  
36 Association's Accreditation Council for Occupational Therapy  
37 Education (ACOTE), or accredited or approved by the American  
38 Occupational Therapy Association's (AOTA) predecessor  
39 organization, or approved by AOTA's Career Mobility Program.

(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program, including all of the following subjects:

(A) Biological, behavioral, and health sciences.

(B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.

(C) Human development throughout the lifespan.

(D) Human behavior in the context of sociocultural systems.

(E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.

(F) Occupational therapy theory, practice, and processes.

(3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:

(A) Biological, behavioral, and health sciences.

(B) Structure and function of the normal human body.

(C) Human development.

(D) Conditions commonly referred to occupational therapists.

(E) Occupational therapy principles and skills.

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) or (3) of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having

1 successfully satisfied the requirements of paragraphs (1) and (2)  
2 of subdivision (b).

3 (d) That the applicant has successfully completed a period of  
4 supervised fieldwork experience approved by the board and  
5 arranged by a recognized educational institution where he or she  
6 met the academic requirements of subdivision (b) or (c) or arranged  
7 by a nationally recognized professional association. The fieldwork  
8 requirements for applicants applying for licensure as an  
9 occupational therapist or certification as an occupational therapy  
10 assistant shall be consistent with the requirements of the ACOTE  
11 accreditation standards, or AOTA's predecessor organization, or  
12 AOTA's Career Mobility Program, that were in effect when the  
13 applicant completed his or her educational program.

14 (e) That the applicant has passed an examination as provided  
15 in Section 2570.7.

16 (f) That the applicant, at the time of application, is a person over  
17 18 years of age, is not addicted to alcohol or any controlled  
18 substance, and has not committed acts or crimes constituting  
19 grounds for denial of licensure or certification under Section 480.

20 SEC. 31. Section 2570.7 of the Business and Professions Code  
21 is amended to read:

22 2570.7. (a) An applicant who has satisfied the requirements  
23 of Section 2570.6 may apply for examination for licensure or  
24 certification in a manner prescribed by the board. Subject to the  
25 provisions of this chapter, an applicant who fails an examination  
26 may apply for reexamination.

27 (b) Each applicant for licensure or certification shall successfully  
28 complete the entry level certification examination for occupational  
29 therapists or occupational therapy assistants approved by the board,  
30 such as the examination administered by the National Board for  
31 Certification in Occupational Therapy, the American Occupational  
32 Therapy Certification Board, or the American Occupational  
33 Therapy Association. The examination shall be appropriately  
34 validated. Each applicant shall be examined by written examination  
35 to test his or her knowledge of the basic and clinical sciences  
36 relating to occupational therapy, occupational therapy techniques  
37 and methods, and any other subjects that the board may require to  
38 determine the applicant's fitness to practice under this chapter.

1 (c) Applicants for licensure or certification shall be examined  
2 at a time and place and under that supervision as the board may  
3 require.

4 SEC. 32. Section 2570.185 of the Business and Professions  
5 Code is amended to read:

6 2570.185. (a) An occupational therapist shall document his  
7 or her evaluation, goals, treatment plan, and summary of treatment  
8 in the patient record.

9 (b) An occupational therapy assistant shall document the services  
10 provided in the patient record.

11 (c) Occupational therapists and occupational therapy assistants  
12 shall document and sign the patient record legibly.

13 (d) Patient records shall be maintained for a period of no less  
14 than seven years following the discharge of the patient, except that  
15 the records of unemancipated minors shall be maintained at least  
16 one year after the minor has reached the age of 18 years, and not  
17 in any case less than seven years.

18 SEC. 33. Section 2570.36 is added to the Business and  
19 Professions Code, to read:

20 2570.36. If a licensee has knowledge that an applicant or  
21 licensee may be in violation of, or has violated, any of the statutes  
22 or regulations administered by the board, the licensee shall report  
23 this information to the board in writing and shall cooperate with  
24 the board in providing information or assistance as may be  
25 required.

26 SEC. 34. Section 2760.1 of the Business and Professions Code  
27 is amended to read:

28 2760.1. (a) A registered nurse whose license has been revoked  
29 or suspended or who has been placed on probation may petition  
30 the board for reinstatement or modification of penalty, including  
31 reduction or termination of probation, after a period not less than  
32 the following minimum periods has elapsed from the effective  
33 date of the decision ordering that disciplinary action, or if the order  
34 of the board or any portion of it is stayed by the board itself or by  
35 the superior court, from the date the disciplinary action is actually  
36 implemented in its entirety, or for a registered nurse whose initial  
37 license application is subject to a disciplinary decision, from the  
38 date the initial license was issued:

39 (1) Except as otherwise provided in this section, at least three  
40 years for reinstatement of a license that was revoked, except that

1 the board may, in its sole discretion, specify in its order a lesser  
2 period of time provided that the period shall be not less than one  
3 year.

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

6 (3) At least one year for modification of a condition, or  
7 reinstatement of a license revoked for mental or physical illness,  
8 or termination of probation of less than three years.

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

17 (c) The hearing may be continued from time to time as the board  
18 deems appropriate.

19 (d) The board itself shall hear the petition and the administrative  
20 law judge shall prepare a written decision setting forth the reasons  
21 supporting the decision.

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

25 (f) The petitioner shall provide a current set of fingerprints  
26 accompanied by the necessary fingerprinting fee.

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

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

39 SEC. 35. Section 3503 of the Business and Professions Code  
40 is amended to read:

1     3503. No person other than one who has been licensed to  
2     practice as a physician assistant shall practice as a physician  
3     assistant or in a similar capacity to a physician and surgeon or  
4     podiatrist or hold himself or herself out as a “physician assistant,”  
5     or shall use any other term indicating or implying that he or she  
6     is a physician assistant.

7     SEC. 36. Section 3517 of the Business and Professions Code  
8     is amended to read:

9     3517. The committee shall require a written examination of  
10    physician assistants in the manner and under the rules and  
11    regulations as it shall prescribe, but the examination shall be  
12    conducted in that manner as to ensure that the identity of each  
13    applicant taking the examination will be unknown to all of the  
14    examiners until all examination papers have been graded. Except  
15    as otherwise provided in this chapter, or by regulation, no physician  
16    assistant applicant shall receive approval under this chapter without  
17    first successfully passing an examination given under the direction  
18    of the committee.

19    Examinations for licensure as a physician assistant may be  
20    required by the committee under a uniform examination system,  
21    and for that purpose the committee may make those arrangements  
22    with organizations furnishing examination material as may, in its  
23    discretion, be desirable. The committee shall, however, establish  
24    a passing score for each examination. The licensure examination  
25    for physician assistants shall be held by the committee at least  
26    once a year with such additional examinations as the committee  
27    deems necessary. The time and place of examination shall be fixed  
28    by the committee.

29    SEC. 37. Section 3518 of the Business and Professions Code  
30    is amended to read:

31    3518. The committee shall keep current, two separate registers,  
32    one for approved supervising physicians and one for licensed  
33    physician’s assistants, by specialty if applicable. These registers  
34    shall show the name of each licensee, his or her last known address  
35    of record, and the date of his or her licensure or approval. Any  
36    interested person is entitled to obtain a copy of the register in  
37    accordance with the Information Practices Act of 1977 (Chapter  
38    1 (commencing with Section 1798) of Title 1.8 of Part 4 of  
39    Division 3 of the Civil Code) upon application to the committee

1 together with a sum as may be fixed by the committee, which  
2 amount shall not exceed the cost of this list so furnished.

3 SEC. 38. Section 3625 of the Business and Professions Code  
4 is amended to read:

5 3625. (a) The Director of Consumer Affairs shall establish an  
6 advisory council consisting of nine members. Members of the  
7 advisory council shall include three members who are California  
8 licensed naturopathic doctors, or have met the requirements for  
9 licensure pursuant to this chapter, three members who are  
10 California licensed physicians and surgeons, and three public  
11 members.

12 (b) A member of the advisory council shall be appointed for a  
13 four-year term. A person shall not serve as a member of the council  
14 for more than two consecutive terms. A member shall hold office  
15 until the appointment and qualification of his or her successor, or  
16 until one year from the expiration of the term for which the member  
17 was appointed, whichever first occurs. Vacancies shall be filled  
18 by appointment for unexpired terms. The first terms of the members  
19 first appointed shall be as follows:

20 (1) The Governor shall appoint one physician and surgeon  
21 member, one naturopathic doctor member, and one public member,  
22 with term expirations of June 1, 2006; one physician and surgeon  
23 member with a term expiration date of June 1, 2007; and one  
24 naturopathic doctor member with a term expiration date of June  
25 1, 2008.

26 (2) The Senate Committee on Rules shall appoint one physician  
27 and surgeon member with a term expiration of June 1, 2008, and  
28 one public member with a term expiration of June 1, 2007.

29 (3) The Speaker of the Assembly shall appoint one naturopathic  
30 doctor member with a term expiration of June 1, 2007, and one  
31 public member with a term expiration of June 1, 2008.

32 (c) (1) A public member of the advisory council shall be a  
33 citizen of this state for at least five years preceding his or her  
34 appointment.

35 (2) A person shall not be appointed as a public member if the  
36 person or the person's immediate family in any manner owns an  
37 interest in a college, school, or institution engaged in naturopathic  
38 education, or the person or the person's immediate family has an  
39 economic interest in naturopathy or has any other conflict of

1 interest. “Immediate family” means the public member’s spouse,  
2 parents, children, or his or her children’s spouses.

3 (d) In order to operate in as cost-effective a manner as possible,  
4 the advisory council and any advisory committee created pursuant  
5 to this chapter shall meet as few times as necessary to perform its  
6 duties.

7 SEC. 39. Section 3633.1 of the Business and Professions Code  
8 is amended to read:

9 3633.1. The bureau may grant a license to an applicant who  
10 meets the requirements of Section 3630, but who graduated prior  
11 to 1986, pre-NPLEX, and passed a state or Canadian Province  
12 naturopathic licensing examination. Applications under this section  
13 shall be received no later than December 31, 2010.

14 SEC. 40. Section 3635 of the Business and Professions Code  
15 is amended to read:

16 3635. (a) In addition to any other qualifications and  
17 requirements for licensure renewal, the bureau shall require the  
18 satisfactory completion of 60 hours of approved continuing  
19 education biennially. This requirement is waived for the initial  
20 license renewal. The continuing education shall meet the following  
21 requirements:

22 (1) At least 20 hours shall be in pharmacotherapeutics.

23 (2) No more than 15 hours may be in naturopathic medical  
24 journals or osteopathic or allopathic medical journals, or audio or  
25 videotaped presentations, slides, programmed instruction, or  
26 computer-assisted instruction or preceptorships.

27 (3) No more than 20 hours may be in any single topic.

28 (4) No more than 15 hours of the continuing education  
29 requirements for the specialty certificate in naturopathic childbirth  
30 attendance shall apply to the 60 hours of continuing education  
31 requirement.

32 (b) The continuing education requirements of this section may  
33 be met through continuing education courses approved by the  
34 bureau, the California Naturopathic Doctors Association, the  
35 American Association of Naturopathic Physicians, the California  
36 State Board of Pharmacy, the State Board of Chiropractic  
37 Examiners, or other courses that meet the standards for continuing  
38 education for licensed physicians and surgeons in California.

39 SEC. 41. Section 3636 of the Business and Professions Code  
40 is amended to read:

1 3636. (a) Upon a written request, the bureau may grant inactive  
2 status to a naturopathic doctor who is in good standing and who  
3 meets the requirements of Section 462.

4 (b) A person whose license is in inactive status may not engage  
5 in any activity for which a license is required under this chapter.

6 (c) A person whose license is in inactive status shall be exempt  
7 from continuing education requirements while his or her license  
8 is in that status.

9 (d) To restore a license to active status, a person whose license  
10 is in inactive status must fulfill continuing education requirements  
11 for the two-year period prior to reactivation, and be current with  
12 all licensing fees as determined by the bureau.

13 SEC. 42. Section 3685 of the Business and Professions Code  
14 is amended to read:

15 3685. (a) This chapter shall become inoperative on July 1,  
16 2010, and, as of January 1, 2011, is repealed, unless a later enacted  
17 statute that is enacted before January 1, 2011, deletes or extends  
18 the dates on which it becomes inoperative and is repealed. The  
19 repeal of this chapter renders the bureau subject to the review  
20 required by Division 1.2 (commencing with Section 473).

21 (b) The bureau shall prepare the report required by Section 473.2  
22 no later than September 1, 2008.

23 SEC. 43. ~~Section 3750.5 of the Business and Professions Code~~  
24 ~~is amended to read:~~

25 ~~3750.5. In addition to any other grounds specified in this~~  
26 ~~chapter, the board may deny, suspend, or revoke the license of any~~  
27 ~~applicant or licenseholder who has done any of the following:~~

28 ~~(a) Obtained, possessed, used, or administered to himself or~~  
29 ~~herself, in violation of law, or furnished or administered to another,~~  
30 ~~any controlled substances, as defined in Division 10 (commencing~~  
31 ~~with Section 11000) of the Health and Safety Code, or any~~  
32 ~~dangerous drug, as defined in Article 2 (commencing with Section~~  
33 ~~4015) of Chapter 9, except as directed by a licensed physician and~~  
34 ~~surgeon, dentist, podiatrist, or other authorized health care provider.~~

35 ~~(b) Used, while licensed or applying for a license under this~~  
36 ~~chapter, any controlled substance as defined in Division 10~~  
37 ~~(commencing with Section 11000) of the Health and Safety Code,~~  
38 ~~any dangerous drug as defined in Article 2 (commencing with~~  
39 ~~Section 4015) of Chapter 9, or any alcoholic beverage, to an extent~~  
40 ~~or in a manner dangerous or injurious to himself or herself, another~~

1 person, or the public, or to the extent that the use impaired his or  
2 her ability to conduct with safety to the public the practice  
3 authorized by this chapter.

4 (c) ~~Applied for employment or worked in any health care~~  
5 ~~profession or environment while under the influence of alcohol.~~

6 (d) ~~Been convicted of a criminal offense involving the~~  
7 ~~consumption or self-administration of any of the substances~~  
8 ~~described in subdivision (a), or the possession of, or falsification~~  
9 ~~of a record pertaining to, the substances described in subdivision~~  
10 ~~(a), in which event the record of the conviction is conclusive~~  
11 ~~evidence thereof.~~

12 (e) ~~Been committed or confined by a court of competent~~  
13 ~~jurisdiction for intemperate use of or addiction to the use of any~~  
14 ~~of the substances described in subdivisions (a), (b), and (c), in~~  
15 ~~which event the court order of commitment or confinement is~~  
16 ~~prima facie evidence of that commitment or confinement.~~

17 (f) ~~Falsified, or made grossly incorrect, grossly inconsistent, or~~  
18 ~~unintelligible entries in any hospital, patient, or other record~~  
19 ~~pertaining to the substances described in subdivision (a).~~

20 ~~SEC. 44.~~

21 *SEC. 43.* Section 3753.5 of the Business and Professions Code  
22 is amended to read:

23 3753.5. (a) In any order issued in resolution of a disciplinary  
24 proceeding before the board, the board or the administrative law  
25 judge may direct any practitioner or applicant found to have  
26 committed a violation or violations of law or any term and  
27 condition of board probation to pay to the board a sum not to  
28 exceed the costs of the investigation and prosecution of the case.  
29 A certified copy of the actual costs, or a good faith estimate of  
30 costs where actual costs are not available, signed by the official  
31 custodian of the record or his or her designated representative shall  
32 be prima facie evidence of the actual costs of the investigation and  
33 prosecution of the case.

34 (b) The costs shall be assessed by the administrative law judge  
35 and shall not be increased by the board; however, the costs may  
36 be imposed or increased by the board if it does not adopt the  
37 proposed decision of the case.

38 Where an order for recovery of costs is made and timely payment  
39 is not made as directed in the board's decision the board may  
40 enforce the order for repayment in any appropriate court. This

1 right of enforcement shall be in addition to any other rights the  
2 board may have as to any practitioner directed to pay costs.

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

6 (d) (1) The board shall not renew or reinstate the license of any  
7 licensee who has failed to pay all of the costs ordered under this  
8 section.

9 (2) Notwithstanding paragraph (1), the board may, in its  
10 discretion, conditionally renew, for a maximum of one year, the  
11 license of any licensee who demonstrates financial hardship,  
12 through documentation satisfactory to the board, and who enters  
13 into a formal agreement with the board to reimburse the board  
14 within that one-year period for those unpaid costs.

15 ~~SEC. 45. Section 3773 of the Business and Professions Code~~  
16 ~~is amended to read:~~

17 ~~3773. (a) At the time of application for renewal of a respiratory~~  
18 ~~care practitioner license, the licensee shall notify the board of all~~  
19 ~~of the following:~~

20 ~~(1) Whether he or she has been convicted of any crime~~  
21 ~~subsequent to the licensee's previous renewal.~~

22 ~~(2) The name and address of the licensee's current employer or~~  
23 ~~employers.~~

24 ~~(b) The licensee shall cooperate in providing additional~~  
25 ~~information as requested by the board. If a licensee fails to provide~~  
26 ~~the requested information within 30 days, the license shall become~~  
27 ~~inactive until the information is received.~~

28 ~~SEC. 46.~~

29 ~~SEC. 44. Section 4022.5 of the Business and Professions Code~~  
30 ~~is amended to read:~~

31 ~~4022.5. (a) "Designated representative" means an individual~~  
32 ~~to whom a license has been granted pursuant to Section 4053. A~~  
33 ~~pharmacist fulfilling the duties of Section 4053 shall not be~~  
34 ~~required to obtain a license as a designated representative.~~

35 ~~(b) "Designated representative-in-charge" means a designated~~  
36 ~~representative or a pharmacist proposed by a wholesaler or~~  
37 ~~veterinary food-animal drug retailer and approved by the board as~~  
38 ~~the supervisor or manager responsible for ensuring the wholesaler's~~  
39 ~~or veterinary food-animal drug retailer's compliance with all state~~

1 and federal laws and regulations pertaining to practice in the  
2 applicable license category.

3 ~~SEC. 47.~~

4 *SEC. 45.* Section 4027 of the Business and Professions Code  
5 is amended to read:

6 4027. (a) As used in this chapter, the terms “skilled nursing  
7 facility,” “intermediate care facility,” and other references to health  
8 facilities shall be construed with respect to the definitions contained  
9 in Article 1 (commencing with Section 1250) of Chapter 2 of  
10 Division 2 of the Health and Safety Code.

11 (b) As used in Section 4052.1, “licensed health care facility”  
12 means a facility licensed pursuant to Article 1 (commencing with  
13 Section 1250) of Chapter 2 of Division 2 of the Health and Safety  
14 Code or a facility, as defined in Section 1250 of the Health and  
15 Safety Code, operated by a health care service plan licensed  
16 pursuant to Chapter 2.2 (commencing with Section 1340) of  
17 Division 2 of the Health and Safety Code.

18 (c) As used in Section 4052.2, “health care facility” means a  
19 facility, other than a facility licensed under Division 2  
20 (commencing with Section 1200) of the Health and Safety Code,  
21 that is owned or operated by a health care service plan licensed  
22 pursuant to Chapter 2.2 (commencing with Section 1340) of the  
23 Health and Safety Code, or by an organization under common  
24 ownership or control of the health care service plan; “licensed  
25 home health agency” means a private or public organization  
26 licensed by the State Department of Public Health pursuant to  
27 Chapter 8 (commencing with Section 1725) of Division 2 of the  
28 Health and Safety Code, as further defined in Section 1727 of the  
29 Health and Safety Code; and “licensed clinic” means a clinic  
30 licensed pursuant to Article 1 (commencing with Section 1200)  
31 of Chapter 1 of Division 2 of the Health and Safety Code.

32 (d) “Licensed health care facility” or “facility,” as used in  
33 Section 4065, means a health facility licensed pursuant to Article  
34 1 (commencing with Section 1250) of Chapter 2 of Division 2 of  
35 the Health and Safety Code or a facility that is owned or operated  
36 by a health care service plan licensed pursuant to Chapter 2.2  
37 (commencing with Section 1340) of Division 2 of the Health and  
38 Safety Code or by an organization under common ownership or  
39 control with the health care service plan.

~~SEC. 48.~~

SEC. 46. Section 4036.5 is added to the Business and Professions Code, to read:

4036.5. “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

~~SEC. 49.~~

SEC. 47. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) “Prescription” means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either Section 4052.1 or 4052.2.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to either Section 4052.1 or 4052.2 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II

1 controlled substance, that contains at least the name and signature  
2 of the prescriber, the name and address of the patient in a manner  
3 consistent with paragraph (2) of subdivision (a) of Section 11164  
4 of the Health and Safety Code, the name and quantity of the drug  
5 prescribed, directions for use, and the date of issue may be treated  
6 as a prescription by the dispensing pharmacist as long as any  
7 additional information required by subdivision (a) is readily  
8 retrievable in the pharmacy. In the event of a conflict between this  
9 subdivision and Section 11164 of the Health and Safety Code,  
10 Section 11164 of the Health and Safety Code shall prevail.

11 (c) “Electronic transmission prescription” includes both image  
12 and data prescriptions. “Electronic image transmission  
13 prescription” means any prescription order for which a facsimile  
14 of the order is received by a pharmacy from a licensed prescriber.  
15 “Electronic data transmission prescription” means any prescription  
16 order, other than an electronic image transmission prescription,  
17 that is electronically transmitted from a licensed prescriber to a  
18 pharmacy.

19 (d) The use of commonly used abbreviations shall not invalidate  
20 an otherwise valid prescription.

21 (e) Nothing in the amendments made to this section (formerly  
22 Section 4036) at the 1969 Regular Session of the Legislature shall  
23 be construed as expanding or limiting the right that a chiropractor,  
24 while acting within the scope of his or her license, may have to  
25 prescribe a device.

26 ~~SEC. 50.~~

27 *SEC. 48.* Section 4051 of the Business and Professions Code  
28 is amended to read:

29 4051. (a) Except as otherwise provided in this chapter, it is  
30 unlawful for any person to manufacture, compound, furnish, sell,  
31 or dispense any dangerous drug or dangerous device, or to dispense  
32 or compound any prescription pursuant to Section 4040 of a  
33 prescriber unless he or she is a pharmacist under this chapter.

34 (b) Notwithstanding any other law, a pharmacist may authorize  
35 the initiation of a prescription, pursuant to Section 4052.1, 4052.2,  
36 or 4052.3, and otherwise provide clinical advice or information or  
37 patient consultation if all of the following conditions are met:

38 (1) The clinical advice or information or patient consultation is  
39 provided to a health care professional or to a patient.

1 (2) The pharmacist has access to prescription, patient profile,  
2 or other relevant medical information for purposes of patient and  
3 clinical consultation and advice.

4 (3) Access to the information described in paragraph (2) is  
5 secure from unauthorized access and use.

6 ~~SEC. 51.~~

7 *SEC. 49.* Section 4059.5 of the Business and Professions Code  
8 is amended to read:

9 4059.5. (a) Except as otherwise provided in this chapter,  
10 dangerous drugs or dangerous devices may only be ordered by an  
11 entity licensed by the board and shall be delivered to the licensed  
12 premises and signed for and received by a pharmacist. Where a  
13 licensee is permitted to operate through a designated representative,  
14 the designated representative shall sign for and receive the delivery.

15 (b) A dangerous drug or dangerous device transferred, sold, or  
16 delivered to a person within this state shall be transferred, sold, or  
17 delivered only to an entity licensed by the board, to a manufacturer,  
18 or to an ultimate user or the ultimate user's agent.

19 (c) Notwithstanding subdivisions (a) and (b), deliveries to a  
20 hospital pharmacy may be made to a central receiving location  
21 within the hospital. However, the dangerous drugs or dangerous  
22 devices shall be delivered to the licensed pharmacy premises within  
23 one working day following receipt by the hospital, and the  
24 pharmacist on duty at that time shall immediately inventory the  
25 dangerous drugs or dangerous devices.

26 (d) Notwithstanding any other provision of law, a dangerous  
27 drug or dangerous device may be ordered by and provided to a  
28 manufacturer, physician, dentist, podiatrist, optometrist,  
29 veterinarian, naturopathic doctor pursuant to Section 3640.7, or  
30 laboratory, or a physical therapist acting within the scope of his  
31 or her license. A person or entity receiving delivery of a dangerous  
32 drug or dangerous device, or a duly authorized representative of  
33 the person or entity, shall sign for the receipt of the dangerous drug  
34 or dangerous device.

35 (e) A dangerous drug or dangerous device shall not be  
36 transferred, sold, or delivered to a person outside this state, whether  
37 foreign or domestic, unless the transferor, seller, or deliverer does  
38 so in compliance with the laws of this state and of the United States  
39 and of the state or country to which the dangerous drugs or  
40 dangerous devices are to be transferred, sold, or delivered.

1 Compliance with the laws of this state and the United States and  
2 of the state or country to which the dangerous drugs or dangerous  
3 devices are to be delivered shall include, but not be limited to,  
4 determining that the recipient of the dangerous drugs or dangerous  
5 devices is authorized by law to receive the dangerous drugs or  
6 dangerous devices.

7 (f) Notwithstanding subdivision (a), a pharmacy may take  
8 delivery of dangerous drugs and dangerous devices when the  
9 pharmacy is closed and no pharmacist is on duty if all of the  
10 following requirements are met:

11 (1) The drugs are placed in a secure storage facility in the same  
12 building as the pharmacy.

13 (2) Only the pharmacist-in-charge or a pharmacist designated  
14 by the pharmacist-in-charge has access to the secure storage facility  
15 after dangerous drugs or dangerous devices have been delivered.

16 (3) The secure storage facility has a means of indicating whether  
17 it has been entered after dangerous drugs or dangerous devices  
18 have been delivered.

19 (4) The pharmacy maintains written policies and procedures for  
20 the delivery of dangerous drugs and dangerous devices to a secure  
21 storage facility.

22 (5) The agent delivering dangerous drugs and dangerous devices  
23 pursuant to this subdivision leaves documents indicating the name  
24 and amount of each dangerous drug or dangerous device delivered  
25 in the secure storage facility.

26 The pharmacy shall be responsible for the dangerous drugs and  
27 dangerous devices delivered to the secure storage facility. The  
28 pharmacy shall also be responsible for obtaining and maintaining  
29 records relating to the delivery of dangerous drugs and dangerous  
30 devices to a secure storage facility.

31 ~~SEC. 52.~~

32 *SEC. 50.* Section 4060 of the Business and Professions Code  
33 is amended to read:

34 4060. No person shall possess any controlled substance, except  
35 that furnished to a person upon the prescription of a physician,  
36 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
37 pursuant to Section 3640.7, or furnished pursuant to a drug order  
38 issued by a certified nurse-midwife pursuant to Section 2746.51,  
39 a nurse practitioner pursuant to Section 2836.1, a physician  
40 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant

1 to Section 3640.5, or a pharmacist pursuant to either Section 4052.1  
2 or 4052.2. This section shall not apply to the possession of any  
3 controlled substance by a manufacturer, wholesaler, pharmacy,  
4 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
5 naturopathic doctor, certified nurse-midwife, nurse practitioner,  
6 or physician assistant, when in stock in containers correctly labeled  
7 with the name and address of the supplier or producer.

8 Nothing in this section authorizes a certified nurse-midwife, a  
9 nurse practitioner, a physician assistant, or a naturopathic doctor,  
10 to order his or her own stock of dangerous drugs and devices.

11 ~~SEC. 53.~~

12 *SEC. 51.* Section 4062 of the Business and Professions Code  
13 is amended to read:

14 4062. (a) Notwithstanding Section 4059 or any other provision  
15 of law, a pharmacist may, in good faith, furnish a dangerous drug  
16 or dangerous device in reasonable quantities without a prescription  
17 during a federal, state, or local emergency, to further the health  
18 and safety of the public. A record containing the date, name, and  
19 address of the person to whom the drug or device is furnished, and  
20 the name, strength, and quantity of the drug or device furnished  
21 shall be maintained. The pharmacist shall communicate this  
22 information to the patient's attending physician as soon as possible.  
23 Notwithstanding Section 4060 or any other provision of law, a  
24 person may possess a dangerous drug or dangerous device  
25 furnished without prescription pursuant to this section.

26 (b) During a declared federal, state, or local emergency, the  
27 board may waive application of any provisions of this chapter or  
28 the regulations adopted pursuant to it if, in the board's opinion,  
29 the waiver will aid in the protection of public health or the  
30 provision of patient care.

31 (c) During a declared federal, state, or local emergency, the  
32 board shall allow for the employment of a mobile pharmacy in  
33 impacted areas in order to ensure the continuity of patient care, if  
34 all of the following conditions are met:

35 (1) The mobile pharmacy shares common ownership with at  
36 least one currently licensed pharmacy in good standing.

37 (2) The mobile pharmacy retains records of dispensing, as  
38 required by subdivision (a).

(3) A licensed pharmacist is on the premises and the mobile pharmacy is under the control and management of a pharmacist while the drugs are being dispensed.

(4) Reasonable security measures are taken to safeguard the drug supply maintained in the mobile pharmacy.

(5) The mobile pharmacy is located within the declared emergency area or affected areas.

(6) The mobile pharmacy ceases the provision of services within 48 hours following the termination of the declared emergency.

~~SEC. 54.~~

*SEC. 52.* Section 4076 of the Business and Professions Code is amended to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either Section 4052.1 or 4052.2 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions

1 pursuant to a policy, procedure, or protocol pursuant to either  
2 Section 4052.1 or 4052.2.

3 (5) The date of issue.

4 (6) The name and address of the pharmacy, and prescription  
5 number or other means of identifying the prescription.

6 (7) The strength of the drug or drugs dispensed.

7 (8) The quantity of the drug or drugs dispensed.

8 (9) The expiration date of the effectiveness of the drug  
9 dispensed.

10 (10) The condition for which the drug was prescribed if  
11 requested by the patient and the condition is indicated on the  
12 prescription.

13 (11) (A) Commencing January 1, 2006, the physical description  
14 of the dispensed medication, including its color, shape, and any  
15 identification code that appears on the tablets or capsules, except  
16 as follows:

17 (i) Prescriptions dispensed by a veterinarian.

18 (ii) An exemption from the requirements of this paragraph shall  
19 be granted to a new drug for the first 120 days that the drug is on  
20 the market and for the 90 days during which the national reference  
21 file has no description on file.

22 (iii) Dispensed medications for which no physical description  
23 exists in any commercially available database.

24 (B) This paragraph applies to outpatient pharmacies only.

25 (C) The information required by this paragraph may be printed  
26 on an auxiliary label that is affixed to the prescription container.

27 (D) This paragraph shall not become operative if the board,  
28 prior to January 1, 2006, adopts regulations that mandate the same  
29 labeling requirements set forth in this paragraph.

30 (b) If a pharmacist dispenses a prescribed drug by means of a  
31 unit dose medication system, as defined by administrative  
32 regulation, for a patient in a skilled nursing, intermediate care, or  
33 other health care facility, the requirements of this section will be  
34 satisfied if the unit dose medication system contains the  
35 aforementioned information or the information is otherwise readily  
36 available at the time of drug administration.

37 (c) If a pharmacist dispenses a dangerous drug or device in a  
38 facility licensed pursuant to Section 1250 of the Health and Safety  
39 Code, it is not necessary to include on individual unit dose  
40 containers for a specific patient, the name of the certified

1 nurse-midwife who functions pursuant to a standardized procedure  
2 or protocol described in Section 2746.51, the nurse practitioner  
3 who functions pursuant to a standardized procedure described in  
4 Section 2836.1, or protocol, the physician assistant who functions  
5 pursuant to Section 3502.1, the naturopathic doctor who functions  
6 pursuant to a standardized procedure or protocol described in  
7 Section 3640.5, or the pharmacist who functions pursuant to a  
8 policy, procedure, or protocol pursuant to either Section 4052.1  
9 or 4052.2.

10 (d) If a pharmacist dispenses a prescription drug for use in a  
11 facility licensed pursuant to Section 1250 of the Health and Safety  
12 Code, it is not necessary to include the information required in  
13 paragraph (11) of subdivision (a) when the prescription drug is  
14 administered to a patient by a person licensed under the Medical  
15 Practice Act (Chapter 5 (commencing with Section 2000)), the  
16 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),  
17 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing  
18 with Section 2840)), who is acting within his or her scope of  
19 practice.

20 ~~SEC. 55.~~

21 *SEC. 53.* Section 4081 of the Business and Professions Code  
22 is amended to read:

23 4081. (a) All records of manufacture and of sale, acquisition,  
24 or disposition of dangerous drugs or dangerous devices shall be  
25 at all times during business hours open to inspection by authorized  
26 officers of the law, and shall be preserved for at least three years  
27 from the date of making. A current inventory shall be kept by every  
28 manufacturer, wholesaler, pharmacy, veterinary food-animal drug  
29 retailer, physician, dentist, podiatrist, veterinarian, laboratory,  
30 clinic, hospital, institution, or establishment holding a currently  
31 valid and unrevoked certificate, license, permit, registration, or  
32 exemption under Division 2 (commencing with Section 1200) of  
33 the Health and Safety Code or under Part 4 (commencing with  
34 Section 16000) of Division 9 of the Welfare and Institutions Code  
35 who maintains a stock of dangerous drugs or dangerous devices.

36 (b) The owner, officer, and partner of a pharmacy, wholesaler,  
37 or veterinary food-animal drug retailer shall be jointly responsible,  
38 with the pharmacist-in-charge or designated  
39 representative-in-charge, for maintaining the records and inventory  
40 described in this section.

(c) The pharmacist-in-charge or designated representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or designated representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

~~SEC. 56.~~

SEC. 54. Section 4110 of the Business and Professions Code is amended to read:

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

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

(c) The board may allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged, the mobile pharmacy is necessary to protect the health and safety of the public, and the following conditions are met:

1 (1) The mobile pharmacy shall provide services only on or  
2 immediately contiguous to the site of the damaged or destroyed  
3 pharmacy.

4 (2) The mobile pharmacy is under the control and management  
5 of the pharmacist-in-charge of the pharmacy that was destroyed  
6 or damaged.

7 (3) A licensed pharmacist is on the premises while drugs are  
8 being dispensed.

9 (4) Reasonable security measures are taken to safeguard the  
10 drug supply maintained in the mobile pharmacy.

11 (5) The pharmacy operating the mobile pharmacy provides the  
12 board with records of the destruction or damage of the pharmacy  
13 and an expected restoration date.

14 (6) Within three calendar days of restoration of the pharmacy  
15 services, the board is provided with notice of the restoration of the  
16 permanent pharmacy.

17 (7) The mobile pharmacy is not operated for more than 48 hours  
18 following the restoration of the permanent pharmacy.

19 ~~SEC. 57.~~

20 *SEC. 55.* Section 4111 of the Business and Professions Code  
21 is amended to read:

22 4111. (a) Except as otherwise provided in subdivision (b), (d),  
23 or (e), the board shall not issue or renew a license to conduct a  
24 pharmacy to any of the following:

25 (1) A person or persons authorized to prescribe or write a  
26 prescription, as specified in Section 4040, in the State of California.

27 (2) A person or persons with whom a person or persons specified  
28 in paragraph (1) shares a community or other financial interest in  
29 the permit sought.

30 (3) Any corporation that is controlled by, or in which 10 percent  
31 or more of the stock is owned by a person or persons prohibited  
32 from pharmacy ownership by paragraph (1) or (2).

33 (b) Subdivision (a) shall not preclude the issuance of a permit  
34 for an inpatient hospital pharmacy to the owner of the hospital in  
35 which it is located.

36 (c) The board may require any information the board deems is  
37 reasonably necessary for the enforcement of this section.

38 (d) Subdivision (a) shall not preclude the issuance of a new or  
39 renewal license for a pharmacy to be owned or owned and operated  
40 by a person licensed on or before August 1, 1981, under the

1 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2  
2 (commencing with Section 1340) of Division 2 of the Health and  
3 Safety Code) and qualified on or before August 1, 1981, under  
4 subsection (d) of Section 1310 of Title XIII of the federal Public  
5 Health Service Act, as amended, whose ownership includes persons  
6 defined pursuant to paragraphs (1) and (2) of subdivision (a).

7 (e) Subdivision (a) shall not preclude the issuance of a new or  
8 renewal license for a pharmacy to be owned or owned and operated  
9 by a pharmacist authorized to issue a drug order pursuant to either  
10 Section 4052.1 or 4052.2.

11 ~~SEC. 58.~~

12 *SEC. 56.* Section 4126.5 of the Business and Professions Code  
13 is amended to read:

14 4126.5. (a) A pharmacy may furnish dangerous drugs only to  
15 the following:

16 (1) A wholesaler owned or under common control by the  
17 wholesaler from whom the dangerous drug was acquired.

18 (2) The pharmaceutical manufacturer from whom the dangerous  
19 drug was acquired.

20 (3) A licensed wholesaler acting as a reverse distributor.

21 (4) Another pharmacy or wholesaler to alleviate a temporary  
22 shortage of a dangerous drug that could result in the denial of  
23 health care. A pharmacy furnishing dangerous drugs pursuant to  
24 this paragraph may only furnish a quantity sufficient to alleviate  
25 the temporary shortage.

26 (5) A patient or to another pharmacy pursuant to a prescription  
27 or as otherwise authorized by law.

28 (6) A health care provider that is not a pharmacy but that is  
29 authorized to purchase dangerous drugs.

30 (7) To another pharmacy under common control.

31 (b) Notwithstanding any other provision of law, a violation of  
32 this section may subject the person or persons who committed the  
33 violation to a fine not to exceed the amount specified in Section  
34 125.9 for each occurrence pursuant to a citation issued by the  
35 board.

36 (c) Amounts due from any person under this section on or after  
37 January 1, 2005, shall be offset as provided under Section 12419.5  
38 of the Government Code. Amounts received by the board under  
39 this section shall be deposited into the Pharmacy Board Contingent  
40 Fund.

(d) For purposes of this section, “common control” means the power to direct or cause the direction of the management and policies of another person whether by ownership, by voting rights, by contract, or by other means.

~~SEC. 59.~~

SEC. 57. Section 4161 of the Business and Professions Code is amended to read:

4161. (a) A person located outside this state that (1) ships, sells, mails, or delivers dangerous drugs or dangerous devices into this state or (2) sells, brokers, or distributes dangerous drugs or devices within this state shall be considered a nonresident wholesaler.

(b) A nonresident wholesaler shall be licensed by the board prior to shipping, selling, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state or selling, brokering, or distributing dangerous drugs or devices within this state.

(c) A separate license shall be required for each place of business owned or operated by a nonresident wholesaler from or through which dangerous drugs or dangerous devices are shipped, sold, mailed, or delivered to a site located in this state or sold, brokered, or distributed within this state. A license shall be renewed annually and shall not be transferable.

(d) The following information shall be reported, in writing, to the board at the time of initial application for licensure by a nonresident wholesaler, on renewal of a nonresident wholesaler license, or within 30 days of a change in that information:

(1) Its agent for service of process in this state.

(2) Its principal corporate officers, as specified by the board, if any.

(3) Its general partners, as specified by the board, if any.

(4) Its owners if the applicant is not a corporation or partnership.

(e) A report containing the information in subdivision (d) shall be made within 30 days of any change of ownership, office, corporate officer, or partner.

(f) A nonresident wholesaler shall comply with all directions and requests for information from the regulatory or licensing agency of the state in which it is licensed, as well as with all requests for information made by the board.

1 (g) A nonresident wholesaler shall maintain records of dangerous  
2 drugs and dangerous devices sold, traded, or transferred to persons  
3 in this state or within this state, so that the records are in a readily  
4 retrievable form.

5 (h) A nonresident wholesaler shall at all times maintain a valid,  
6 unexpired license, permit, or registration to conduct the business  
7 of the wholesaler in compliance with the laws of the state in which  
8 it is a resident. An application for a nonresident wholesaler license  
9 in this state shall include a license verification from the licensing  
10 authority in the applicant's state of residence.

11 (i) The board may not issue or renew a nonresident wholesaler  
12 license until the nonresident wholesaler identifies a designated  
13 representative-in-charge and notifies the board in writing of the  
14 identity and license number of the designated  
15 representative-in-charge.

16 (j) The designated representative-in-charge shall be responsible  
17 for the nonresident wholesaler's compliance with state and federal  
18 laws governing wholesalers. A nonresident wholesaler shall  
19 identify and notify the board of a new designated  
20 representative-in-charge within 30 days of the date that the prior  
21 designated representative-in-charge ceases to be the designated  
22 representative-in-charge.

23 (k) The board may issue a temporary license, upon conditions  
24 and for periods of time as the board determines to be in the public  
25 interest. A temporary license fee shall be five hundred fifty dollars  
26 (\$550) or another amount established by the board not to exceed  
27 the annual fee for renewal of a license to compound injectable  
28 sterile drug products. When needed to protect public safety, a  
29 temporary license may be issued for a period not to exceed 180  
30 days, subject to terms and conditions that the board deems  
31 necessary. If the board determines that a temporary license was  
32 issued by mistake or denies the application for a permanent license,  
33 the temporary license shall terminate upon either personal service  
34 of the notice of termination upon the licenseholder or service by  
35 certified mail, return receipt requested, at the licenseholder's  
36 address of record with the board, whichever occurs first. Neither  
37 for purposes of retaining a temporary license, nor for purposes of  
38 any disciplinary or license denial proceeding before the board,  
39 shall the temporary licenseholder be deemed to have a vested  
40 property right or interest in the license.

1 (l) The registration fee shall be the fee specified in subdivision  
2 (f) of Section 4400.

3 ~~SEC. 60.~~

4 *SEC. 58.* Section 4174 of the Business and Professions Code  
5 is amended to read:

6 4174. Notwithstanding any other provision of law, a pharmacist  
7 may dispense drugs or devices upon the drug order of a nurse  
8 practitioner functioning pursuant to Section 2836.1 or a certified  
9 nurse-midwife functioning pursuant to Section 2746.51, a drug  
10 order of a physician assistant functioning pursuant to Section  
11 3502.1 or a naturopathic doctor functioning pursuant to Section  
12 3640.5, or the order of a pharmacist acting under Section 4052.1,  
13 4052.2, or 4052.3.

14 ~~SEC. 61.~~

15 *SEC. 59.* Section 4231 of the Business and Professions Code  
16 is amended to read:

17 4231. (a) The board shall not renew a pharmacist license unless  
18 the applicant submits proof satisfactory to the board that he or she  
19 has successfully completed 30 hours of approved courses of  
20 continuing pharmacy education during the two years preceding  
21 the application for renewal.

22 (b) Notwithstanding subdivision (a), the board shall not require  
23 completion of continuing education for the first renewal of a  
24 pharmacist license.

25 (c) If an applicant for renewal of a pharmacist license submits  
26 the renewal application and payment of the renewal fee but does  
27 not submit proof satisfactory to the board that the licensee has  
28 completed 30 hours of continuing pharmacy education, the board  
29 shall not renew the license and shall issue the applicant an inactive  
30 pharmacist license. A licensee with an inactive pharmacist license  
31 issued pursuant to this section may obtain an active pharmacist  
32 license by paying the renewal fees due and submitting satisfactory  
33 proof to the board that the licensee has completed 30 hours of  
34 continuing pharmacy education.

35 (d) If, as part of an investigation or audit conducted by the board,  
36 a pharmacist fails to provide documentation substantiating the  
37 completion of continuing education as required in subdivision (a),  
38 the board shall cancel the active pharmacist license and issue an  
39 inactive pharmacist license in its place. A licensee with an inactive  
40 pharmacist license issued pursuant to this section may obtain an

1 active pharmacist license by paying the renewal fees due and  
2 submitting satisfactory proof to the board that the licensee has  
3 completed 30 hours of continuing pharmacy education.

4 ~~SEC. 62.~~

5 *SEC. 60.* Section 4301 of the Business and Professions Code  
6 is amended to read:

7 4301. The board shall take action against any holder of a license  
8 who is guilty of unprofessional conduct or whose license has been  
9 procured by fraud or misrepresentation or issued by mistake.  
10 Unprofessional conduct shall include, but is not limited to, any of  
11 the following:

12 (a) Gross immorality.

13 (b) Incompetence.

14 (c) Gross negligence.

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

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

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

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

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

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

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

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

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

36 (m) The cash compromise of a charge of violation of Chapter  
37 13 (commencing with Section 801) of Title 21 of the United States  
38 Code regulating controlled substances or of Chapter 7  
39 (commencing with Section 14000) of Part 3 of Division 9 of the  
40 Welfare and Institutions Code relating to the Medi-Cal program.

1 The record of the compromise is conclusive evidence of  
2 unprofessional conduct.

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

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

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

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

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

22 (s) The clearly excessive furnishing of dangerous drugs by a  
23 wholesaler to a pharmacy that primarily or solely dispenses  
24 prescription drugs to patients of long-term care facilities. Factors  
25 to be considered in determining whether the furnishing of  
26 dangerous drugs is clearly excessive shall include, but not be  
27 limited to, the amount of dangerous drugs furnished to a pharmacy  
28 that primarily or solely dispenses prescription drugs to patients of  
29 long-term care facilities, the previous ordering pattern of the  
30 pharmacy, and the general patient population to whom the  
31 pharmacy distributes the dangerous drugs. That a wholesaler has  
32 established, and employs, a tracking system that complies with  
33 the requirements of subdivision (b) of Section 4164 shall be  
34 considered in determining whether there has been a violation of  
35 this subdivision. This provision shall not be interpreted to require  
36 a wholesaler to obtain personal medical information or be  
37 authorized to permit a wholesaler to have access to personal  
38 medical information except as otherwise authorized by Section 56  
39 and following of the Civil Code. For purposes of this section,

1 “long-term care facility” shall have the same meaning given the  
2 term in Section 1418 of the Health and Safety Code.

3 ~~SEC. 63.~~

4 *SEC. 61.* Section 4305 of the Business and Professions Code  
5 is amended to read:

6 4305. (a) Failure by any pharmacist to notify the board in  
7 writing that he or she has ceased to act as the pharmacist-in-charge  
8 of a pharmacy, or by any pharmacy to notify the board in writing  
9 that a pharmacist-in-charge is no longer acting in that capacity,  
10 within the 30-day period specified in Sections 4101 and 4113 shall  
11 constitute grounds for disciplinary action.

12 (b) Operation of a pharmacy for more than 30 days without  
13 supervision or management by a pharmacist-in-charge shall  
14 constitute grounds for disciplinary action.

15 (c) Any person who has obtained a license to conduct a  
16 pharmacy, who willfully fails to timely notify the board that the  
17 pharmacist-in-charge of the pharmacy has ceased to act in that  
18 capacity, and who continues to permit the compounding or  
19 dispensing of prescriptions, or the furnishing of drugs or poisons,  
20 in his or her pharmacy, except by a pharmacist subject to the  
21 supervision and management of a responsible pharmacist-in-charge,  
22 shall be subject to summary suspension or revocation of his or her  
23 license to conduct a pharmacy.

24 ~~SEC. 64.~~

25 *SEC. 62.* Section 4329 of the Business and Professions Code  
26 is amended to read:

27 4329. Any nonpharmacist who takes charge of or acts as  
28 supervisor, manager, or pharmacist-in-charge of any pharmacy,  
29 or who compounds or dispenses a prescription or furnishes  
30 dangerous drugs except as otherwise provided in this chapter, is  
31 guilty of a misdemeanor.

32 ~~SEC. 65.~~

33 *SEC. 63.* Section 4330 of the Business and Professions Code  
34 is amended to read:

35 4330. (a) Any person who has obtained a license to conduct  
36 a pharmacy, who fails to place in charge of the pharmacy a  
37 pharmacist, or any person, who by himself or herself, or by any  
38 other person, permits the compounding or dispensing of  
39 prescriptions, or the furnishing of dangerous drugs, in his or her

pharmacy, except by a pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.

(b) Any pharmacy owner who commits any act that would subvert or tend to subvert the efforts of the pharmacist-in-charge to comply with the laws governing the operation of the pharmacy is guilty of a misdemeanor.

~~SEC. 66.~~

SEC. 64. Section 4857 of the Business and Professions Code is amended to read:

4857. (a) A veterinarian licensed under the provisions of this chapter shall not disclose any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under any one of the following circumstances:

(1) Upon written or witnessed oral authorization by knowing and informed consent of the client responsible for the animal receiving services or an authorized agent of the client.

(2) Upon authorization received by electronic transmission when originated by the client responsible for the animal receiving services or an authorized agent of the client.

(3) In response to a valid court order or subpoena.

(4) As may be required to ensure compliance with any federal, state, county, or city law or regulation, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(5) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians or facilities for the purpose of diagnosis or treatment of the animal who is the subject of the medical records.

(6) As otherwise provided in this section.

(b) This section shall not apply to the extent that the client responsible for an animal or an authorized agent of the client responsible for the animal has filed or caused to be filed a civil or criminal complaint that places the veterinarian's care and treatment of the animal or the nature and extent of the injuries to the animal at issue, or when the veterinarian is acting to comply with federal, state, county, or city laws or regulations.

(c) A veterinarian shall be subject to the criminal penalties set forth in Section 4831 or any other provision of this code for a

1 violation of this section. In addition, any veterinarian who  
2 negligently releases confidential information shall be liable in a  
3 civil action for any damages caused by the release of that  
4 information.

5 (d) Nothing in this section is intended to prevent the sharing of  
6 veterinary medical information between veterinarians and peace  
7 officers, humane society officers, or animal control officers who  
8 are acting to protect the welfare of animals.

9 ~~SEC. 67.~~

10 *SEC. 65.* Section 4980.04 is added to the Business and  
11 Professions Code, to read:

12 4980.04. This chapter shall be known and may be cited as the  
13 Marriage and Family Therapist Act.

14 ~~SEC. 68.~~

15 *SEC. 66.* Section 4980.30 of the Business and Professions Code  
16 is amended to read:

17 4980.30. Except as otherwise provided herein, a person desiring  
18 to practice and to advertise the performance of marriage and family  
19 therapy services shall apply to the board for a license, pay the  
20 license fee required by this chapter, and obtain a license from the  
21 board.

22 ~~SEC. 69.~~

23 *SEC. 67.* Section 4980.43 of the Business and Professions Code  
24 is amended to read:

25 4980.43. (a) Prior to applying for licensure examinations, each  
26 applicant shall complete experience that shall comply with the  
27 following:

28 (1) A minimum of 3,000 hours completed during a period of at  
29 least 104 weeks.

30 (2) Not more than 40 hours in any seven consecutive days.

31 (3) Not less than 1,700 hours of supervised experience  
32 completed subsequent to the granting of the qualifying master's  
33 or doctor's degree.

34 (4) Not more than 1,300 hours of experience obtained prior to  
35 completing a master's or doctor's degree. This experience shall  
36 be composed as follows:

37 (A) Not more than 750 hours of counseling and direct supervisor  
38 contact.

1 (B) Not more than 250 hours of professional enrichment  
2 activities, excluding personal psychotherapy as described in  
3 paragraph (2) of subdivision (I).

4 (C) Not more than 100 hours of personal psychotherapy as  
5 described in paragraph (2) of subdivision (I). The applicant shall  
6 be credited for three hours of experience for each hour of personal  
7 psychotherapy.

8 (5) No hours of experience may be gained prior to completing  
9 either 12 semester units or 18 quarter units of graduate instruction  
10 and becoming a trainee except for personal psychotherapy.

11 (6) No hours of experience gained more than six years prior to  
12 the date the application for examination eligibility was filed, except  
13 that up to 500 hours of clinical experience gained in the supervised  
14 practicum required by subdivision (b) of Section 4980.40 shall be  
15 exempt from this six-year requirement.

16 (7) Not more than a total of 1,000 hours of experience for direct  
17 supervisor contact and professional enrichment activities.

18 (8) Not more than 500 hours of experience providing group  
19 therapy or group counseling.

20 (9) Not more than 250 hours of postdegree experience  
21 administering and evaluating psychological tests of counselees,  
22 writing clinical reports, writing progress notes, or writing process  
23 notes.

24 (10) Not more than 250 hours of experience providing  
25 counseling or crisis counseling on the telephone.

26 (11) Not less than 500 total hours of experience in diagnosing  
27 and treating couples, families, and children.

28 (12) Not more than 125 hours of experience providing personal  
29 psychotherapy services via telemedicine in accordance with Section  
30 2290.5.

31 (b) All applicants, trainees, and registrants shall be at all times  
32 under the supervision of a supervisor who shall be responsible for  
33 ensuring that the extent, kind, and quality of counseling performed  
34 is consistent with the training and experience of the person being  
35 supervised, and who shall be responsible to the board for  
36 compliance with all laws, rules, and regulations governing the  
37 practice of marriage and family therapy. Supervised experience  
38 shall be gained by interns and trainees either as an employee or as  
39 a volunteer. The requirements of this chapter regarding gaining  
40 hours of experience and supervision are applicable equally to

1 employees and volunteers. Experience shall not be gained by  
2 interns or trainees as an independent contractor.

3 (c) Supervision shall include at least one hour of direct  
4 supervisor contact in each week for which experience is credited  
5 in each work setting, as specified:

6 (1) A trainee shall receive an average of at least one hour of  
7 direct supervisor contact for every five hours of client contact in  
8 each setting.

9 (2) Each individual supervised after being granted a qualifying  
10 degree shall receive an average of at least one hour of direct  
11 supervisor contact for every 10 hours of client contact in each  
12 setting in which experience is gained.

13 (3) For purposes of this section, “one hour of direct supervisor  
14 contact” means one hour of face-to-face contact on an individual  
15 basis or two hours of face-to-face contact in a group of not more  
16 than eight persons.

17 (4) All experience gained by a trainee shall be monitored by the  
18 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios  
19 specified in this subdivision shall be applicable to all hours gained  
20 on or after January 1, 1995.

21 (d) (1) A trainee may be credited with supervised experience  
22 completed in any setting that meets all of the following:

23 (A) Lawfully and regularly provides mental health counseling  
24 or psychotherapy.

25 (B) Provides oversight to ensure that the trainee’s work at the  
26 setting meets the experience and supervision requirements set forth  
27 in this chapter and is within the scope of practice for the profession  
28 as defined in Section 4980.02.

29 (C) Is not a private practice owned by a licensed marriage and  
30 family therapist, a licensed psychologist, a licensed clinical social  
31 worker, a licensed physician and surgeon, or a professional  
32 corporation of any of those licensed professions.

33 (2) Experience may be gained by the trainee solely as part of  
34 the position for which the trainee volunteers or is employed.

35 (e) (1) An intern may be credited with supervised experience  
36 completed in any setting that meets both of the following:

37 (A) Lawfully and regularly provides mental health counseling  
38 or psychotherapy.

39 (B) Provides oversight to ensure that the intern’s work at the  
40 setting meets the experience and supervision requirements set forth

1 in this chapter and is within the scope of practice for the profession  
2 as defined in Section 4980.02.

3 (2) An applicant shall not be employed or volunteer in a private  
4 practice, as defined in subparagraph (C) of paragraph (1) of  
5 subdivision (d), until registered as an intern.

6 (3) While an intern may be either a paid employee or a  
7 volunteer, employers are encouraged to provide fair remuneration  
8 to interns.

9 (4) Except for periods of time during a supervisor's vacation or  
10 sick leave, an intern who is employed or volunteering in private  
11 practice shall be under the direct supervision of a licensee that has  
12 satisfied the requirements of subdivision (g) of Section 4980.03.  
13 The supervising licensee shall either be employed by and practice  
14 at the same site as the intern's employer, or shall be an owner or  
15 shareholder of the private practice. Alternative supervision may  
16 be arranged during a supervisor's vacation or sick leave if the  
17 supervision meets the requirements of this section.

18 (5) Experience may be gained by the intern solely as part of the  
19 position for which the intern volunteers or is employed.

20 (f) Except as provided in subdivision (g), all persons shall  
21 register with the board as an intern in order to be credited for  
22 postdegree hours of supervised experience gained toward licensure.

23 (g) Except when employed in a private practice setting, all  
24 postdegree hours of experience shall be credited toward licensure  
25 so long as the applicant applies for the intern registration within  
26 90 days of the granting of the qualifying master's or doctor's  
27 degree and is thereafter granted the intern registration by the board.

28 (h) Trainees, interns, and applicants shall not receive any  
29 remuneration from patients or clients, and shall only be paid by  
30 their employers.

31 (i) Trainees, interns, and applicants shall only perform services  
32 at the place where their employers regularly conduct business,  
33 which may include performing services at other locations, so long  
34 as the services are performed under the direction and control of  
35 their employer and supervisor, and in compliance with the laws  
36 and regulations pertaining to supervision. Trainees and interns  
37 shall have no proprietary interest in their employers' businesses  
38 and shall not lease or rent space, pay for furnishings, equipment  
39 or supplies, or in any other way pay for the obligations of their  
40 employers.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

(l) For purposes of this chapter, “professional enrichment activities” includes the following:

(1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant’s supervisor.

(2) Participation by the applicant in personal psychotherapy which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

~~SEC. 70.~~

*SEC. 68.* Section 4981 of the Business and Professions Code is repealed.

~~SEC. 71.~~

*SEC. 69.* Section 4990.09 is added to the Business and Professions Code, to read:

4990.09. The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee or registrant pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

1     ~~SEC. 72.~~

2     ~~SEC. 70.~~ Section 4994.1 of the Business and Professions Code  
3 is repealed.

4     ~~SEC. 73.~~

5     ~~SEC. 71.~~ Section 4996.2 of the Business and Professions Code  
6 is amended to read:

7     4996.2. Each applicant shall furnish evidence satisfactory to  
8 the board that he or she complies with all of the following  
9 requirements:

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

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

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

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

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

26     (f) Has completed instruction and training in spousal or partner  
27 abuse assessment, detection, and intervention. This requirement  
28 applies to an applicant who began graduate training during the  
29 period commencing on January 1, 1995, and ending on December  
30 31, 2003. An applicant who began graduate training on or after  
31 January 1, 2004, shall complete a minimum of 15 contact hours  
32 of coursework in spousal or partner abuse assessment, detection,  
33 and intervention strategies, including knowledge of community  
34 resources, cultural factors, and same gender abuse dynamics.  
35 Coursework required under this subdivision may be satisfactory  
36 if taken either in fulfillment of other educational requirements for  
37 licensure or in a separate course. This requirement for coursework  
38 shall be satisfied by, and the board shall accept in satisfaction of  
39 the requirement, a certification from the chief academic officer of  
40 the educational institution from which the applicant graduated that

1 the required coursework is included within the institution's required  
2 curriculum for graduation.

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

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

14 ~~SEC. 74.~~

15 *SEC. 72.* Section 4996.17 of the Business and Professions Code  
16 is amended to read:

17 4996.17. (a) Experience gained outside of California shall be  
18 accepted toward the licensure requirements if it is substantially  
19 the equivalent of the requirements of this chapter.

20 (b) The board may issue a license to any person who, at the time  
21 of application, holds a valid active clinical social work license  
22 issued by a board of clinical social work examiners or  
23 corresponding authority of any state, if the person passes the board  
24 administered licensing examinations as specified in Section 4996.1  
25 and pays the required fees. Issuance of the license is conditioned  
26 upon all of the following:

27 (1) The applicant has supervised experience that is substantially  
28 the equivalent of that required by this chapter. If the applicant has  
29 less than 3,200 hours of qualifying supervised experience, time  
30 actively licensed as a clinical social worker shall be accepted at a  
31 rate of 100 hours per month up to a maximum of 1,200 hours.

32 (2) Completion of the following coursework or training in or  
33 out of this state:

34 (A) A minimum of seven contact hours of training or coursework  
35 in child abuse assessment and reporting as specified in Section 28,  
36 and any regulations promulgated thereunder.

37 (B) A minimum of 10 contact hours of training or coursework  
38 in human sexuality as specified in Section 25, and any regulations  
39 promulgated thereunder.

1 (C) A minimum of 15 contact hours of training or coursework  
2 in alcoholism and other chemical substance dependency, as  
3 specified by regulation.

4 (D) A minimum of 15 contact hours of coursework or training  
5 in spousal or partner abuse assessment, detection, and intervention  
6 strategies.

7 (3) The applicant's license is not suspended, revoked, restricted,  
8 sanctioned, or voluntarily surrendered in any state.

9 (4) The applicant is not currently under investigation in any  
10 other state, and has not been charged with an offense for any act  
11 substantially related to the practice of social work by any public  
12 agency, entered into any consent agreement or been subject to an  
13 administrative decision that contains conditions placed by an  
14 agency upon an applicant's professional conduct or practice,  
15 including any voluntary surrender of license, or been the subject  
16 of an adverse judgment resulting from the practice of social work  
17 that the board determines constitutes evidence of a pattern of  
18 incompetence or negligence.

19 (5) The applicant shall provide a certification from each state  
20 where he or she holds a license pertaining to licensure, disciplinary  
21 action, and complaints pending.

22 (6) The applicant is not subject to denial of licensure under  
23 Section 480, 4992.3, 4992.35, or 4992.36.

24 (c) The board may issue a license to any person who, at the time  
25 of application, has held a valid, active clinical social work license  
26 for a minimum of four years, issued by a board of clinical social  
27 work examiners or a corresponding authority of any state, if the  
28 person passes the board administered licensing examinations as  
29 specified in Section 4996.1 and pays the required fees. Issuance  
30 of the license is conditioned upon all of the following:

31 (1) Completion of the following coursework or training in or  
32 out of state:

33 (A) A minimum of seven contact hours of training or coursework  
34 in child abuse assessment and reporting as specified in Section 28,  
35 and any regulations promulgated thereunder.

36 (B) A minimum of 10 contact hours of training or coursework  
37 in human sexuality as specified in Section 25, and any regulations  
38 promulgated thereunder.

1 (C) A minimum of 15 contact hours of training or coursework  
2 in alcoholism and other chemical substance dependency, as  
3 specified by regulation.

4 (D) A minimum of 15 contact hours of coursework or training  
5 in spousal or partner abuse assessment, detection, and intervention  
6 strategies.

7 (2) The applicant has been licensed as a clinical social worker  
8 continuously for a minimum of four years prior to the date of  
9 application.

10 (3) The applicant's license is not suspended, revoked, restricted,  
11 sanctioned, or voluntarily surrendered in any state.

12 (4) The applicant is not currently under investigation in any  
13 other state, and has not been charged with an offense for any act  
14 substantially related to the practice of social work by any public  
15 agency, entered into any consent agreement or been subject to an  
16 administrative decision that contains conditions placed by an  
17 agency upon an applicant's professional conduct or practice,  
18 including any voluntary surrender of license, or been the subject  
19 of an adverse judgment resulting from the practice of social work  
20 that the board determines constitutes evidence of a pattern of  
21 incompetence or negligence.

22 (5) The applicant provides a certification from each state where  
23 he or she holds a license pertaining to licensure, disciplinary action,  
24 and complaints pending.

25 (6) The applicant is not subject to denial of licensure under  
26 Section 480, 4992.3, 4992.35, or 4992.36.

27 ~~SEC. 75.~~

28 *SEC. 73.* Section 4996.18 of the Business and Professions Code  
29 is amended to read:

30 4996.18. (a) A person who wishes to be credited with  
31 experience toward licensure requirements shall register with the  
32 board as an associate clinical social worker prior to obtaining that  
33 experience. The application shall be made on a form prescribed  
34 by the board.

35 (b) An applicant for registration shall satisfy the following  
36 requirements:

37 (1) Possess a master's degree from an accredited school or  
38 department of social work.

39 (2) Have committed no crimes or acts constituting grounds for  
40 denial of licensure under Section 480.

1 (c) An applicant who possesses a master's degree from a school  
2 or department of social work that is a candidate for accreditation  
3 by the Commission on Accreditation of the Council on Social  
4 Work Education shall be eligible, and shall be required, to register  
5 as an associate clinical social worker in order to gain experience  
6 toward licensure if the applicant has not committed any crimes or  
7 acts that constitute grounds for denial of licensure under Section  
8 480. That applicant shall not, however, be eligible for examination  
9 until the school or department of social work has received  
10 accreditation by the Commission on Accreditation of the Council  
11 on Social Work Education.

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

19 (e) An applicant who possesses a master's degree from an  
20 accredited school or department of social work shall be able to  
21 apply experience the applicant obtained during the time the  
22 accredited school or department was in candidacy status by the  
23 Commission on Accreditation of the Council on Social Work  
24 Education toward the licensure requirements, if the experience  
25 meets the requirements of Section 4996.23. This subdivision shall  
26 apply retroactively to persons who possess a master's degree from  
27 an accredited school or department of social work and who  
28 obtained experience during the time the accredited school or  
29 department was in candidacy status by the Commission on  
30 Accreditation of the Council on Social Work Education.

31 (f) An applicant for registration or licensure trained in an  
32 educational institution outside the United States shall demonstrate  
33 to the satisfaction of the board that he or she possesses a master's  
34 of social work degree that is equivalent to a master's degree issued  
35 from a school or department of social work that is accredited by  
36 the Commission on Accreditation of the Council on Social Work  
37 Education. These applicants shall provide the board with a  
38 comprehensive evaluation of the degree and shall provide any  
39 other documentation the board deems necessary. The board has  
40 the authority to make the final determination as to whether a degree

1 meets all requirements, including, but not limited to, course  
2 requirements regardless of evaluation or accreditation.

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

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

9 ~~SEC. 76.~~

10 ~~SEC. 74.~~ Section 4996.20 of the Business and Professions Code  
11 is repealed.

12 ~~SEC. 77.~~

13 ~~SEC. 75.~~ Section 4996.21 of the Business and Professions Code  
14 is repealed.

15 ~~SEC. 78.~~

16 ~~SEC. 76.~~ Section 5515.5 is added to the Business and  
17 Professions Code, to read:

18 5515.5. (a) Notwithstanding Section 5515, the following  
19 provisions shall apply:

20 (1) Of the architect members of the board appointed by the  
21 Governor whose terms commence on July 1, 2009, the term of two  
22 members shall expire on June 30, 2013, and the term of one  
23 member shall expire on June 30, 2015.

24 (2) Of the architect members of the board appointed by the  
25 Governor whose terms commence on July 1, 2010, one member's  
26 term shall expire on June 30, 2014, and one member's term shall  
27 expire on June 30, 2016.

28 (3) The term of the public member of the board appointed by  
29 the Governor whose term commences on July 1, 2010, shall expire  
30 on June 30, 2015.

31 (4) Of the public members of the board appointed by the  
32 Governor whose terms commence on July 1, 2012, one member's  
33 term shall expire on June 30, 2016, and one member's term shall  
34 expire on June 30, 2017.

35 (b) Except as provided in subdivision (a), this section shall not  
36 be construed to affect the application of Section 5515 to the terms  
37 of any current or future members of the board.

38 ~~SEC. 79.~~

39 ~~SEC. 77.~~ Section 5801 of the Business and Professions Code  
40 is amended to read:

5801. A certified interior designer may obtain a stamp from an interior design organization that shall include a number that uniquely identifies and bears the name of that certified interior designer. The stamp certifies that the interior designer has provided the interior design organization with evidence of passage of an interior design examination approved by that interior design organization and any of the following:

(a) He or she is a graduate of a four- or five-year accredited interior design degree program, and has two years of diversified interior design experience.

(b) He or she has completed a three-year accredited interior design certificate program, and has completed three years of diversified interior design experience.

(c) He or she has completed a two-year accredited interior design program and has completed four years of diversified interior design experience.

(d) He or she has at least eight years of interior design education, or at least eight years of diversified interior design experience, or a combination of interior design education and diversified interior design experience that together total at least eight years.

~~SEC. 80.~~

*SEC. 78.* Section 6534 of the Business and Professions Code is amended to read:

6534. (a) The bureau shall maintain the following information in each licensee's file, shall make this information available to a court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the licensee as a conservator, guardian, trustee, or personal representative, and shall otherwise keep this information confidential, except as provided in subdivisions (b) and (c) of this section:

(1) The names of the licensee's current conservatees or wards and the trusts or estates currently administered by the licensee.

(2) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(3) The licensee's current addresses and telephone numbers for his or her place of business and place of residence.

(4) Whether the licensee has ever been removed for cause as a conservator, guardian, trustee, personal representative or has ever resigned as a conservator, guardian, trustee, or personal

1 representative in a specific case, the circumstances causing that  
2 removal or resignation, and the case names, court locations, and  
3 case numbers associated with the removal or resignation.

4 (5) The case names, court locations, and case numbers of all  
5 conservatorship, guardianship, or trust or other estate  
6 administration cases that are closed for which the licensee served  
7 as the conservator, guardian, trustee, or personal representative.

8 (6) Information regarding any discipline imposed upon the  
9 licensee by the bureau.

10 (7) Whether the licensee has filed for bankruptcy or held a  
11 controlling financial interest in a business that filed for bankruptcy  
12 in the last 10 years.

13 (b) The bureau shall make the information in paragraphs (2),  
14 (4), (6), and (7) of subdivision (a) available to the public.

15 (c) The bureau shall also publish information regarding licensees  
16 on the Internet as specified in Section 27. The information shall  
17 include, but shall not be limited to, information regarding license  
18 status and the information specified under subdivision (b).

19 ~~SEC. 81.~~

20 *SEC. 79.* Section 6536 of the Business and Professions Code  
21 is amended to read:

22 6536. The bureau shall review all applications for licensure  
23 and may investigate an applicant's qualifications for licensure.  
24 The bureau shall approve those applications that meet the  
25 requirements for licensure, but shall not issue a license to any  
26 applicant who meets any of the following criteria:

27 (a) Does not meet the qualifications for licensure under this  
28 chapter.

29 (b) Has been convicted of a crime substantially related to the  
30 qualifications, functions, or duties of a fiduciary.

31 (c) Has engaged in fraud or deceit in applying for a license under  
32 this chapter.

33 (d) Has engaged in dishonesty, fraud, or gross negligence in  
34 performing the functions or duties of a fiduciary, including  
35 engaging in such conduct prior to January 1, 2009.

36 (e) Has been removed as a fiduciary by a court for breach of  
37 trust committed intentionally, with gross negligence, in bad faith,  
38 or with reckless indifference, or has demonstrated a pattern of  
39 negligent conduct, including a removal prior to January 1, 2009,

1 and all appeals have been taken, or the time to file an appeal has  
2 expired.

3 ~~SEC. 82.~~

4 *SEC. 80.* Section 6561 of the Business and Professions Code  
5 is amended to read:

6 6561. (a) A licensee shall initially, and annually thereafter,  
7 file with the bureau a statement under penalty of perjury containing  
8 the following:

9 (1) Her or his business address, telephone number, and facsimile  
10 number.

11 (2) Whether or not he or she has been removed as a conservator,  
12 guardian, trustee, or personal representative for cause. The licensee  
13 may file an additional statement of the issues and facts pertaining  
14 to the case.

15 (3) The case names, court locations, and case numbers for all  
16 matters where the licensee has been appointed by the court.

17 (4) Whether he or she has been found by a court to have  
18 breached a fiduciary duty.

19 (5) Whether he or she has resigned or settled a matter in which  
20 a complaint has been filed, along with the case number and a  
21 statement of the issues and facts pertaining to the allegations.

22 (6) Any licenses or professional certificates held by the licensee.

23 (7) Any ownership or beneficial interests in any businesses or  
24 other enterprises held by the licensee or by a family member that  
25 receives or has received payments from a client of the licensee.

26 (8) Whether the licensee has filed for bankruptcy or held a  
27 controlling financial interest in a business that filed for bankruptcy  
28 in the last ten years.

29 (9) The name of any persons or entities that have an interest in  
30 the licensee's professional fiduciary business.

31 (10) Whether the licensee has been convicted of a crime.

32 (b) The statement by the licensee required by this section may  
33 be filed electronically with the bureau, in a form approved by the  
34 bureau. However, any additional statement filed under paragraph  
35 (2) of subdivision (a) shall be filed in writing.

36 ~~SEC. 83.~~

37 *SEC. 81.* Section 6761 of the Business and Professions Code  
38 is repealed.

1     ~~SEC. 84.~~

2     *SEC. 82.* Section 7616 of the Business and Professions Code  
3 is amended to read:

4     7616. (a) A licensed funeral establishment is a place of  
5 business conducted in a building or separate portion of a building  
6 having a specific street address or location and devoted exclusively  
7 to those activities as are incident, convenient, or related to the  
8 preparation and arrangements, financial and otherwise, for the  
9 funeral, transportation, burial or other disposition of human remains  
10 and including, but not limited to, either of the following:

11     (1) A suitable room for the storage of human remains.

12     (2) A preparation room equipped with a sanitary flooring and  
13 necessary drainage and ventilation and containing necessary  
14 instruments and supplies for the preparation, sanitation, or  
15 embalming of human remains for burial or transportation.

16     (b) Licensed funeral establishments under common ownership  
17 or by contractual agreement within close geographical proximity  
18 of each other shall be deemed to be in compliance with the  
19 requirements of paragraph (1) or (2) of subdivision (a) if at least  
20 one of the establishments has a room described in those paragraphs.

21     (c) Except as provided in Section 7609, and except accredited  
22 embalming schools and colleges engaged in teaching students the  
23 art of embalming, no person shall operate or maintain or hold  
24 himself or herself out as operating or maintaining any of the  
25 facilities specified in paragraph (2) of subdivision (a), unless he  
26 or she is licensed as a funeral director.

27     (d) Nothing in this section shall be construed to require a funeral  
28 establishment to conduct its business or financial transactions at  
29 the same location as its preparation or storage of human remains.

30     (e) Nothing in this chapter shall be deemed to render unlawful  
31 the conduct of any ambulance service from the same premises as  
32 those on which a licensed funeral establishment is conducted,  
33 including the maintenance in connection with the funeral  
34 establishment of garages for the ambulances and living quarters  
35 for ambulance drivers.

36     ~~SEC. 85.~~

37     *SEC. 83.* Section 7629 of the Business and Professions Code  
38 is amended to read:

39     7629. No funeral establishment shall be conducted or held forth  
40 as being conducted or advertised as being conducted under any

1 name which might tend to mislead the public or which would be  
2 sufficiently like the name of any other licensed funeral  
3 establishment so as to constitute an unfair method of competition.

4 Any funeral director desiring to change the name appearing on  
5 his or her license may do so by applying to the bureau and paying  
6 the fee fixed by this chapter.

7 ~~SEC. 86.~~

8 *SEC. 84.* Section 8740 of the Business and Professions Code  
9 is amended to read:

10 8740. (a) An application for each division of the examination  
11 for a license as a land surveyor shall be made to the board on the  
12 form prescribed by it, with all statements therein made under oath,  
13 and shall be accompanied by the application fee fixed by this  
14 chapter.

15 (b) The board may authorize an organization specified by the  
16 board pursuant to Section 8745 to receive directly from applicants  
17 payment of the examination fees charged by that organization as  
18 payment for examination materials and services.

19 ~~SEC. 87.~~

20 *SEC. 85.* Section 8746 of the Business and Professions Code  
21 is amended to read:

22 8746. An applicant failing on examination, upon the payment  
23 of another application fee, may be examined again.

24 ~~SEC. 88.~~

25 *SEC. 86.* Section 9855.15 is added to the Business and  
26 Professions Code, to read:

27 9855.15. (a) Notwithstanding any other provision of law, a  
28 violation of Section 9855.1 is an infraction subject to the  
29 procedures described in Sections 19.6 and 19.7 of the Penal Code  
30 when either of the following applies:

31 (1) A complaint or a written notice to appear in court pursuant  
32 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part  
33 2 of the Penal Code is filed in court charging the offense as an  
34 infraction unless the defendant, at the time he or she is arraigned,  
35 after being advised of his or her rights, elects to have the case  
36 proceed as a misdemeanor.

37 (2) The court, with the consent of the defendant and the  
38 prosecution, determines that the offense is an infraction in which  
39 event the case shall proceed as if the defendant has been arraigned  
40 on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of Section 9855.1 if the defendant has had his or her registration previously revoked or suspended.

(c) Notwithstanding any other provision of law, a violation of Section 9855.1, which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid registration to act as a service contractor the absence of which was the basis for his or her conviction.

~~SEC. 89.~~

*SEC. 87.* Section 8659 of the Government Code is amended to read:

8659. Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, respiratory care practitioner, nurse, or dentist who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

~~SEC. 90.~~

*SEC. 88.* Section 8778.5 of the Health and Safety Code is amended to read:

8778.5. Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

(a) (1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.

(2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.

(3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the cemetery authority is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay the entire trust corpus and all earned income to the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 9725) of Chapter 19 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars (\$500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

~~SEC. 91.~~

*SEC. 89.* Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within the scope of either Section 4052.1 or 4052.2 of the Business and Professions Code, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of Section 3640.5 of the Business and Professions Code, or an optometrist acting within

1 the scope of Section 3041 of the Business and Professions Code,  
2 or an out-of-state prescriber acting pursuant to Section 4005 of the  
3 Business and Professions Code shall write or issue a prescription.

4 ~~SEC. 92.~~

5 *SEC. 90.* Section 11165 of the Health and Safety Code is  
6 amended to read:

7 11165. (a) To assist law enforcement and regulatory agencies  
8 in their efforts to control the diversion and resultant abuse of  
9 Schedule II, Schedule III, and Schedule IV controlled substances,  
10 and for statistical analysis, education, and research, the Department  
11 of Justice shall, contingent upon the availability of adequate funds  
12 from the Contingent Fund of the Medical Board of California, the  
13 Pharmacy Board Contingent Fund, the State Dentistry Fund, the  
14 Board of Registered Nursing Fund, and the Osteopathic Medical  
15 Board of California Contingent Fund, maintain the Controlled  
16 Substance Utilization Review and Evaluation System (CURES)  
17 for the electronic monitoring of the prescribing and dispensing of  
18 Schedule II, Schedule III, and Schedule IV controlled substances  
19 by all practitioners authorized to prescribe or dispense these  
20 controlled substances.

21 (b) The reporting of Schedule III and Schedule IV controlled  
22 substance prescriptions to CURES shall be contingent upon the  
23 availability of adequate funds from the Department of Justice. The  
24 Department of Justice may seek and use grant funds to pay the  
25 costs incurred from the reporting of controlled substance  
26 prescriptions to CURES. Funds shall not be appropriated from the  
27 Contingent Fund of the Medical Board of California, the Pharmacy  
28 Board Contingent Fund, the State Dentistry Fund, the Board of  
29 Registered Nursing Fund, the Naturopathic Doctor's Fund, or the  
30 Osteopathic Medical Board of California Contingent Fund to pay  
31 the costs of reporting Schedule III and Schedule IV controlled  
32 substance prescriptions to CURES.

33 (c) CURES shall operate under existing provisions of law to  
34 safeguard the privacy and confidentiality of patients. Data obtained  
35 from CURES shall only be provided to appropriate state, local,  
36 and federal persons or public agencies for disciplinary, civil, or  
37 criminal purposes and to other agencies or entities, as determined  
38 by the Department of Justice, for the purpose of educating  
39 practitioners and others in lieu of disciplinary, civil, or criminal  
40 actions. Data may be provided to public or private entities, as

1 approved by the Department of Justice, for educational, peer  
2 review, statistical, or research purposes, provided that patient  
3 information, including any information that may identify the  
4 patient, is not compromised. Further, data disclosed to any  
5 individual or agency as described in this subdivision shall not be  
6 disclosed, sold, or transferred to any third party.

7 (d) For each prescription for a Schedule II, Schedule III, or  
8 Schedule IV controlled substance, the dispensing pharmacy or  
9 clinic shall provide the following information to the Department  
10 of Justice on a weekly basis and in a format specified by the  
11 Department of Justice:

12 (1) Full name, address, and the telephone number of the ultimate  
13 user or research subject, or contact information as determined by  
14 the Secretary of the United States Department of Health and Human  
15 Services, and the gender, and date of birth of the ultimate user.

16 (2) The prescriber's category of licensure and license number;  
17 federal controlled substance registration number; and the state  
18 medical license number of any prescriber using the federal  
19 controlled substance registration number of a government-exempt  
20 facility.

21 (3) Pharmacy prescription number, license number, and federal  
22 controlled substance registration number.

23 (4) NDC (National Drug Code) number of the controlled  
24 substance dispensed.

25 (5) Quantity of the controlled substance dispensed.

26 (6) ICD-9 (diagnosis code), if available.

27 (7) Number of refills ordered.

28 (8) Whether the drug was dispensed as a refill of a prescription  
29 or as a first-time request.

30 (9) Date of origin of the prescription.

31 (10) Date of dispensing of the prescription.

32 (e) This section shall become operative on January 1, 2005.

33 ~~SEC. 93.~~

34 *SEC. 91.* Section 14132.100 of the Welfare and Institutions  
35 Code is amended to read:

36 14132.100. (a) The federally qualified health center services  
37 described in Section 1396d(a)(2)(C) of Title 42 of the United States  
38 Code are covered benefits.

1 (b) The rural health clinic services described in Section  
2 1396d(a)(2)(B) of Title 42 of the United States Code are covered  
3 benefits.

4 (c) Federally qualified health center services and rural health  
5 clinic services shall be reimbursed on a per-visit basis in  
6 accordance with the definition of “visit” set forth in subdivision  
7 (g).

8 (d) Effective October 1, 2004, and on each October 1, thereafter,  
9 until no longer required by federal law, federally qualified health  
10 center (FQHC) and rural health clinic (RHC) per-visit rates shall  
11 be increased by the Medicare Economic Index applicable to  
12 primary care services in the manner provided for in Section  
13 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to  
14 January 1, 2004, FQHC and RHC per-visit rates shall be adjusted  
15 by the Medicare Economic Index in accordance with the  
16 methodology set forth in the state plan in effect on October 1,  
17 2001.

18 (e) (1) An FQHC or RHC may apply for an adjustment to its  
19 per-visit rate based on a change in the scope of services provided  
20 by the FQHC or RHC. Rate changes based on a change in the  
21 scope of services provided by an FQHC or RHC shall be evaluated  
22 in accordance with Medicare reasonable cost principles, as set  
23 forth in Part 413 (commencing with Section 413.1) of Title 42 of  
24 the Code of Federal Regulations, or its successor.

25 (2) Subject to the conditions set forth in subparagraphs (A) to  
26 (D), inclusive, of paragraph (3), a change in scope of service means  
27 any of the following:

28 (A) The addition of a new FQHC or RHC service that is not  
29 incorporated in the baseline prospective payment system (PPS)  
30 rate, or a deletion of an FQHC or RHC service that is incorporated  
31 in the baseline PPS rate.

32 (B) A change in service due to amended regulatory requirements  
33 or rules.

34 (C) A change in service resulting from relocating or remodeling  
35 an FQHC or RHC.

36 (D) A change in types of services due to a change in applicable  
37 technology and medical practice utilized by the center or clinic.

38 (E) An increase in service intensity attributable to changes in  
39 the types of patients served, including, but not limited to,

1 populations with HIV or AIDS, or other chronic diseases, or  
2 homeless, elderly, migrant, or other special populations.

3 (F) Any changes in any of the services described in subdivision  
4 (a) or (b), or in the provider mix of an FQHC or RHC or one of  
5 its sites.

6 (G) Changes in operating costs attributable to capital  
7 expenditures associated with a modification of the scope of any  
8 of the services described in subdivision (a) or (b), including new  
9 or expanded service facilities, regulatory compliance, or changes  
10 in technology or medical practices at the center or clinic.

11 (H) Indirect medical education adjustments and a direct graduate  
12 medical education payment that reflects the costs of providing  
13 teaching services to interns and residents.

14 (I) Any changes in the scope of a project approved by the federal  
15 Health Resources and Service Administration (HRSA).

16 (3) No change in costs shall, in and of itself, be considered a  
17 scope-of-service change unless all of the following apply:

18 (A) The increase or decrease in cost is attributable to an increase  
19 or decrease in the scope of services defined in subdivisions (a) and  
20 (b), as applicable.

21 (B) The cost is allowable under Medicare reasonable cost  
22 principles set forth in Part 413 (commencing with Section 413) of  
23 Subchapter B of Chapter 4 of Title 42 of the Code of Federal  
24 Regulations, or its successor.

25 (C) The change in the scope of services is a change in the type,  
26 intensity, duration, or amount of services, or any combination  
27 thereof.

28 (D) The net change in the FQHC's or RHC's rate equals or  
29 exceeds 1.75 percent for the affected FQHC or RHC site. For  
30 FQHCs and RHCs that filed consolidated cost reports for multiple  
31 sites to establish the initial prospective payment reimbursement  
32 rate, the 1.75-percent threshold shall be applied to the average  
33 per-visit rate of all sites for the purposes of calculating the cost  
34 associated with a scope-of-service change. "Net change" means  
35 the per-visit rate change attributable to the cumulative effect of all  
36 increases and decreases for a particular fiscal year.

37 (4) An FQHC or RHC may submit requests for scope-of-service  
38 changes once per fiscal year, only within 90 days following the  
39 beginning of the FQHC's or RHC's fiscal year. Any approved  
40 increase or decrease in the provider's rate shall be retroactive to

1 the beginning of the FQHC's or RHC's fiscal year in which the  
2 request is submitted.

3 (5) An FQHC or RHC shall submit a scope-of-service rate  
4 change request within 90 days of the beginning of any FQHC or  
5 RHC fiscal year occurring after the effective date of this section,  
6 if, during the FQHC's or RHC's prior fiscal year, the FQHC or  
7 RHC experienced a decrease in the scope of services provided that  
8 the FQHC or RHC either knew or should have known would have  
9 resulted in a significantly lower per-visit rate. If an FQHC or RHC  
10 discontinues providing onsite pharmacy or dental services, it shall  
11 submit a scope-of-service rate change request within 90 days of  
12 the beginning of the following fiscal year. The rate change shall  
13 be effective as provided for in paragraph (4). As used in this  
14 paragraph, "significantly lower" means an average per-visit rate  
15 decrease in excess of 2.5 percent.

16 (6) Notwithstanding paragraph (4), if the approved  
17 scope-of-service change or changes were initially implemented  
18 on or after the first day of an FQHC's or RHC's fiscal year ending  
19 in calendar year 2001, but before the adoption and issuance of  
20 written instructions for applying for a scope-of-service change,  
21 the adjusted reimbursement rate for that scope-of-service change  
22 shall be made retroactive to the date the scope-of-service change  
23 was initially implemented. Scope-of-service changes under this  
24 paragraph shall be required to be submitted within the later of 150  
25 days after the adoption and issuance of the written instructions by  
26 the department, or 150 days after the end of the FQHC's or RHC's  
27 fiscal year ending in 2003.

28 (7) All references in this subdivision to "fiscal year" shall be  
29 construed to be references to the fiscal year of the individual FQHC  
30 or RHC, as the case may be.

31 (f) (1) An FQHC or RHC may request a supplemental payment  
32 if extraordinary circumstances beyond the control of the FQHC  
33 or RHC occur after December 31, 2001, and PPS payments are  
34 insufficient due to these extraordinary circumstances. Supplemental  
35 payments arising from extraordinary circumstances under this  
36 subdivision shall be solely and exclusively within the discretion  
37 of the department and shall not be subject to subdivision (l). These  
38 supplemental payments shall be determined separately from the  
39 scope-of-service adjustments described in subdivision (e).  
40 Extraordinary circumstances include, but are not limited to, acts

of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include all of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are

1 reimbursable on a per-visit basis and not as to the types of services  
2 that these professionals may render during these visits and shall  
3 include a physician and surgeon, podiatrist, dentist, optometrist,  
4 and chiropractor. A visit shall also include a face-to-face encounter  
5 between an FQHC or RHC patient and a comprehensive perinatal  
6 services practitioner, as defined in Section 51179.1 of Title 22 of  
7 the California Code of Regulations, providing comprehensive  
8 perinatal services, a four-hour day of attendance at an adult day  
9 health care center, and any other provider identified in the state  
10 plan's definition of an FQHC or RHC visit.

11 (2) (A) A visit shall also include a face-to-face encounter  
12 between an FQHC or RHC patient and a dental hygienist or a  
13 dental hygienist in alternative practice.

14 (B) Notwithstanding subdivision (e), an FQHC or RHC that  
15 currently includes the cost of the services of a dental hygienist in  
16 alternative practice for the purposes of establishing its FQHC or  
17 RHC rate shall apply for an adjustment to its per-visit rate, and,  
18 after the rate adjustment has been approved by the department,  
19 shall bill these services as a separate visit. However, multiple  
20 encounters with dental professionals that take place on the same  
21 day shall constitute a single visit. The department shall develop  
22 the appropriate forms to determine which FQHC's or RHC rates  
23 shall be adjusted and to facilitate the calculation of the adjusted  
24 rates. An FQHC's or RHC's application for, or the department's  
25 approval of, a rate adjustment pursuant to this subparagraph shall  
26 not constitute a change in scope of service within the meaning of  
27 subdivision (e). An FQHC or RHC that applies for an adjustment  
28 to its rate pursuant to this subparagraph may continue to bill for  
29 all other FQHC or RHC visits at its existing per-visit rate, subject  
30 to reconciliation, until the rate adjustment for visits between an  
31 FQHC or RHC patient and a dental hygienist or a dental hygienist  
32 in alternative practice has been approved. Any approved increase  
33 or decrease in the provider's rate shall be made within six months  
34 after the date of receipt of the department's rate adjustment forms  
35 pursuant to this subparagraph and shall be retroactive to the  
36 beginning of the fiscal year in which the FQHC or RHC submits  
37 the request, but in no case shall the effective date be earlier than  
38 January 1, 2008.

39 (C) An FQHC or RHC that does not provide dental hygienist  
40 or dental hygienist in alternative practice services, and later elects

to add these services, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity (as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code), the Medicare Program, or the Child Health and Disability Prevention (CHDP) program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i) (1) An entity that first qualifies as an FQHC or RHC in the year 2001 or later, a newly licensed facility at a new location added to an existing FQHC or RHC, and any entity that is an existing FQHC or RHC that is relocated to a new site shall each have its reimbursement rate established in accordance with one of the following methods, as selected by the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

1 (D) The department may adopt any further and additional  
2 methods of setting reimbursement rates for newly qualified FQHCs  
3 or RHCs as are consistent with Section 1396a(bb)(4) of Title 42  
4 of the United States Code.

5 (2) In order for an FQHC or RHC to establish the comparability  
6 of its caseload for purposes of subparagraph (A) or (B) of paragraph  
7 (1), the department shall require that the FQHC or RHC submit  
8 its most recent annual utilization report as submitted to the Office  
9 of Statewide Health Planning and Development, unless the FQHC  
10 or RHC was not required to file an annual utilization report. FQHCs  
11 or RHCs that have experienced changes in their services or  
12 caseload subsequent to the filing of the annual utilization report  
13 may submit to the department a completed report in the format  
14 applicable to the prior calendar year. FQHCs or RHCs that have  
15 not previously submitted an annual utilization report shall submit  
16 to the department a completed report in the format applicable to  
17 the prior calendar year. The FQHC or RHC shall not be required  
18 to submit the annual utilization report for the comparable FQHCs  
19 or RHCs to the department, but shall be required to identify the  
20 comparable FQHCs or RHCs.

21 (3) The rate for any newly qualified entity set forth under this  
22 subdivision shall be effective retroactively to the later of the date  
23 that the entity was first qualified by the applicable federal agency  
24 as an FQHC or RHC, the date a new facility at a new location was  
25 added to an existing FQHC or RHC, or the date on which an  
26 existing FQHC or RHC was relocated to a new site. The FQHC  
27 or RHC shall be permitted to continue billing for Medi-Cal covered  
28 benefits on a fee-for-service basis until it is informed of its  
29 enrollment as an FQHC or RHC, and the department shall reconcile  
30 the difference between the fee-for-service payments and the  
31 FQHC's or RHC's prospective payment rate at that time.

32 (j) Visits occurring at an intermittent clinic site, as defined in  
33 subdivision (h) of Section 1206 of the Health and Safety Code, of  
34 an existing FQHC or RHC, or in a mobile unit as defined by  
35 paragraph (2) of subdivision (b) of Section 1765.105 of the Health  
36 and Safety Code, shall be billed by and reimbursed at the same  
37 rate as the FQHC or RHC establishing the intermittent clinic site  
38 or the mobile unit, subject to the right of the FQHC or RHC to  
39 request a scope-of-service adjustment to the rate.

1 (k) An FQHC or RHC may elect to have pharmacy or dental  
2 services reimbursed on a fee-for-service basis, utilizing the current  
3 fee schedules established for those services. These costs shall be  
4 adjusted out of the FQHC's or RHC's clinic base rate as  
5 scope-of-service changes. An FQHC or RHC that reverses its  
6 election under this subdivision shall revert to its prior rate, subject  
7 to an increase to account for all MEI increases occurring during  
8 the intervening time period, and subject to any increase or decrease  
9 associated with applicable scope-of-services adjustments as  
10 provided in subdivision (e).

11 (l) FQHCs and RHCs may appeal a grievance or complaint  
12 concerning ratesetting, scope-of-service changes, and settlement  
13 of cost report audits, in the manner prescribed by Section 14171.  
14 The rights and remedies provided under this subdivision are  
15 cumulative to the rights and remedies available under all other  
16 provisions of law of this state.

17 (m) The department shall, by no later than March 30, 2008,  
18 promptly seek all necessary federal approvals in order to implement  
19 this section, including any amendments to the state plan. To the  
20 extent that any element or requirement of this section is not  
21 approved, the department shall submit a request to the federal  
22 Centers for Medicare and Medicaid Services for any waivers that  
23 would be necessary to implement this section.

24 (n) The department shall implement this section only to the  
25 extent that federal financial participation is obtained.

26 ~~SEC. 94.~~

27 *SEC. 92.* No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.