BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1
DATE: April 3, 2009

ACTION REQUESTED: Adopt/Modify Positions on Bills of Interest to the Board

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:

Assembly Bills:	**Senate Bills:**
AB 48	**SB 112**
AB 159	**SB 155**
AB 259	**SB 158**
AB 492	**SB 182**
AB 657	**SB 294**
AB 867	**SB 303**
AB 877	**SB 360**
AB 977	**SB 599**
AB 1038	**SB 638**
AB 1116	**SB 674**
AB 1215	**SB 819**
AB 1295	
AB 1310	
AB 1430	
AB 1478	
ACR 31	

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATION(S), IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
Nursing Education Consultant
(916) 574-7600

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2009
April 3, 2009

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 48	**Portantino & Niello**	**Private postsecondary education: DCA**	**Support**	**Watch**	**Assembly**
AB 120	Hayashi	Health care providers: reasonable disclosure: reproductive choices	Watch	--	Dropped
AB 159	**Nava**	**Perinatal mood and anxiety disorders: task force**	**--**	**--**	**Assembly**
AB 160	Hayashi	Registered Nurses: Education Program	Watch	Watch	Assembly
AB 259	**Skinner**	**Health Care Coverage: certified nurse-midwives: direct access**	**Support**	**--**	**Assembly**
AB 492	**Conway**	**Community Colleges: nursing faculty**	**Support**	**--**	**Assembly**
AB 657	**Hernandez**	**Health profession workforce: master plan**	**--**	**--**	**Assembly**
AB 867	**Nava and Arambula**	**California State University: Doctor of Nursing Practice degree**	**Support**	**--**	**Assembly**
AB 877	**Emmerson**	**Healing Arts**	**Watch**	**--**	**Assembly**
AB 977	**Skinner**	**Pharmacists: immunization administration**	**--**	**--**	**Assembly**
AB 1038	**Furutani**	**Health Facilities: nursing hours**	--	**--**	**Assembly**
AB 1116	**Carter**	**Cosmetic Surgery**	**Watch**	**--**	**Assembly**
AB 1215	**De La Torre**	**Community colleges: temporary and part-time faculty**	**--**	**--**	**Assembly**
AB 1295	**Fuller**	**Postsecondary education: nursing degree programs**	**Support**	**--**	**Assembly**
AB 1310	**Hernandez**	**Healing arts: database**	**--**	**--**	**Assembly**
AB 1430	**Swanson**	**Pupil Health: licensed nurses**	**Support**	**--**	**Assembly**
AB 1478	**Ammiano**	**Written Acknowledgment: medical nutrition therapy**	**--**	**--**	**Assembly**
ACR 31	**Ruskin**	**California Community Colleges: Faculty**	**Support**	**--**	**Assembly**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
SENATE BILLS 2009
April 3, 2009

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 43	Alquist	Health professions	Support	Support	Senate
SB 92	Aanestad	Health care reform	Watch	Watch	Senate
SB 112	**Oropeza**	**Hemodialysis Technicians**	**Support**	**Support**	**Senate**
SB 155	**Wright**	**Student financial aid: Assumption Program of Loans for Education: school nurses**	**Support**	**--**	**Senate**
SB 158	**Wiggins**	**Health care coverage: human papillomavirus vaccination**	**--**	**--**	**Senate**
SB 182	**Ashburn**	**Community college nursing faculty**	**Support**	**--**	**Senate**
SB 294	**Negrete McLeod**	**Nurse practitioners**	**Watch**	**--**	**Senate**
SB 303	**Alquist**	**Nursing facility residents: informed consent**	**Watch**	**--**	**Senate**
SB 360	**Yee**	**Health Facilities: direct care nurses**	**Support**	**--**	**Senate**
SB 374	Calderon	Health care providers: reasonable disclosure: reproductive choices	--	--	Dropped
SB 599	**Negrete McLeod**	**Licensing boards: disciplinary actions**	**--**	**--**	**Senate**
SB 638	**Negrete McLeod**	**Regulatory boards: operations**	**Support**	**--**	**Senate**
SB 674	**Negrete McLeod**	**Healing arts: outpatient settings**	**Watch**	**--**	**Senate**
SB 819	**Committee on Business, Professions, and Economic Development**	**Professions and vocations (Omnibus Bill)**	**--**	**--**	**Senate**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Portantino and Niello	**BILL NUMBER:**	AB 48
SPONSOR:	Governor's Office	**BILL STATUS:**	Assembly
SUBJECT:	Private Postsecondary Education: California Private Postsecondary Education Act of 2009	**DATE LAST AMENDED:**	3/23/09

SUMMARY:
The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions and required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act. The former act also established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, both of which were repealed on July 1, 2008. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes.

ANALYSIS:
This bill would express the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education and to encourage the Department of Consumer Affairs to receive and respond to student complaints and provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established. It would continue the existence of the Private Postsecondary and Vocational Education Administration Fund under the administration of the Department of Consumer Affairs and would appropriate $1,000,000 from that fund to the department.

Amended analysis of 3/23/09:
This bill amendment deletes the Legislative intent language introduced on 12/1/08. It would recast and revise the former Private Postsecondary and Vocational Education Reform Act of 1989 as the **California Private Postsecondary Education Act of 2009,** and would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The bill would appropriate the sum of $580,000 from the Private

Postsecondary and Vocational Education Administration Fund to the bureau for the purpose of funding 5 education administration positions, and would continue that fund in existence and rename it as the Private Postsecondary Education Administration Fund. The bill, among other things, would impose reporting requirements on the bureau and the Legislative Analyst's Office, regarding compliance with the act.

This bill has numerous provisions, relative to private educational institutions, including the following:

> **If an institution offers an educational program in a profession, occupation, trade, or career field that requires licensure in this state, the institution would be required to have an educational program approval, from the appropriate state licensing agency, to conduct the program, so that a student who completes the program would be eligible to sit for any required licensure examination.**

BOARD POSITION: Watch (2/20/09)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (2/4/09)

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 48

Introduced by Assembly Members Portantino and Niello

December 1, 2008

An act *to amend Sections 27, 101, 146, 149, and 473.1 of the Business and Professions Code, and to add and repeal Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code,* relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Portantino. Private postsecondary education: ~~Department of Consumer Affairs.~~ *California Private Postsecondary Education Act of 2009.*

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act *generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions and* required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The former act also established the Private Postsecondary and Vocational Education Administration Fund~~, composed of certain fees imposed on private postsecondary institutions,~~ *and the continuously appropriated Student Tuition Recovery Fund, both of* which ~~was~~ *were*

repealed on July 1, 2008. *The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes.*

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2009. The bill would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs as a successor agency to the former bureau. The bill would appropriate the sum of $580,000 from the Private Postsecondary and Vocational Education Administration Fund to the bureau for the purpose of funding 5 education administration positions, and would continue that fund in existence and rename it as the Private Postsecondary Education Administration Fund. The bill also would continue the existence of the continuously appropriated Student Tuition Recovery Fund, would provide that certain violations of the new act are punishable as infractions, and would authorize a student or graduate of an institution to bring an action for specified violations of the act. The bill would impose reporting requirements on the bureau and the Legislative Analyst's Office regarding compliance with the act.

The bill would impose various fees, in unspecified amounts, in connection with a private postsecondary institution's approval to operate under the act and would require those fees to be deposited in the Private Postsecondary Education Administration Fund, for expenditure, upon appropriation by the Legislature, by the bureau for the purposes of the act.

The bill would repeal the California Private Postsecondary Education Act of 2009 on January 1, 2016.

Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) 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.

~~This bill would express the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education and to encourage the Department of Consumer Affairs to receive and respond to student complaints and provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established.~~

~~The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund under the administration of the Department of Consumer Affairs and would appropriate $1,000,000 from that fund to the department for the above purposes.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ *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~~ *Each* entity specified in subdivision (b)~~, on or after July 1, 2001,~~ 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.

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

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

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

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

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

(9) The Cemetery Program shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.

(10) The Funeral Directors and Embalmers Program shall disclose information on its licensees, including embalmers, funeral establishments, and funeral directors.

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

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

(13) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

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

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

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary ~~and Vocational~~ Education.

(*l*) The Structural Pest Control Board.

(m) The Bureau of Home Furnishings and Thermal Insulation.

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery and Funeral Bureau.

(r) The State Board of Guide Dogs for the Blind.

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The Landscape Architects Technical Committee.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.

(z) The State Board of Registration for Geologists and Geophysicists.

(aa) The Respiratory Care Board of California.

(ab) The Acupuncture Board.

(ac) The Board of Psychology.

(ad) The California Board of Podiatric Medicine.

(ae) The Physical Therapy Board of California.

(af) The Arbitration Review Program.

(ag) The Hearing Aid Dispensers Bureau.

(ah) The Physician Assistant Committee.

(ai) The Speech-Language Pathology and Audiology Board.

(aj) The California Board of Occupational Therapy.

(ak) The Osteopathic Medical Board of California.

(al) The Bureau of Naturopathic Medicine.

(am) The Dental Hygiene Committee of California.

(an) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 146 of the Business and Professions Code is amended to read:

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

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

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

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

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

(1) Sections 2052 and 2054.
(2) Section 2630.
(3) Section 2903.
(4) Section 3660.
(5) Sections 3760 and 3761.
(6) Section 4080.
(7) Section 4825.
(8) Section 4935.
(9) Section 4980.
(10) Section 4996.
(11) Section 5536.
(12) Section 6704.
(13) Section 6980.10.
(14) Section 7317.
(15) Section 7502 or 7592.
(16) Section 7520.
(17) Section 7617 or 7641.
(18) Subdivision (a) of Section 7872.
(19) Section 8016.
(20) Section 8505.
(21) Section 8725.
(22) Section 9681.
(23) Section 9840.
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

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

~~(e)~~

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c)~~ or (d)~~, 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 license, registration, or

certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 4. Section 149 of the Business and Professions Code is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) 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 the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

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

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

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

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

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

(1) The Bureau of Barbering and Cosmetology.

(2) The Funeral Directors and Embalmers Program.

(3) The Veterinary Medical Board.

(4) The Hearing Aid Dispensers Advisory Commission.

(5) The Landscape Architects Technical Committee.

(6) The California Board of Podiatric Medicine.

(7) The Respiratory Care Board of California.

(8) The Bureau of Home Furnishings and Thermal Insulation.
(9) The Bureau of Security and Investigative Services.
(10) The Bureau of Electronic and Appliance Repair.
(11) The Bureau of Automotive Repair.
(12) The Tax Preparers Program.
(13) The California Architects Board.
(14) The Speech-Language Pathology and Audiology Board.
(15) The Board for Professional Engineers and Land Surveyors.
(16) The Board of Behavioral Sciences.
(17) The State Board for Geologists and Geophysicists.
(18) The Structural Pest Control Board.
(19) The Acupuncture Board.
(20) The Board of Psychology.
(21) The California Board of Accountancy.
(22) The Bureau of Naturopathic Medicine.
(23) The Bureau for Private Postsecondary Education.

SEC. 5. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.

~~(b) The Bureau for Postsecondary and Vocational Education. For purposes of this chapter, "board" includes the bureau.~~

~~(c)~~

(b) The Cemetery and Funeral Bureau.

SEC. 6. Chapter 8 (commencing with Section 94800) is added to Part 59 of Division 10 of Title 3 of the Education Code, to read:

Chapter 8. Private Postsecondary Institutions

Article 1. General Provisions

94800. This chapter shall be known, and may be cited, as the California Private Postsecondary Education Act of 2009.

94800.5. Whenever a reference is made to the former Private Postsecondary Education and Student Protection Act, the former Private Postsecondary and Vocational Education Reform Act of 1989, or the former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it

read on June 30, 2007, by the provisions of any statute or regulation, it is to be construed as referring to the provisions of this chapter. Whenever a reference is made to the former Bureau for Private Postsecondary and Vocational Education by the provisions of any statute or regulation, it shall be construed as referring to the Bureau for Private Postsecondary Education.

94801. The Legislature finds and declares all of the following:

(a) In 2007, more than 400,000 Californians attended more than 1,500 private postsecondary schools in California.

(b) Private postsecondary schools can complement the public education system and help develop a trained workforce to meet the demands of California businesses and the economy.

(c) Numerous reports and studies have concluded that California's previous attempts at regulatory oversight of private postsecondary schools failed to ensure student protections or provide effective oversight of private postsecondary schools. Previous laws and regulatory oversight were allowed to expire on June 30, 2007, with some skeletal functions, continued by urgency legislation, that were allowed to expire on June 30, 2008.

(d) It is the intent of the Legislature in enacting this chapter to ensure all of the following:

(1) Minimum educational quality standards and opportunities for success for California students attending private postsecondary schools in California.

(2) Meaningful student protections through essential avenues of recourse for students.

(3) A regulatory structure that provides for an appropriate level of oversight.

(4) A regulatory governance structure that ensures that all stakeholders have a voice and are heard in policymaking by the new bureau created by this chapter.

(5) A regulatory governance structure that provides for accountability and oversight by the Legislature through program monitoring and periodic reports.

(e) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and the Legislature should act quickly to correct them.

Article 2. Transition Provisions

94802. (a) An institution that had a valid approval to operate on June 30, 2007, issued by the former Bureau for Private Postsecondary and Vocational Education pursuant to former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it read on June 30, 2007, shall maintain that approval under this chapter. For the purposes of this chapter, the approval to operate shall be valid for three calendar years after the expiration date of the approval, as it read on June 30, 2007.

(b) Applications to renew an approval to operate that had been pending action before the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, shall be deemed processed as follows:

(1) Applications received prior to January 1, 2006, shall be granted an approval to operate until 2012 to coincide with the anniversary date of the current approval to operate date.

(2) Applications received after January 1, 2006, shall be granted an approval to operate until 2013 to coincide with the anniversary date of the current approval to operate.

(c) Students seeking to enroll in institutions approved under subdivision (b) shall be notified in writing by the institution, prior to executing an enrollment agreement, that, although the institution was approved to operate by the former Bureau for Private Postsecondary and Vocational Education, the institution's application for reapproval to operate has not been reviewed by the bureau pursuant to this chapter.

94803. The bureau shall, by emergency regulation amend, and repeal as necessary, the regulations, as they read on June 30, 2007, in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations, to conform to this chapter no later than February 1, 2010. These emergency regulations shall become permanent through the regular rulemaking process within one year of the enactment of this chapter.

94804. (a) Each unresolved matter submitted to the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, shall be deemed to remain pending before the bureau irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be

deemed to have elapsed from July 1, 2007, to January 1, 2010, inclusive.

(1) For the purposes of this subdivision, "matter" includes, but is not limited to, an appeal, a complaint, a claim, an evaluation, a hearing, or an investigation.

(2) For the purposes of this subdivision, "matter" does not include a Student Tuition Recovery Fund claim.

(b) Student complaints submitted from July 1, 2007, to December 31, 2009, inclusive, shall continue to be duly recorded and investigated by the bureau.

94805. For the performance of the duties and exercise of the powers vested in the bureau, the bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Bureau for Private Postsecondary and Vocational Education.

94806. The Private Postsecondary and Vocational Education Administration Fund established by former Section 94932 of the Education Code, and extended by Chapter 635 of the Statutes of 2007, is continued in existence, and is renamed the Private Postsecondary Education Administration Fund.

94807. The Student Tuition Recovery Fund established by former Section 94944 of the Education Code, and extended by Chapter 635 of the Statutes of 2007, is continued in existence.

94808. (a) Any Student Tuition Recovery Fund claims received by the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, that were not processed by the former Bureau for Private Postsecondary and Vocational Education and were not paid by the department from July 1, 2007, to June 30, 2008, inclusive, shall be processed by the bureau.

(b) Any Student Tuition Recovery Fund claims received by the department from July 1, 2007, to December 31, 2009, inclusive, shall be processed by the bureau.

(c) Student Tuition Recovery Fund claims filed with, and approved by, the former Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, if not already paid, shall be paid before any claims approved after that date.

(d) The student's right to recovery from the Student Tuition Recovery Fund shall be based on the law that was in effect when the student enrolled and a fee for the fund was charged as a part

of tuition costs, even though that law has become inoperative, been repealed, or otherwise expired.

94809. (a) An institution that had an application for an approval to operate pending with the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, may continue to operate, but shall comply with, and is subject to, this chapter, and shall submit an application for an approval to operate to the bureau pursuant to this chapter within six months of that application becoming available.

(b) An institution that did not have a valid approval to operate issued by, and did not have an application for approval to operate pending with, the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, that began operations on or after July 1, 2007, may continue to operate, but shall comply with, and is subject to, this chapter, and shall submit an application for an approval to operate to the bureau pursuant to this chapter within six months of that application becoming available.

(c) Students seeking to enroll in institutions approved under subdivisions (a) and (b) shall be notified by the institution, in writing and prior to executing an enrollment agreement, that the institution's application for approval to operate has not been reviewed by the bureau.

(d) An institution that is permitted to operate pursuant to subdivision (a) or (b) shall not use the terms "approval," "approved," "approval to operate," or "approved to operate" without clearly stating that the institution's application for approval has not been reviewed by the bureau.

94809.5. Notwithstanding any other provision of law:

(a) For any claims that a student had based on a violation of the Private Postsecondary and Vocational Education Reform Act of 1989 on or before June 30, 2007, the period of time from June 30, 2007, to December 31, 2009, inclusive, shall be excluded in determining the deadline or the statute of limitation for filing any claim with the bureau or a lawsuit based on any claim.

(b) All claims described in subdivision (a), except claims to the Student Tuition Recovery Fund, including those contained in a lawsuit or other legal action, shall be determined or adjudicated based on the law that was in effect when the violations or events took place, even though those provisions have become inoperative, been repealed, or otherwise expired.

94809.6. (a) Notwithstanding any other provision of law, any claim or cause of action in any manner based on a violation of the former Private Postsecondary and Vocational Education Reform Act of 1989 that arose on or before June 30, 2007, shall have been commenced on or before June 30, 2007. Notwithstanding the inoperative status or repeal of the act on or after July 1, 2007, any claim or cause of action in any manner based on the act that was commenced on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the act on or before June 30, 2007, may be ordered or maintained thereafter. If a final judgment was obtained in an action commenced on or after July 1, 2007, under the authority of Chapter 635 of the Statutes of 2007, the final judgment and any legal remedy that was or could be maintained on or after July 1, 2007, under that statute, shall be preserved and maintained thereafter.

(b) The rights, obligations, claims, causes of action, and remedies described in subdivision (a) shall be determined by the provisions of the former Private Postsecondary and Vocational Education Reform Act of 1989 in effect on or before June 30, 2007, notwithstanding the inoperative status or repeal of the former Private Postsecondary and Vocational Education Reform Act of 1989 on or after July 1, 2007.

Article 3. Definitions

94810. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

94811. "Ability-to-benefit student" means a student who does not have a certificate of graduation from a school providing secondary education, or a recognized equivalent of that certificate.

94812. "Academic year" means a period, including a minimum of 30 weeks of instructional time, in which a full-time student attending an institution that measures educational program length in credit hours completes 24 semester or trimester hours or 36 quarter hours, or an institution that measures educational program length in clock hours completes at least 900 clock hours.

94813. "Accredited" means an institution is recognized or approved by an accrediting agency recognized by the United States Department of Education.

94814. "Accrediting agency" is an agency recognized by the United States Department of Education.

94815. "Annual report" means the yearly report required to be filed by institutions.

94816. "Applicant" means an institution that has submitted an application to the bureau for an approval to operate or for a renewal of an approval to operate.

94817. "Approval to operate" or "approval" means the authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs, as well as the written document issued to an institution signifying its approval to operate.

94817.5. "Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs.

94818. "Avocational education" means education offered for the purpose of personal entertainment, pleasure, or enjoyment.

94819. "Branch campus" means a site other than the main campus or a satellite location.

94820. "Bureau" means the Bureau for Private Postsecondary Education in the Department of Consumer Affairs.

94820.5. "Certified" means having passed an examination that attests to the quality and level of knowledge by a qualified certification authority or organization that is not affiliated with an institution.

94821. "Change in business organization form" means a change of a business organization's original form, including, for example, a situation in which a sole proprietorship becomes a partnership or corporation, or when a business organization becomes a nonprofit public benefit corporation or forms a nonprofit public benefit corporation as a subsidiary to provide the educational programs for which the business organization has an approval to operate.

94822. "Change of location" means a move or relocation more than 10 miles from the site at which the institution offers instruction.

94823. "Change of ownership" means the acquisition by a person of more than 50 percent of an interest in or stock of a parent company.

94824. "Class day" means a day a student is scheduled to attend class session, or for students receiving instruction through distance education, any calendar day except Saturday, Sunday, or any holiday enumerated in Section 6700 of the Government Code.

94825. "Class session" means part of a class day that an institution conducts instruction in a particular subject.

94826. "Commence operations" means an institution has begun to provide educational programs.

94827. "Continuing education" means instruction in subjects that licensees are required to take solely for the purpose of continued licensure, or to enhance their skills and knowledge within their particular profession, occupation, trade, or career field.

94828. "Curriculum" means an organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma.

94829. "Default" means failure of a borrower and endorser, if any, to make an installment payment for a loan received under the federal student financial aid programs when due, or to meet other terms of the promissory note, provided that this failure persists for 270 days if payment is due monthly or 360 days if payment is due less frequently.

94830. "Degree" means a recognized educational credential awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program at the associate's level or above.

94831. "Degree title" means the designated subject area of the educational program that appears on the face of the document awarded to a student.

94832. "Diploma" means a recognized educational credential, other than a degree, awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program below the associate's level. A diploma is also known as a certificate.

94833. "Director" means the Director of Consumer Affairs.

94834. "Distance education" means transmission of instruction to students at a location separate from the institution.

94835. "Document of record" means any document required to be maintained by this chapter.

94836. "Educational materials" means textbooks, supplies, implements, tools, machinery, computers, electronic devices, or other goods related to any education, training, or experience required for participation in an educational program.

94837. "Educational program" means a planned sequence composed of a single course or module, or set of related courses or modules, that provides the education, training, skill, and experience leading to the award of a recognized educational credential such as a degree or diploma.

94838. "Educational program approval" means authorization by the bureau, another government agency of this state, or a federal government agency, to provide educational programs, and is an element of an approval to operate.

94839. "Enrollment" means the execution of an enrollment agreement.

94840. "Enrollment agreement" means a written contract between a student and institution concerning an educational program.

94841. "Faculty" means the instructional staff of an institution, whether these persons are employees or independent contractors.

94842. "Graduate" means an individual who has been awarded a degree or diploma.

94843. "Institution" means any private postsecondary educational institution, including its branch campuses and satellite locations.

94844. "Institutional charges" means charges for an educational program paid directly to an institution.

94845. "Institution manager" means an individual who is a member of an institution's management.

94846. "Instruction" means an institution's specific, formal arrangements in which its faculty present a part of the curriculum.

94847. "License and examination preparation" means instruction designed to assist students to prepare for an examination for licensure, or offered for the sole purpose of providing continuing education in subjects licensees are required to take as a condition of continued licensure.

94848. "Licensure" includes any license, certificate, permit, or similar credential that a person must hold to lawfully engage in a profession, occupation, trade, or career field.

94849. "Main campus" means the institution's sole or primary teaching location.

94850. "Noninstitutional charges" means charges for an educational program paid to an entity other than an institution that are specifically required for participation in an educational program.

94851. "Owner" means an individual in the case of a sole proprietorship, partners in a partnership, members in a limited liability company, or shareholders in a corporation.

94852. "Ownership" means a legal or equitable interest in an institution, including ownership of assets or stock.

94853. "Parent company" means a partnership, limited liability company, or corporation that owns more than 50 percent of the stock or interest in an institution.

94854. "Period of attendance" means a semester, quarter, or trimester for educational programs measured in credit hours and the entire educational program if measured in clock hours.

94855. "Person" means a natural person or a business organization, irrespective of its form.

94856. "Person in control" means a person who by his or her position's authority or conduct directs the management of an institution.

94857. "Postsecondary education" means a formal institutional educational program whose curriculum is designed primarily for students who have completed or terminated their secondary education or are beyond the compulsory age of secondary education, including programs whose purpose is academic, vocational, or continuing professional education.

94858. "Private postsecondary educational institution" means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.

94859. "Recruiter" means an employee of an institution whose principal job responsibilities are the recruitment of students other than on the institution's premises.

94860. "Recruitment" means actions taken by recruiters seeking enrollment of students.

94861. "Reporting period" means the institution's fiscal year or any yearly period designated by the bureau to be covered in the institution's annual report.

94862. "Satellite location" means an auxiliary classroom or teaching site within 50 miles of the branch or main location.

94864. "Shift in control" means a change in the ownership of an institution where a person who previously did not own at least 25 percent of the stock or interest in an institution or its parent company acquires ownership of at least 25 percent of the stock or interest in the institution or its parent company. Shift in control does not include an ownership change between family members involving less than 51 percent of the stock or interest in the institution.

94865. "Site" means a main or branch campus or satellite location.

94866. "Teach-out" means the arrangements an institution makes for its students to complete their educational programs when the institution ceases to operate.

94867. "Third-party payer" means an employer, government program, or other entity that pays a student's total charges when no separate agreement for the repayment of the charges exists between the third-party payer and the student.

94868. "To offer to the public" means to advertise, publicize, solicit, or recruit.

94869. "To operate" means to establish, keep, or maintain any facility or location in this state where or from which or through which postsecondary educational programs are provided.

94870. "Total charges" means the sum of institutional and noninstitutional charges.

94871. "Year" means a calendar year.

Article 4. Exemptions

94874. (a) The following are exempt from this chapter:

(1) An institution that offers solely avocational or recreational educational programs.

(2) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(3) A postsecondary educational institution established, operated, and governed by the federal government or by this state or its political subdivisions.

(4) An institution offering either of the following:

(A) Test preparation for examinations required for admission to a postsecondary educational institution.

(B) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(i) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

(ii) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field.

(iii) A bona fide trade, business, or professional organization.

(5) (A) An institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(i) The instruction is limited to the principles of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of Business and Professions Code.

(ii) The diploma or degree is limited to evidence of completion of that education.

(B) An institution operating under this subdivision shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(C) An institution operating under this subdivision shall not award degrees in any area of physical science.

(D) Any degree or diploma granted under these provisions shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area.

(E) A degree awarded under this subdivision shall reflect the nature of the degree title, such as "associate of religious studies," or "bachelor of religious studies," or "master of divinity," or "doctor of divinity."

(6) An institution that solely provides educational programs for total charges of two thousand five hundred dollars ($2,500) or less when no part of the total charges is paid from state or federal

student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(7) An institution that solely offers educational programs in law leading to a Juris Doctor (J.D.), Master of Laws (LL.M.), or Doctor of Jurisprudence (J.S.D.) degree, or similar degrees signifying the award of a bachelor's, master's, or doctorate in law.

(b) Notwithstanding subdivision (a), an institution that is otherwise exempt from this chapter shall comply with the requirements of Section 94927.5.

(c) The bureau shall establish, by regulation, a process pursuant to which an institution that is exempt from this chapter may request, and obtain, from the bureau verification that the institution is exempt. The bureau shall establish a reasonable fee to reimburse the bureau's costs associated with the implementation of this subdivision.

Article 5. Bureau Powers and Duties

94875. The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter 635 of the Statutes of 2007, is continued in existence and shall commence operations. This chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The bureau shall regulate private postsecondary educational institutions through the powers granted, and duties imposed, by this chapter. In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

94876. (a) The powers and duties set forth in this chapter are vested in the Director of Consumer Affairs, who may delegate them to a bureau chief, subject to the provisions of this section.

(b) The bureau chief shall be appointed by the Governor, and is exempt from the State Civil Service Act pursuant to Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code.

(c) Each power granted to, or duty imposed upon, the bureau under this chapter shall be exercised and performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may delegate any powers or duties to a designee.

(d) As may be necessary to carry out this chapter, the director, in accordance with the State Civil Service Act, may appoint and fix the compensation of personnel.

94877. (a) The bureau shall adopt, on or before January 1, 2011, and shall enforce, regulations to implement this chapter pursuant to the Administrative Procedure Act in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The bureau shall develop and implement an enforcement program, pursuant to Article 18 (commencing with Section 94932) to implement this chapter. The enforcement program shall include a plan for investigating complaints filed with the bureau.

(c) The bureau shall establish a program to proactively identify unlicensed institutions and take all appropriate legal action.

94878. (a) On or before June 30, 2010, the bureau shall establish an Internet Web site that includes at least all of the following information:

(1) An explanation of the bureau's transition plan for the reconstituted bureau and an explanation of the bureau's scope of authority.

(2) (A) A directory of approved institutions, and a link, if feasible, to the Internet Web site of each institution.

(B) For each institution, the directory shall include all of the following information:

(i) The status of the institution's approval to operate.

(ii) The information provided by the institutions including, but not limited to, all of the following: in the annual report, as required by Section 94934, including the school catalog and the Student Performance Fact Sheet.

(iii) The disciplinary history of the institution pursuant to subdivision (b) of Section 94884.

(iv) A notice to students that, upon request to the bureau, the student may receive a summary of all complaints within the last five years against an institution that have reached final disposition, pursuant to subdivision (a) of Section 94884.

(b) The bureau shall maintain the Internet Web site described in subdivision (a). The bureau shall ensure that the information specified in subdivision (a) is kept current. The bureau shall update the Internet Web site at least annually, to coincide with the submission of annual reports by the institutions pursuant to Section 94934.

(c) In addition to maintaining the Internet Web site described in subdivision (a), the bureau may provide the information described in paragraph (2) of subdivision (a) to the California Postsecondary Education Commission (CPEC), and the CPEC may include that information in an Internet Web site directory of school performance data maintained by the CPEC.

94879. The bureau shall conduct an outreach program to secondary school students as well as prospective and current private postsecondary students, to provide them with information on how to best select a private postsecondary institution, how to enter into enrollment agreements, how to make informed decisions in the private postsecondary education marketplace, and how to contact the bureau for assistance. The bureau may accomplish the purposes of this section in cooperation with the department.

94880. The bureau shall appoint an advisory committee that shall consist of, but not necessarily be limited to, representatives of institutions, student representatives, and employers who hire students.

94881. The bureau may conduct workshops to provide applicants and institutions information on application processes, compliance with this chapter, best practices for providing postsecondary educational programs, and other subjects concerning postsecondary education.

94882. The bureau may empanel visiting committees to assist in evaluating an institution's application for an approval to operate. The members of visiting committees shall serve at no expense to the state, except that the bureau may reimburse the members of visiting committees for actual travel and per diem expenses incurred during the evaluation. The bureau may seek reimbursement for the travel and per diem costs from the institution that is the subject of an evaluation.

94883. (a) Any individual serving on a visiting committee who provides information to the bureau, or its staff, in the course of evaluating any institution, or who testifies in any administrative

hearing arising under this chapter, is entitled to a defense and indemnification in any action arising out of the information or testimony provided as if he or she were a public employee.

(b) Any defense and indemnification shall be solely with respect to the action pursuant to Article 4 (commencing with Section 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of, the Government Code.

94884. (a) For all complaints that have reached final disposition, the bureau shall, upon request, make available to members of the public a summary of the nature and disposition of complaints against an institution within the last five years.

(b) The bureau is subject to Section 27 of the Business and Professions Code.

Article 6. Approval to Operate

94885. The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

(a) The content of each educational program can achieve its stated objective.

(b) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.

(c) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

(d) The institution maintains a withdrawal policy and provides refunds.

(e) The directors, administrators, and faculty are properly qualified.

(f) The institution is financially sound and capable of fulfilling its commitments to students.

(g) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

(h) Adequate records and standard transcripts are maintained and are available to students.

(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

94886. Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.

94887. An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an application for an approval to operate if the application does not satisfy those standards.

94888. (a) The bureau shall, by January 1, 2011, adopt by regulation both of the following:

(1) The process and procedures whereby an institution seeking approval to operate may apply for and obtain an approval to operate.

(2) The process and procedures governing the bureau's approval and denial of applications for approval to operate, including the process and procedures whereby an applicant for which an application has been denied may appeal that denial.

(b) The bureau shall, by regulation, establish a process for issuing a notification of a denial of an approval to operate to an institution that submits an application for approval to operate and for which that application is denied. The notification of denial shall include a statement of reasons for the denial.

94889. Except as provided in subdivision (b) of Section 94890, an approval to operate shall be for a term of five years.

94890. (a) (1) The bureau shall grant an institution that is accredited an approval to operate by means of its accreditation.

(2) The bureau shall, by January 1, 2011, adopt by regulation, the process and procedures whereby an institution that is accredited may apply for and obtain an approval by means of that accreditation.

(b) The term of an approval to operate pursuant to this section shall be coterminous with the term of accreditation. Upon renewal of the institution's accreditation, the institution shall submit

verification to the bureau, on a form provided by the bureau, that the institution's accreditation has been renewed.

(c) Institutions that are granted an approval to operate by means of the institution's accreditation shall comply with all other applicable requirements in this chapter.

94891. (a) The bureau shall, by January 1, 2011, adopt by regulation the process and procedures whereby an institution may obtain a renewal of an approval to operate.

(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards.

94892. If an agency of this state other than the bureau or of the federal government provides an approval to offer an educational program and the institution already has a valid approval to operate issued by the bureau, that agency's educational program approval may satisfy the requirements of this article without any further review by the bureau. The bureau may incorporate that educational program into the institution's approval to operate when the bureau receives documentation signifying the conferral of the educational program approval by that agency.

Article 7. Substantive Changes to an Approval to Operate

94893. If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked.

94894. The following changes to an approval to operate are considered substantive changes and require prior authorization:

(a) A change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution.

(b) A change in ownership.

(c) A change in control.

(d) A change in business organization form.

(e) A change of location.

(f) A change of name.

(g) A significant change in the method of instructional delivery.

(h) An addition of a separate branch more than five miles from the main or branch campus.

94895. The bureau shall, by January 1, 2011, adopt by regulation the process and procedures whereby an institution shall seek authorization for substantive changes to an approval to operate.

94896. (a) An institution that has been granted an approval to operate by means of accreditation shall only make a substantive change in accordance with the institution's accreditation standards.

(b) The institution shall notify the bureau of the substantive change on a form provided by the bureau.

Article 8. Fair Business Practices

94897. An institution shall not do any of the following:

(a) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on a diploma.

(b) Promise or guarantee employment, or otherwise overstate the availability of jobs upon graduation.

(c) Advertise concerning job availability, degree of skill, or length of time required to learn a trade or skill unless the information is accurate and not misleading.

(d) Advertise, or indicate in promotional material, without including the fact that the educational programs are delivered by means of distance education if the educational programs are so delivered.

(e) Advertise, or indicate in promotional material, that the institution is accredited, unless the institution has been accredited by an accrediting agency.

(f) Solicit students for enrollment by causing an advertisement to be published in "help wanted" columns in a magazine, newspaper, or publication, or use "blind" advertising that fails to identify the institution.

(g) Offer to compensate a student to act as an agent of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution, except that an institution may award a token gift to a student for referring an individual, provided that the gift is not in the form of money, no

more than one gift is provided annually to a student, and the gift's cost is not more than one hundred dollars ($100).

(h) Pay any consideration to a person to induce that person to sign an enrollment agreement for an educational program.

(i) Use a name in any manner improperly implying any of the following:

(1) The institution is affiliated with any government agency, public or private corporation, agency, or association if it is not, in fact, thus affiliated.

(2) The institution is a public institution.

(3) The institution grants degrees, if the institution does not grant degrees.

(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information, including any of the following:

(1) A financial report filed with the bureau.

(2) Information or records relating to the student's eligibility for student financial aid at the institution.

(3) Any other record or document required by this chapter or by the bureau.

(k) Willfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter.

(l) Use the terms "approval," "approved," "approval to operate," or "approved to operate" without stating clearly and conspicuously that approval to operate means compliance with state standards as set forth in this chapter. If the bureau has granted an institution approval to operate, the institution may indicate that the institution is "licensed" or "licensed to operate," but may not state or imply either of the following:

(1) The institution or its educational programs are endorsed or recommended by the state or by the bureau.

(2) The approval to operate indicates that the institution exceeds minimum state standards as set forth in this chapter.

(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to

persuade a student not to complain to the bureau or another government agency.

(n) Compensate an employee involved in recruitment, enrollment, admissions, student attendance, or sales of educational materials to students on the basis of a commission, commission draw, bonus, quota, or other similar method related to the recruitment, enrollment, admissions, student attendance, or sales of educational materials to students, except as provided in paragraph (1) or (2):

(1) If the educational program is scheduled to be completed in 90 days or less, the institution shall pay compensation related to a particular student only if that student completes the educational program.

(2) For institutions participating in the federal student financial aid programs, this subdivision shall not prevent the payment of compensation to those involved in recruitment, admissions, or the award of financial aid if those payments are in conformity with federal regulations governing an institution's participation in the federal student financial aid programs.

(o) Require a prospective student to provide personal contact information in order to obtain, from the institution's Internet Web site, educational program information that is required to be contained in the school catalog or any information required pursuant to the consumer information requirements of Title IV of the federal Higher Education Act of 1965, and any amendments thereto.

(p) Require a student to sign an enrollment agreement without providing the student with a period of at least three days to review the catalog, the School Performance Fact Sheet, and the enrollment agreement specified in Article 11 (commencing with Section 94902).

94898. (a) An institution shall not merge classes unless all of the students have received the same amount of instruction. This subdivision does not prevent the placement of students, who are enrolled in different educational programs, in the same class if that class is part of each of the educational programs and the placement in a merged class will not impair the students' learning of the subject matter of the class.

(b) After a student has enrolled in an educational program, the institution shall not do either of the following:

(1) Make any unscheduled suspension of any class unless caused by circumstances beyond the institution's control.

(2) Change the day or time during the period of attendance in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, "range of time" means the period beginning with the time at which the student's first scheduled class session for the day is set to start and ending with the time the student's last scheduled class session for that day is set to finish.

(c) If an institution enrolls a student in an educational program that is conducted at a specific site at the time of enrollment, the institution shall not convert the educational program to another method of delivery, such as by means of distance education. This subdivision does not apply to an educational program that also includes a distance education component, if the student is notified during the enrollment process, in writing, that the program contains a distance education component.

(d) An institution shall not move the location of class instruction more than 25 miles from the location of instruction at the time of enrollment unless any of the following occur:

(1) The institution discloses in writing to each student before enrollment in the educational program that the location of instruction will change after the educational program begins and the address of the new location.

(2) The institution applies for, and the bureau grants, approval to change the location. The bureau shall grant the application within 60 days if the bureau, after notice to affected students and an opportunity for them to be heard as prescribed by the bureau, concludes that the change in location would not be unfair or unduly burdensome to students. The bureau may grant approval to change the location subject to reasonable conditions, such as requiring the institution to provide transportation, transportation costs, or refunds to adversely affected students.

(3) The institution offers a full refund to students enrolled in the educational program who do not voluntarily consent to the change.

(4) An unforeseeable and unavoidable circumstance outside of the control of the institution requires the change in the location of instruction.

94899. If an institution offers an educational program in a profession, occupation, trade, or career field that requires licensure in this state, the institution shall have an educational program approval from the appropriate state licensing agency to conduct that educational program in order that a student who completes the educational program, except as provided in Section 94905, is eligible to sit for any required licensure examination.

94899.5. (a) Institutions that offer short-term programs designed to be completed in one term or four months, whichever is less, may require payment of all tuition and fees on the first day of instruction.

(b) For those programs designed to be four months or longer, an institution shall not require more than one term or four months of advance payment of tuition at a time. When 50 percent of the program has been offered, the institution may require full payment.

(c) The limitations in this section shall not apply to federal and state financial aid payments received by an institution.

(d) At the student's option, an institution may accept payment in full for tuition and fees after the student has been accepted and enrolled and the date of the first class session is disclosed on the enrollment agreement.

(e) An institution that provides private loan funding shall ensure that the student is not obligated for indebtedness that exceeds the total charges for the current period of attendance.

Article 9. Recordkeeping

94900. (a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

94900.5. An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:

(a) The educational programs offered by the institution and the curriculum for each.

(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).

94900.7. The recordkeeping requirements of this article shall not apply to an institution that is accredited, if the recordkeeping requirements of the accrediting organization are substantially similar to the recordkeeping requirements of this article, as determined by the bureau.

Article 10. Recruiters

94901. (a) An institution's recruiters shall be employees.

(b) (1) An institution shall issue identification to each recruiter identifying the recruiter and the institution.

(2) The recruiter shall have the issued identification with him or her while recruiting.

Article 11. Enrollment Agreements and Disclosures

94902. (a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

(b) An enrollment agreement is not enforceable unless both of the following requirements are met:

(1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.

(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.

(d) An enrollment agreement shall become operative when the student attends the first class session.

94903. A student may not waive any term or receipt of any disclosure required by this article.

94904. Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965, (20 U.S.C. Sec. 1070a et seq.) as it is, from time to time, amended. The student may not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

94905. (a) During the enrollment process, an institution offering educational programs designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in the profession, occupation, trade, or career field at the time of the student's graduation and shall provide the student with a written copy of the requirements for licensure established by the state. The institution shall not execute an enrollment agreement with a student that is known to be ineligible for licensure, unless the student's stated objective is other than licensure.

(b) During the enrollment process, an institution may discuss internships and student jobs available to the student during the student's attendance at the institution. If the institution discusses internships and student jobs, the institution shall disclose the number of requests for internship and student job placement assistance received by the institution during the immediately preceding calendar year and the number of actual placements during that year.

94906. (a) An enrollment agreement shall be written in language that is easily understood. If English is not the student's

primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language.

(b) If the recruitment leading to enrollment was conducted in a language other than English, the enrollment agreement, disclosures, and statements shall be in that language.

94907. An enrollment agreement shall not contain a provision that requires a student to invoke an internal institutional dispute procedure before enforcing any contractual or other legal rights or remedies.

94908. Any information or statement required by this article to be included in the catalog, School Performance Fact Sheet, or enrollment agreement shall be printed in at least the same size font as the majority of the text in that document.

94909. (a) Prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the institution is a private institution and that it is approved to operate by the bureau.

(3) The following statements:

(A) "Any questions a student may have regarding this catalog that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers)."

(B) "As a prospective student, you are encouraged to review this catalog prior to signing an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet, which must be provided to you prior to signing an enrollment agreement."

(4) The address or addresses where class sessions will be held.

(5) A description of the programs offered and the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships,

and the total number of credit hours, clock hours, or other increments required for completion.

(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

(7) Information regarding the faculty and their qualifications.

(8) A detailed description of institutional policies in the following areas:

(A) Admissions policies, including the institution's policies regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests, admissions requirements for ability-to-benefit students, and a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction. If the institution has not entered into an articulation or transfer agreement with any other college or university, the institution shall disclose that fact.

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

(C) Probation and dismissal policies.

(D) Attendance policies.

(E) Leave-of-absence policies.

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the

responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

(12) A statement specifying whether the institution has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding five years, or has had a petition in bankruptcy filed against it within the preceding five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

(13) If the institution provides placement services, a description of the nature and extent of the placement services.

(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

(15) The following statement:

"NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma or certificate) will transfer."

(b) An institution shall provide the school catalog to any person upon request.

94910. Prior to enrollment, an institution shall provide a prospective student with a School Performance Fact Sheet containing, at a minimum, the following information, as it relates to the educational program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section 94928).

(b) Placement rates, as calculated pursuant to Article 16 (commencing with Section 94928), if the educational is designed to lead to a particular career or the institution makes a claim to students regarding placement rates.

(c) License examination passage rates for programs leading to employment for which passage of a state licensing examination is required, as calculated pursuant to Article 16 (commencing with Section 949228).

(d) Salaries, if the institution, or a representative of the institution, makes any express or implied claim about the salary that may be earned after completing a program, as calculated pursuant to Article 16 (commencing with Section 949228).

(e) If a program is too new to provide data for any of the categories listed in this subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the number of students who graduate, the number of students who are placed, or the starting salary you can earn after finishing the educational program are unknown at this time. Information regarding general salary and placement statistics may be available from government sources or from the institution, but is not equivalent to actual performance data."

(f) At least one of the following:

(1) A description of how the figures described in subdivisions (a) to (d), inclusive, are calculated.

(2) A statement informing the reader of where he or she may obtain a description of how the figures described in subdivisions (a) to (d), inclusive, are calculated.

(g) The following statements:

(1) "This fact sheet is filed with the Bureau for Private Postsecondary Education. Regardless of any information you may have relating to completion rates, placement rates, starting salaries, or license exam passage rates, this fact sheet contains the information as calculated pursuant to state law."

(2) "Any questions a student may have regarding this fact sheet that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers)."

94911. An enrollment agreement shall include, at a minimum, all of the following:

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

(b) A schedule of total charges, including a list of any charges that are nonrefundable and the student's obligations to the Student Tuition Recovery Fund, clearly identified as nonrefundable charges.

(c) In underlined capital letters on the same page of the enrollment agreement in which the student's signature is required, the total charges that the student is obligated, upon enrollment, to pay for the entire educational program.

(d) A clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution.

(e) (1) A disclosure with a clear and conspicuous caption, "BUYER'S RIGHT TO CANCEL," under which it is explained that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

(2) The disclosure shall contain the institution's refund policy and a statement that, if the student has received federal student financial aid funds, the student is entitled to a refund of moneys not paid from federal student financial aid program funds.

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

(f) A statement specifying that, if the student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund.

(g) A statement specifying that, if the student is eligible for a loan guaranteed by the federal or state government and the student defaults on the loan, both of the following may occur:

(1) The federal or state government or a loan guarantee agency may take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(2) The student may not be eligible for any other federal student financial aid at another institution or other government assistance until the loan is repaid.

(h) (1) The following statement: "Prior to signing this enrollment agreement, you must be given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to review prior to signing this agreement. These documents contain important policies and performance data for this institution."

(2) Immediately following the statement required by paragraph (1), a line for the student to initial, including the following statement: "I certify that I have received the catalog and School Performance Fact Sheet."

(i) The following statement:

"Any questions a student may have regarding this enrollment agreement that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers)."

(j) The following statement above the space for the student's signature:

"I understand that this is a legally binding contract. My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

Article 12. Consumer Loans to Students

94916. An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

"NOTICE

YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF THE EDUCATIONAL PROGRAM ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE."

94917. A note, instrument, or other evidence of indebtedness relating to payment for an educational program is not enforceable by an institution unless, at the time of execution of the note, instrument, or other evidence of indebtedness, the institution held an approval to operate.

94918. In making consumer loans to students, an institution shall also comply with the requirements of the Federal Truth in Lending Act pursuant to Title 15 of the United States Code.

Article 13. Cancellations, Withdrawals, and Refunds

94919. (a) An institution that participates in the federal student financial aid programs complies with this article by complying with applicable regulations of the federal student financial aid programs under Title IV of the Higher Education Act of 1965.

(b) The institution shall advise each student that a notice of cancellation shall be in writing, and that a withdrawal may be effectuated by the student's written notice or by the student's conduct, including, but not necessarily limited to, a student's lack of attendance.

(c) The institution shall also provide a pro rata refund of nonfederal student financial aid program moneys paid for

institutional charges to students who have completed 60 percent or less of the period of attendance.

94920. An institution that does not participate in the federal student financial aid programs shall do all of the following:

(a) The institution shall advise each student that a notice of cancellation shall be in writing, and that a withdrawal may be effectuated by the student's written notice or by the student's conduct, including, but not necessarily limited to, a student's lack of attendance.

(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars ($250), if notice of cancellation is made through attendance at the first class session, or the seventh class day after enrollment, whichever is later.

(c) The bureau may adopt by regulation a different method of calculation for instruction delivered by other means, including, but not necessarily limited to, distance education.

(d) The institution shall have a refund policy for the return of unearned institutional charges if the student cancels an enrollment agreement or withdraws during a period of attendance. The refund policy for students who have completed 60 percent or less of the period of attendance shall be a pro rata refund.

(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or withdrawal.

94921. An institution offering an educational program for which the refund calculations set forth in this article cannot be utilized because of the unique way in which the educational program is structured, may petition the bureau for an alternative method of calculating tuition refunds.

94922. A student may not waive any provision of this article.

Article 14. Student Tuition Recovery Fund

94923. The bureau shall, by January 1, 2011, adopt by regulation procedures governing the administration and maintenance of the Student Tuition Recovery Fund, including requirements relating to assessments on students and student claims against the Student Tuition Recovery Fund.

94924. All assessments collected pursuant to this article shall be credited to the Student Tuition Recovery Fund, along with any

accrued interest, for the purpose of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the Student Tuition Recovery Fund are continuously appropriated to the bureau, without regard to fiscal year, for the purposes of this article.

94925. The amount in the Student Tuition Recovery Fund shall not exceed twenty-five million dollars ($25,000,000) at any time.

Article 15. Orderly Institutional Closure and Teach-outs

94926. At least 30 days prior to closing, the institution shall notify the bureau in writing of its intention to close. The notice shall be accompanied by a closure plan, which shall include, but not necessarily be limited to, all of the following:

(a) A plan for providing teach-outs of educational programs, including any agreements with any other postsecondary educational institutions to provide teach-outs.

(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participant in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.

(c) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning these programs and institutional closures.

(d) A plan for the disposition of student records.

94927. An institution shall be considered in default of the enrollment agreement when an educational program is discontinued or canceled or the institution closes prior to completion of the educational program. When an institution is in default, student institutional charges may be refunded on a pro rata basis if the bureau determines that the school has made provision for students enrolled at the time of default to complete a comparable educational program at another institution at no additional charge to the student beyond the amount of the total charges in the original enrollment agreement. If the institution does not make that provision, a total refund of all institutional charges shall be made to students.

94927.5. (a) Prior to closing, an institution shall provide the bureau with pertinent student records, including transcripts, as determined by the bureau by regulation.

(b) Subdivision (a) applies to all private postsecondary institutions, including institutions that are otherwise exempt from this chapter pursuant to Section 94874.

Article 16. Completion and Placement Requirements

94928. As used in this article, the following terms have the following meanings:

(a) "Cohort population" means the number of students that began a program on a cohort start date.

(b) "Cohort start date" means the first class day after the cancellation period during which a cohort of students attends class for a specific program.

(c) "Graduates" means the number of students who complete a program within 100 percent of the published program length. A school may include completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time.

(d) "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment.

(e) "Graduates employed in the field" means graduates who are gainfully employed within six months of graduation in the field for which they received education and training and that remain employed for a period of at least 60 days.

(f) "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education at an accredited postsecondary institution.

(g) "Students available for graduation" means the cohort population minus the number of students available for graduation.

(h) "Students unavailable for graduation" means students who have died, been incarcerated, or called to active military duty.

94929. (a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

94929.5. An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(a) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement rates.

(b) The license examination passage rates for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program.

(c) If the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing the educational program, the total number of graduates employed in the applicable field and the percentage of those graduates who have earned salaries at or above the claimed level.

94929.7. (a) The information used to substantiate the rates calculated pursuant to Sections 94929 and 94929.5 shall be documented and maintained by the institution.

(b) An institution shall provide a list of employment positions determined to be within the field for which a student received education and training, as outlined by this article, for the calculation of job placement rates.

Article 17. Fees

94930. (a) All fees collected pursuant to this article, including any interest on those fees, shall be deposited in the Private Postsecondary Education Administration Fund, and shall be available, upon appropriation by the Legislature, for expenditure by the bureau for the administration of this chapter.

(b) If the bureau determines by regulation that the adjustment of the fees established by this article is consistent with the intent of this chapter, the bureau may adjust the fees established by this article based upon the California Consumer Price Index and shall post notification of the adjusted fees on its Internet Web site.

94930.5. An institution shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund the following fees, in accordance with the following schedule:

(a) The following fees shall be remitted by an institution submitting an application for an approval to operate, if applicable:

(1) Application fee for an approval to operate: ___

(2) Application fee for the approval to operate a new branch of the institution:___

(3) Application fee for an approval to operate by means of accreditation:___

(b) The following fees shall be remitted by an institution seeking a renewal of its approval to operate, if applicable:

(1) Renewal fee for the main campus of the institution:___

(2) Renewal fee for a branch of the institution:___

(3) Renewal fee for an institution that is approved to operate by means of accreditation:___

(c) The following fees shall apply to an institution seeking authorization of a substantive change to its approval to operate, if applicable:

(1) Processing fee for authorization a substantive change to an approval to operate:___

(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation:___

(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit an annual fee, in accordance with the following schedule:

(A) For an institution with annual revenues less than $100,000:___

(B) For an institution with annual revenues from $100,000 to $499,999:___

(C) For an institution with annual revenues from $500,000 to $999,999:___

(D) For an institution with annual revenues from $1,000,000 to $9,999,999:___

(E) For an institution with annual revenues from $10,000,000 to $19,999,999:___

(F) For an institution with annual revenues from $20,000,000 to $29,999,999:___

(G) For an institution with annual revenues greater than $29,999,999:___

(2) Notwithstanding paragraph (1), the bureau shall adjust the amount of the fees in paragraph (1) to reflect the type and the size of the institution, with institutions enrolling a higher number of students being required to pay a higher annual fee than those with fewer student enrollments. The annual fee, as adjusted, shall be in an amount that is proportional to the bureau's cost of regulating the institution under this chapter.

94931. (a) A fee that is not paid on or before the 30th calendar day after the due date for the payment of the fee shall be subject to a 25 percent late payment penalty fee.

(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.

94931.5. (a) The bureau may propose modifications to the fee schedule in Section 94930.5 to the Governor and the Legislature to add or delete categories of fees related to work performed by the bureau and propose to the Governor and the Legislature the maximum amount to be charged for each fee category added to the fee schedule. The fee schedule shall provide adequate resources for the bureau to effectively implement this chapter.

(b) The bureau shall annually publish a schedule of the current fees to be charged pursuant to this article and shall make this schedule available to the public.

Article 18. Compliance, Enforcement, Process, and Penalties

94932. The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article.

94932.5. As part of its compliance program, the bureau shall perform announced and unannounced inspections of institutions.

94933. The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an institution's violations of this chapter, and the harm caused to students.

94933.5. As much as is practicable, the bureau shall seek to resolve instances of noncompliance, including the use of alternative dispute resolution procedures in Article 5 (commencing with Section 11420.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

94934. (a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

(1) The total number of students enrolled by level of degree or for a diploma.

(2) The number of degrees, by level, and diplomas awarded.

(3) The degree levels and diplomas offered.

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

(5) The school catalog, as required pursuant to Section 94909.

(6) The total charges for each educational program by period of attendance.

(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

(8) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

(b) The bureau shall prescribe the annual report's format and method of delivery.

94935. (a) Bureau staff who, during an inspection of an institution, detect a violation of this chapter, or regulations adopted pursuant to this chapter, that is a minor violation as determined by the bureau, shall issue a notice to comply before leaving the institution. The bureau shall establish a voluntary informal appeal process, by regulation, within one year of the enactment of this chapter.

(b) An institution that receives a notice to comply shall have no more than 30 days from the date of inspection to remedy the noncompliance.

(c) Upon achieving compliance, the institution shall sign and return the notice to comply to the bureau.

(d) A single notice to comply shall be issued listing separately all the minor violations cited during the inspection.

(e) A notice to comply shall not be issued for any minor violation that is corrected immediately in the presence of the bureau staff. Immediate compliance may be noted in the inspection report, but the institution shall not be subject to any further action by the bureau.

(f) A notice to comply shall be the only means the bureau shall use to cite a minor violation discovered during an inspection. The bureau shall not take any other enforcement action specified in this chapter against an institution that has received a notice to comply if the institution complies with this section.

(g) If an institution that receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged minor violations listed in the notice to comply, an institution shall send the bureau a written notice of disagreement. The agency may take administrative enforcement action to seek compliance with the requirements of the notice to comply.

(h) If an institution fails to comply with a notice to comply within the prescribed time, the bureau shall take appropriate administrative enforcement action.

94936. (a) As a consequence of an investigation, and upon a finding that the institution has committed a violation of this chapter or that the institution has failed to comply with a notice to comply pursuant to Section 94935, the bureau shall issue a citation to an institution for violation of this chapter, or regulations adopted pursuant to this chapter.

(b) The citation may contain either of the following:

(1) An order of abatement that may require an institution to demonstrate how future compliance with this chapter or regulations adopted pursuant to this chapter will be accomplished.

(2) Notwithstanding Section 125.9 of the Business and Professions Code, an administrative fine not to exceed ten thousand dollars ($10,000) for each violation. The bureau shall base its assessment of the administrative fine on:

(A) The nature and seriousness of the violation.

(B) The persistence of the violation.

(C) The good faith of the institution.

(D) The history of previous violations.

(E) The purposes of this chapter.

(F) The potential harm to students.

(c) (1) The citation shall be in writing and describe the nature of the violation and the specific provision of law or regulation that is alleged to have been violated.

(2) The citation shall inform the institution of its right to request a hearing in writing within 30 days from service of the citation.

(3) If a hearing is requested, the bureau shall select an informal hearing pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) If a hearing is not requested, payment of the administrative fine is due 30 days from the date of service, and shall not constitute an admission of the violation charged.

(5) If a hearing is conducted and payment of an administrative fine is ordered, the administrative fine is due 30 days from when the final order is entered.

(6) The bureau may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(d) All administrative fines shall be deposited in the Private Postsecondary Education Administration Fund.

94937. (a) As a consequence of an investigation, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:

(1) Obtaining an approval to operate by fraud.

(2) Material or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted in harm to students.

(b) The bureau shall adopt regulations, within one year of the enactment of this chapter, governing probation and suspension of an approval to operate.

(c) The bureau may seek reimbursement for the costs of an investigation pursuant to Section 125.3 of the Business and Professions Code.

(d) An institution shall not be required to pay the cost of investigation to more than one agency.

94938. (a) If the bureau determines that it needs to make an emergency decision to protect students, prevent misrepresentation to the public, or prevent the loss of public funds or moneys paid by students, it may do so pursuant to Article 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The bureau shall, by January 1, 2011, adopt regulations to give this section effect pursuant to Section 11460.20 of the Government Code.

94939. (a) The bureau may bring an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

(b) The remedies provided in this section supplement, and do not supplant, the remedies and penalties under other provisions of law.

94940. As consequence of an adverse administrative action against an institution, the institution may request a hearing pursuant to Article 10 (commencing with Section 11445.10) of

Chapter 4.5 or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

94941. (a) An individual who has cause to believe that an institution has violated this chapter, or regulations adopted pursuant to this chapter, may file a complaint with the bureau against the institution. The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.

(b) Taking into account the nature and seriousness of the alleged violation, the bureau shall take action to ascertain the facts and to verify the complaint. The action may include interviewing institution management, conducting an investigation, holding an informal hearing, or other appropriate investigative activity.

(c) Upon the facts discovered, the bureau shall take appropriate administrative enforcement action.

(d) If the bureau finds that an institution's violation of this chapter has caused damage or loss to a student or group of students, the bureau shall order the institution to provide appropriate restitution to that student or group of students.

94943. The following violations of this chapter are public offenses:

(a) Knowingly operating a private postsecondary institution without an approval to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code.

(b) Knowingly providing false information to the bureau on an application for an approval to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code.

94943.5. An institution shall designate and maintain an agent for service of process within this state, and provide the name, address, and telephone number of the agent to the bureau. The bureau shall furnish the agent's name, address, and telephone number to a person upon request.

94944. Notwithstanding any other provision of law, the bureau shall cite any person, and that person shall be subject to a fine not to exceed fifty thousand dollars ($50,000), for operating an institution without proper approval to operate issued by the bureau pursuant to this chapter.

94944.5. Each institution subject to this chapter shall be deemed to have authorized their accrediting agency to provide the

bureau, the Attorney General, any district attorney, or city attorney, within 30 days of written notice, copies of all documents and other material concerning the institution that are maintained by the accrediting agency.

94945. (a) This chapter does not limit or preclude the enforcement of rights or remedies under any other applicable statute or law.

(b) This chapter does not limit or preclude the Attorney General, a district attorney, or a city attorney from taking any action otherwise authorized under any other applicable statute or law.

Article 19. Severability

94946. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Article 20. Reporting

94948. In addition to any other reporting requirements under this chapter, the bureau shall provide regular updates to the Legislature by participating in annual oversight hearings conducted by the appropriate policy committees and budget subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress in adopting and enforcing regulations and the provisions of this chapter.

94949. On or before July 1, 2012, the Legislative Analyst's Office shall conduct a comprehensive review of the bureau and report to the Legislature and the Governor on the appropriateness of the exemptions provided in this chapter, the extent to which the bureau has implemented the provisions of this chapter, and the degree to which the provisions of this chapter and subsequent regulations adopted by the bureau meet the legislative intent of this chapter.

Article 21. Termination

94950. This chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted

statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 7. (a) Notwithstanding any other provision of law, and notwithstanding the repeal of the former Private Postsecondary and Vocational Education Reform Act of 1989, the sum of five hundred eighty thousand dollars ($580,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund to the Bureau for Private Postsecondary Education, for the purpose of funding five education administrator positions.

(b) The education administrator positions described in subdivision (a) shall be included in the annual budget for the Bureau for Private Postsecondary Education.

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

~~SECTION 1. (a) It is the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education.~~

~~(b) It is the intent of the Legislature that the legislation described in subdivision (a) should be clearly drafted, reasonably enforceable, and easily understandable to students, schools, and regulators.~~

~~(c) It is further the intent of the Legislature to encourage the Department of Consumer Affairs to receive and respond to student complaints and to provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established.~~

~~SEC. 2. (a) The Private Postsecondary and Vocational Education Administration Fund established by former Section 94932 of the Education Code, and extended and reconfigured by Chapter 635 of the Statutes of 2007, is hereby continued in existence under the administration of the Department of Consumer Affairs.~~

~~(b) This section shall apply retroactively from June 30, 2008.~~

~~SEC. 3. The sum of one million dollars ($1,000,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund to the Department of Consumer Affairs for purposes of receiving and responding to student complaints and providing information to students and prospective students of private postsecondary educational institutions.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Nava	**BILL NUMBER:**	AB 159
SPONSOR:	State Public Affairs Committee of the Junior Leagues of California	**BILL STATUS:**	Assembly
SUBJECT:	Perinatal mood and anxiety disorders: task force	**DATE LAST AMENDED:**	3/25/09

SUMMARY:
Existing law establishes various programs relating to perinatal health, including a comprehensive perinatal outreach program targeting the health effects of drugs and alcohol, the development of regionalized perinatal health systems, and the development of a model needs assessment protocol for pregnant and postpartum substance abusing women.

This bill would add a section to the Health and Safety Code, relating to perinatal health care.

ANALYSIS:
This bill would permit State Department of Public Health, in conjunction with the State Department of Mental Health, to establish a task force, to develop recommendations and educational materials for the department's perinatal health programs. The task force would be appointed by the Governor and the Legislature, and the membership would consist of the following:

- Survivor of PMAD
- American College of Obstetrics and Gynecology (ACOG)
- California Association of Nurse Practitioners
- California Nurse Midwives Association
- California Nurses Association
- California Medical Association;
- California Psychiatric Association
- California Association of Marriage and Family Therapists
- California Hospital Association
- Postpartum Support International
- State Public Affairs Committee of the Junior Leagues of California
- Union of American Physicians and Dentist
- United Nurses Association Of California

The task force would also be charged with identifying national guidelines, barriers to screening and treatment of women with PMAD, and options for reducing those barriers.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY MARCH 25, 2009

AMENDED IN ASSEMBLY MARCH 10, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 159

Introduced by Assembly Member Nava
(Coauthors: Assembly Members Ammiano, Carter, Conway, De Leon, Fletcher, Gaines, Hall, Jones, Bonnie Lowenthal, V. Manuel Perez, and Audra Strickland)

January 27, 2009

An act to add Section 123612 to the Health and Safety Code, relating to perinatal health care, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 159, as amended, Nava. Perinatal mood and anxiety disorders: task force.

Existing law establishes various programs relating to perinatal health, including a comprehensive perinatal outreach program targeting the health effects of drugs and alcohol, the development of regionalized perinatal health systems, and the development of a model needs assessment protocol for pregnant and postpartum substance abusing women.

This bill would permit the State Department of Public Health, *in conjunction with the State Department of Mental Health*, to establish a task force, as prescribed, ~~to address specified issues relating to perinatal mood and anxiety disorders~~ *to develop recommendations and educational materials for the department's perinatal health programs*.

This bill would permit the State Department of Public Health to use nonpublic contributions to carry out the purposes of this bill. This bill

would, if the department creates the task force, create the California Perinatal Mood and Anxiety Disorders Awareness Fund and permit voluntary contributions to be deposited into the fund. This bill would continuously appropriate the money in the fund to the department to carry out the purposes of this bill.

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

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

SECTION 1. This act shall be known, and may be cited, as The Healthy Mothers Act of 2009.

SEC. 2. The Legislature finds and declares all of the following:

(a) ~~Perinatal mood and anxiety disorders occur during both pregnancy and the postpartum period.~~ *A perinatal mood and anxiety disorder (PMAD) is a mood and anxiety disorder that occurs during pregnancy or within a year of delivery (postpartum).* These disorders can take many forms, including depression, psychosis, and anxiety disorders, such as panic disorder or obsessive-compulsive disorder. These disorders can also include many levels of severity, which can have potentially serious repercussions for the emotional, social, and physical health and well-being of mothers, children, and families. ~~Therefore, "perinatal mood and anxiety disorder" (PMAD) is a more appropriate term for describing these afflictions because it provides a broader and more accurate description of the afflictions.~~

~~(b) National studies indicate that one in five women suffer from PMAD. Eighty percent of these women go undiagnosed and untreated.~~

~~(c)~~

(b) Between 10 percent and 20 percent of new mothers are affected ~~with~~ *by* PMAD. A mother afflicted with PMAD may experience symptoms, that include, but are not limited to, depressed mood, inability to find pleasure in activities that are usually engaging, sleep disturbances, diminished concentration, appetite and weight loss, anxiety and panic attacks, feelings of guilt and worthlessness, suicidal thoughts, and fears about harming her baby.

~~(d)~~

(c) One to two out of every 1,000 new mothers can experience postpartum psychosis. A new mother with postpartum psychosis

may ~~begin with~~ *have* symptoms that include, but are not limited to, manic states, hyperactivity, an inability to sleep, and avoidance of the baby. The disorder can then lead to additional symptoms for the new mother, that include, but are not limited to, delusions, hallucinations, incoherence, and thoughts of harming her baby or herself.

~~(e)~~

(d) A past history of nonpostpartum mood or anxiety disorders and a family history of mood or anxiety disorders increases the risk of PMAD.

~~(f)~~

(e) Many women are not adequately informed about, screened for, or treated for PMAD because they are uninsured, underinsured, or lack access to comprehensive health care. Many of these women also face cultural and linguistic barriers to receiving appropriate care. The stigma associated with PMAD also prevents many at-risk women from accepting the need for services and treatment for their disorder. These services and treatment can include medical evaluations and treatment, professional therapy, counseling, support groups, and crisis hotlines. It is also imperative that family and friends of a pregnant woman or new mother become aware of the signs and symptoms of PMAD so that they may help the pregnant woman or new mother obtain adequate medical treatment and support services.

SEC. 3. Section 123612 is added to the Health and Safety Code, to read:

123612. (a) For purposes of this section, "PMAD" means perinatal mood and anxiety disorders.

(b) The State Department of Public Health, *in conjunction with the State Department of Mental Health,* may establish and convene a statewide perinatal mood and anxiety disorders task force to develop ~~a best practices model for public awareness of PMAD and a standard of care for PMAD that may be used by physicians, medical centers, hospitals, and other organizations related to the medical field.~~ *recommendations and educational materials for the department's perinatal health programs.*

(c) If the department creates the task force, pursuant to subdivision (b), all of the following provisions shall apply:

(1) The task force membership shall consist of ~~both~~ *each* of the following:

(A) A survivor of PMAD*, to be appointed by the Governor*.

(B) A representative from each of the following:

(i) The American College of Obstetrics and Gynecology *District IX/CA, to be appointed by the Speaker of the Assembly*.

(ii) The California Association of Marriage and Family Therapists*, to be appointed by the Speaker of the Assembly*.

(iii) The California Association of Nurse Practitioners*, to be appointed by the Speaker of the Assembly*.

(iv) The California Hospital Association*, to be appointed by the Senate Committee on Rules*.

(v) The California Medical Association*, to be appointed by the Senate Committee on Rules*.

(vi) The California Nurse Midwives Association*, to be appointed by the Governor*.

(vii) The California Nurses Association*, to be appointed by the Senate Committee on Rules*.

(viii) The California Psychiatric Association*, to be appointed by the Governor*.

(ix) The State Public Affairs Committee of the Junior Leagues of California*, to be appointed by the Governor*.

(x) Postpartum Support International*, to be appointed by the Governor.*

(xi) The Union of American Physicians and Dentists, to be appointed by the Senate Committee on Rules.

(xii) The United Nurses Associations of California/Union of Health Care Professionals, to be appointed by the Speaker of the Assembly.

(2) The task force may do the following:

(A) Increase~~ awareness, assistance,~~ *awareness and provide assistance* and information regarding PMAD. The task force may disseminate to pregnant women and new mothers and the families of these women information regarding the availability of services and treatment for PMAD, including, but not limited to, medication, professional therapy and counseling, support groups, and telephone crisis hotlines. The task force may use television, print media, radio, Internet Web sites, outdoor advertising, and other appropriate media to accomplish these goals.

(B) Establish a publicly accessible Internet Web site that provides information about the symptoms and treatment of PMAD.

(C) Undertake public education activities related to PMAD, as appropriate.

~~(D) Establish a recommended standard of care for pregnant women and new mothers and the families of these women. This standard of care may include promoting universal depression screening, increasing women's access to mental health services, increasing education and training for prenatal care providers and mental health providers, and increasing perinatal mental health resources.~~

(D) Identify national guidelines for care of women with PMAD.

(E) Identify barriers to screening and treatment of women with PMAD and options for reducing those barriers.

(3) The department shall be responsible for forwarding any recommendations of the task force to the Legislature, the Governor, and to all county health departments.

(4) The department may use only nonpublic funding sources to support the activities of the task force. Voluntary contributions received for the purposes of this section shall be deposited into a separate account, the California Perinatal Mood and Anxiety Disorders Awareness Fund, which is hereby created in the State Treasury. Any repayments, interest, or new appropriation shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code.

(d) Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department to carry out the purposes of this section.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Skinner	**BILL NUMBER:**	AB 259
SPONSOR:	California Nurse Midwifery Association	**BILL STATUS:**	Assembly
SUBJECT:	Health Care Coverage: certified nurse-midwives: direct access	**DATE LAST AMENDED:**	Introduced 2/11/09

SUMMARY:
Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological physician services directly from an obstetrician and gynecologist or a family practice physician and surgeon, subject to specified provisions established by the plan or insurer.

This bill would amend sections of the Health and Safety Code and the Insurance Code, relating to health care coverage.

ANALYSIS:
This bill would require a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological services from a certified nurse-midwife. The bill would specify that a violation of this requirement with respect to health care service plans would not be a crime.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 259

Introduced by Assembly Member Skinner

February 11, 2009

An act to amend Section 1367.695 of the Health and Safety Code, and to amend Section 10123.84 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as introduced, Skinner. Health care coverage: certified nurse-midwives: direct access.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

Existing law requires a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological physician services directly from an obstetrician and gynecologist or a family practice physician and surgeon, subject to specified provisions established by the plan or insurer.

This bill would additionally require a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological services from a certified nurse-midwife, as specified. The bill would specify that a violation of this requirement with respect to health care service plans shall not be a crime. The bill would also make other conforming changes and would delete certain obsolete language.

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

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

SECTION 1. Section 1367.695 of the Health and Safety Code is amended to read:

1367.695. (a) The Legislature finds and declares that the unique, private, and personal relationship between women patients and their ~~obstetricians~~ *obstetrical* and ~~gynecologists~~ *gynecological providers* warrants direct access to obstetrical and gynecological ~~physician~~ services.

(b) Commencing January 1, ~~1999~~ *2010*, every health care service plan contract issued, amended, renewed, or delivered in this state, except a specialized health care service plan *contract*, shall allow an enrollee the option to seek obstetrical and gynecological ~~physician~~ services directly from ~~a~~ *any of the following health care providers, provided that the services fall within the scope of practice of that provider:*

(1) A participating obstetrician and ~~gynecologist or directly from a~~ *gynecologist.*

(2) A participating certified nurse-midwife.

(3) A participating family practice physician and surgeon designated by the plan as providing obstetrical and gynecological services.

(c) In implementing this section, a health care service plan may establish reasonable provisions governing utilization protocols and the use of obstetricians and gynecologists, *certified nurse-midwives,* or family practice physicians and surgeons, as provided for in subdivision (b), participating in the plan network, medical group, or independent practice association, provided that these provisions shall be consistent with the intent of this section and shall be those customarily applied to other physicians and surgeons, such as primary care physicians and surgeons, to whom the enrollee has direct access, and shall not be more restrictive for the provision of obstetrical and gynecological ~~physician~~ services. An enrollee shall not be required to obtain prior approval from another physician, another provider, or the health care service plan prior to obtaining direct access to obstetrical and gynecological ~~physician~~ services, but the plan may establish reasonable requirements for

the participating obstetrician and gynecologist, *certified nurse-midwife,* or family practice physician and surgeon, as provided for in subdivision (b), to communicate with the enrollee's primary care physician and surgeon regarding the enrollee's condition, treatment, and any need for followup care.

(d) This section shall not be construed to diminish the provisions of Section 1367.69.

~~(e) The Department of Managed Health Care shall report to the Legislature, on or before January 1, 2000, on the implementation of this section.~~

(e) Notwithstanding Section 1390, a violation of this section, as it related to direct access to nurse-midwives, the amendments made to this section by the act adding this subdivision shall not be a crime.

SEC. 2. Section 10123.84 of the Insurance Code is amended to read:

10123.84. (a) The Legislature finds and declares that the unique, private, and personal relationship between women patients and their ~~obstetricians~~ *obstetrical* and ~~gynecologists~~ *gynecological providers* warrants direct access to obstetrical and gynecological ~~physician~~ services.

(b) Commencing January 1, ~~1999,~~ *2010,* every policy o~~f~~ ~~disability insurance that covers hospital, medical, or surgical expenses, and~~ *health insurance* that is issued, amended, delivered, or renewed in this state~~,~~ shall allow a policyholder the option to seek obstetrical and gynecological ~~physician~~ services directly from ~~an~~ *any of the following health care providers, provided that the services fall within the scope of practice of that provider:*

(1) An obstetrician and ~~gynecologist or directly from a~~ *gynecologist.*

(2) A certified nurse-midwife.

(3) A participating family practice physician and surgeon designated by the ~~plan~~ *insurer* as providing obstetrical and gynecological services.

(c) In implementing this section, ~~a disability~~ *an* insurer may establish reasonable provisions governing utilization protocols and the use of obstetricians and gynecologists, *certified nurse-midwives,* or family practice physicians and surgeons, as provided for in subdivision (b), provided that these provisions shall be consistent with the intent of this section and shall be those customarily applied

to other physicians and surgeons, including primary care physicians and surgeons, to whom the policyholder has direct access, and shall not be more restrictive for the provision of obstetrical and gynecological ~~physician~~ services. A policyholder shall not be required to obtain prior approval from another physician, another provider, or the insurer prior to obtaining direct access to obstetrical and gynecological ~~physician~~ services, but the insurer may establish reasonable requirements for the participating obstetrician and gynecologist, *the certified nurse-midwife,* or the family practice physician and surgeon, as provided in subdivision (b), to communicate with the policyholder's primary care physician regarding the policyholder's condition, treatment, and any need for followup care.

(d) This section shall not be construed to diminish the provisions of Section 10123.83.

~~(e) The Insurance Commissioner shall report to the Legislature, on or before January 1, 2000, on the implementation of this section.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Conway	**BILL NUMBER:**	AB 492
SPONSOR:	Conway	**BILL STATUS:**	Assembly
SUBJECT:	Community Colleges: nursing faculty	**DATE LAST AMENDED:**	Introduced 2/24/09

SUMMARY:
Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters. An exception is that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014. Existing law prohibits a district from employing a person pursuant to that nursing faculty except if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

This bill would amend a section of the Education Code, relating to community colleges.

ANALYSIS:
This bill would authorize the employment of a clinical nursing faculty member as a temporary faculty member for up to the total number of semesters or quarters within any period of 3 consecutive academic years. The bill would also delete the hiring limitation that prevents an increase in the ratio of part-time to full-time nursing faculty in a district.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 492

Introduced by Assembly Member Conway

February 24, 2009

An act to amend Section 87482 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as introduced, Conway. Community colleges: nursing faculty.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014. Existing law prohibits a district from employing a person pursuant to that nursing faculty exception if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

This bill would revise that exception to authorize the employment of a clinical nursing faculty member as a temporary faculty member for up to the total number of semesters or quarters within any period of 3 consecutive academic years. The bill would also delete that hiring limitation that prevents an increase in the ratio of part-time to full-time nursing faculty in a district.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The majority of available nursing program slots are at the community college level for an associate degree.

(b) California Community Colleges graduated almost two-thirds of nursing students in the 2005–06 school year.

(c) According to a 2007 California Board of Registered Nursing (BRN) study, California nursing programs received 28,410 eligible applications for only 11,000 first-year slots for the 2005–06 school year. Therefore, there was a capacity to accommodate less than 40 percent of the applications received.

(d) According to the BRN study, the nursing faculty vacancy rate is growing statewide.

(e) California has an aging population and the demand for registered nurses is expected to increase.

(f) Fifty-three percent of registered nurses provide direct care to patients, 18 percent serve as supervisors or managers of health care personnel, and 29 percent work in fields such as education, research, and consulting.

(g) Fifty-five percent of the state's registered nurses received their nursing education in this state.

(h) All California registered nurses must have a license issued by the BRN, in addition to graduating from an approved nursing program and passing the national licensing examination.

SEC. 2. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school

year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) ~~No~~ *A* person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c), shall *not* be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching 60 percent or more of the hours per week considered a full-time assignment for regular employees may be employed by any one district under this section for up to ~~four~~ *the total number of* semesters or ~~six~~ quarters within any period of three consecutive academic years ~~between July 1, 2007, and June 30, 2014, inclusive~~.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to ~~how many~~ *the number of* faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), ~~how many~~ *the number of* districts *that* hired faculty under this subdivision, ~~how many~~ *the number of* faculty members ~~were~~ hired under this subdivision, and ~~what~~ the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this

subdivision and for each academic year for which faculty is hired under this subdivision.

~~(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Hernandez	**BILL NUMBER:**	AB 657
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Health professions workforce: master plan	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law requires the Office of Statewide Health Planning and Development to take various actions related to statewide health planning and the development of policies to address health care issues in California.

This bill would add a section to the Health and Safety Code, relating to public health.

ANALYSIS:
This bill would require the Office of Statewide Health Planning and Development, in collaboration with the California Workforce Investment Board, to establish the Health Professions Workforce Task Force, comprised of specified members, to assist in the development of a health professions workforce master plan for the state, and would prescribe the functions and duties of the task force. The members of the task force would be appointed by the Governor, Speaker of the Assembly, Senate Committee on Rules, and the Regents of the University of California. The task force would be required to develop a health professions workforce master plan, no later than October 31, 2010 to do the following:

- Report, assess impact, and review capacity and effectiveness of existing state and private programs to leverage funding resources and form new partnerships, foster shared learning, identify best practices, and minimize duplication of efforts.
- Review local workforce investment plans and assess progress in meeting current health professions workforce needs.
- Identify education and employment trends in the health professions.
- Identify the top 10 health professions with the highest demand and develop a plan to meet that demand.
- Recommend state policies needed to address the issues of health professions workforce shortage and distribution.
- Compile, assess, and align with other strategic plans for developing California's workforce.

The Office of Statewide Health Planning would be required to take the lead in coordinating the task force and also to seek and accept funds from the Federal Government and private entities to support the activities of the task force.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 657

Introduced by Assembly Member Hernandez

February 25, 2009

An act to add Section 127162 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 657, as introduced, Hernandez. Health professions workforce: master plan.

Existing law requires the Office of Statewide Health Planning and Development to take various actions related to statewide health planning and the development of policies to address health care issues in California.

This bill would require the office, in collaboration with the California Workforce Investment Board, to establish the Health Professions Workforce Task Force, comprised of specified members, to assist in the development of a health professions workforce master plan for the state, and would prescribe the functions and duties of the task force in that regard. The bill would require the task force to submit to the office recommendations for a statewide health professions workforce master plan.

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

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

1 SECTION 1. The Legislature finds and declares the following:

(a) In order for California to remain healthy, prosperous, and globally competitive, the state needs to have a skilled health professions workforce.

(b) Demographic trends and health care reimbursement structures are increasing gaps between health professions workforce supply and demand, as seen in the shortages of primary care providers.

(c) California's population is aging, growing, and becoming increasingly more diverse. California's workforce of health professionals has not reflected these changes and is ill-equipped to reduce new pressures on the health care system.

(d) Developing California's workforce so that it better represents and serves its consumer population will help to mitigate increasing health care costs.

(e) California faces a dramatic and pressing challenge related to the supply and distribution of health care professionals. In addition to urban areas, rural areas face ongoing challenges to recruitment and retention.

(f) There are existing statewide efforts to address these problems, which include, but are not limited to, the California Institute for Nursing and Health Care's Master Plan for the California Nursing Workforce, the Mental Health Services Act (MHSA) Five-Year Workforce Education and Training Development Plan, the creation of a health care workforce and educational clearinghouse within the Office of Statewide Health Planning and Development, publication of the report entitled "Connecting the Dots: California Initiative to Increase Health Workforce Diversity" by the California Health Professional Consortium, and others. However, there is no coordinated plan of action effort to develop the state's health professions workforce.

(g) A comprehensive approach to health professions workforce development is needed to ensure that the state has the optimal mix of culturally competent health professions workers to address health needs in a cost-effective manner.

(h) To prepare the highly skilled workforce necessary, to keep California's economy competitive, to maintain the income and quality of life for California residents, and to increase tax revenues, the following issues must be addressed:

(1) A comprehensive public and private collaboration to develop California's health professions workforce.

(2) A state-level effort involving multiple health professions, business and labor, educational institutions including primary, secondary, and postsecondary institutions, state government workforce boards, regional leadership, consumers, and other stakeholders. These groups should work together to forecast health professions workforce demand and plan comprehensive pathways to support multiple target groups.

(3) Health data collection and reporting on a continuous basis.

SEC. 2. Section 127162 is added to the Health and Safety Code, to read:

127162. (a) The office shall, in collaboration with the California Workforce Investment Board and based on information provided by the health care workforce clearinghouse created by Section 128050, establish the Health Professions Workforce Task Force to assist in the development of a health professions workforce master plan for the state. The task force shall be comprised of the following members from both rural and urban areas:

(1) Two members representing the Legislature, with one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules.

(2) At the discretion of the Regents of the University of California, a member representing, and appointed by, the Regents of the University of California.

(3) A member representing the California State University, as appointed by the Governor.

(4) A member representing the California Community Colleges, as appointed by the Governor.

(5) A member representing the State Department of Education, as appointed by the Governor.

(6) A member responsible for leading a health sciences program in a school district, drawn from a pool of candidates selected by the Superintendent, as appointed by the Governor.

(7) Three members representing key stakeholders from labor and the health care industry, as appointed by the Speaker of the Assembly.

(8) Three members representing the health care industry in the state, as appointed by the Senate Committee on Rules.

(9) Three members representing community-based organizations in the state, as appointed by the Senate Committee on Rules.

(10) Three members representing multiple health professions, including Allied Health, as appointed by the Speaker of the Assembly.

(11) A member of the California Workforce Investment Board and a member of a regional workforce investment board, as appointed by the Governor.

(b) Total membership of the task force shall be not more than 21 people.

(c) Membership on the task force shall be voluntary and without compensation.

(d) The task force shall assist the office in the development of a health professions workforce master plan, and shall meet no later than October 31, 2010, to do all of the following:

(1) Report, assess impact, and review capacity and effectiveness of existing state and private programs to leverage funding resources and form new partnerships, foster shared learning, identify best practices, and minimize duplication of efforts.

(2) Review local workforce investment plans and assess progress in meeting current health professions workforce needs.

(3) Identify education and employment trends in the health professions.

(4) Identify the top 10 health professions with the highest demand and develop a plan to meet that demand.

(5) Recommend state policies needed to address the issues of health professions workforce shortage and distribution.

(6) Compile, assess, and align with other strategic plans for developing California's workforce.

(e) The task force shall meet no less than three times per year.

(f) Not later than October 31, 2013, the task force shall submit a completed report to the office with recommendations for developing a health professions workforce master plan.

(g) The office shall act as the lead in coordinating the task force.

(h) The office shall seek and accept funds from the federal government and private entities to support the activities of the task force.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Nava and Arambula	**BILL NUMBER:**	AB 867
SPONSOR:	California State University	**BILL STATUS:**	Assembly
SUBJECT:	California State University: Doctor of Nursing Practice degree	**DATE LAST AMENDED:**	Introduced 2/26/09

SUMMARY:
Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education.

This bill would add an Article to the Education Code, relating to nursing degrees.

ANALYSIS:
This bill would authorize the California State University (CSU) to award the Doctor of Nursing Practice degree. The bill would distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees offered at the University of California. The bill would require the programs to be designed to enable professionals to earn the degree while working full time, educate nurses for advanced practice, and prepare faculty to teach in postsecondary nursing programs.

Currently, the Education Code authorizes the CSU to award the Doctor of Education (Ed.D) degree focused solely on preparing administrative leaders for California public schools.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 867

Introduced by Assembly Members Nava and Arambula
(Principal coauthor: Assembly Member Galgiani)
(Coauthors: Assembly Members Beall, Block, Carter, Coto, Davis, De Leon, DeVore, Hagman, Huber, Bonnie Lowenthal, Mendoza, Monning, John A. Perez, Price, Ruskin, Salas, Saldana, and Villines)
(Coauthors: Senators Alquist, Ashburn, Benoit, Correa, Cox, DeSaulnier, Ducheny, Florez, Lowenthal, Maldonado, Romero, and Runner)

February 26, 2009

An act to add Article 9 (commencing with Section 89280) to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, relating to nursing degrees.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as introduced, Nava. California State University: Doctor of Nursing Practice degree.

Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education.

This bill would authorize the California State University to award the Doctor of Nursing Practice degree. The bill would distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees offered at the University of California. The bill would require the programs to be designed to enable professionals to earn the degree while working

full time, train nurses for advanced practice, and prepare faculty to teach in postsecondary nursing programs.

The bill would require initial funding to come from existing budgets, without diminishing the quality of undergraduate programs or reducing enrollment therein.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California faces an ever-increasing nursing shortage that jeopardizes the health and well-being of the state's citizens.

(b) Colleges and universities need to expand nursing education programs to prepare more nurses to meet the state's growing demand for nurses. An estimated state shortage of 47,600 registered nurses is expected by 2010, and by 2020 the shortage is projected to reach 116,600 according to the Governor's California Nurse Education Initiative Annual Report, September 2006.

(c) Well-trained nursing faculty are critical to the ability to expand nursing programs.

SEC. 2. Article 9 (commencing with Section 89280) is added to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, to read:

Article 9. Doctor of Nursing Practice Degree

89280. (a) Notwithstanding Section 66010.4, in order to meet specific nursing education needs in California, the California State University may award the Doctor of Nursing Practice degree, as described in this section.

(b) The authority to award the Doctor of Nursing Practice degree is limited to the discipline of nursing practice. The Doctor of Nursing Practice degree offered by the California State University shall be distinguished from research-based doctoral degrees offered at the University of California.

(c) The Doctor of Nursing Practice degree program offered by the California State University shall train nurses for advanced

nursing practice and prepare faculty to teach in postsecondary nursing education programs. The degree programs shall be designed to enable professionals to earn the degree while working full time.

(d) The California State University shall follow all of the following requirements:

(1) Funding on a per full-time equivalent student (FTES) basis for each new student in these degree programs shall be within the California State University's enrollment growth levels as agreed to in the annual Budget Act. Enrollments in these programs shall not alter the California State University's ratio of graduate instruction to total enrollment, and shall not diminish enrollment growth in university undergraduate programs. Funding provided from the state for each FTES shall be at the agreed-upon marginal costs calculation that the California State University receives for graduate enrollment.

(2) Each student in the programs authorized by this article shall be charged fees in an amount that is no higher than the rate charged for students in state-supported doctoral degree programs at the University of California, including joint programs of the California State University and the University of California.

(3) The California State University shall provide any initial funding needed for the programs authorized by this article from within existing budgets for academic programs support, without diminishing the quality of program support offered to California State University undergraduate programs. Funding of these programs shall not reduce undergraduate enrollments at the California State University.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Emmerson	**BILL NUMBER:**	AB 877
SPONSOR:	Emmerson	**BILL STATUS:**	Assembly
SUBJECT:	Healing Arts	**DATE LAST AMENDED:**	Introduced 2/26/09

SUMMARY:
Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs and the department is under the control of the Director of Consumer Affairs.

This bill would create an Act relating to healing arts.

ANALYSIS:
This bill would declare the intent of the Legislature to enact legislation, that would authorize the Director of Consumer Affairs, to appoint a committee to perform occupational analyses on various healing arts practices to include but not be limited to: education, training, and experience, and to prepare a written report on any bill introduced in either house of the Legislature that seeks to expand the scope of a healing arts practice. The committee would be comprised of seven members:

- Two academics representing each side of the scope of practice issue.
- One practitioner representing each side of the scope of practice issue.
- One public member.

The cost of the occupational analyses and the written reports would be borne by the healing arts practice requesting the expanded scope of practice.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 877

Introduced by Assembly Member Emmerson

February 26, 2009

An act to relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 877, as introduced, Emmerson. Healing arts.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs and the department is under the control of the Director of Consumer Affairs.

This bill would declare the intent of the Legislature to enact legislation authorizing the Director of Consumer Affairs to appoint a specified committee of 7 members to perform occupational analyses, as specified, and to prepare written reports on any bill that seeks to expand the scope of a healing arts practice.

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

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

SECTION 1. (a) It is the intent of the Legislature to enact legislation that would authorize the Director of Consumer Affairs to appoint a committee to perform occupational analyses on various healing arts practices, to include, but not be limited to, education, training, and experience, and to prepare a written report on any bill introduced in either house of the Legislature that seeks to

expand the scope of a healing arts practice as described in Division 2 of the Business and Professions Code.

(b) It is the intent of the Legislature that the committee be comprised of seven members as follows: two academics representing each side of the scope of practice issue, one practitioner representing each side of the scope of practice issue, and one public member.

(c) It is further the intent of the Legislature that the cost of the occupational analyses and the written reports be borne on the healing arts practice requesting the expanded scope of practice.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Skinner	**BILL NUMBER:**	AB 977
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Pharmacists: immunization administration	**DATE LAST AMENDED:**	Introduced 2/26/09

SUMMARY:
Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists by the Board of Pharmacy in the Department of Consumer Affairs. A violation of the Pharmacy Law is a crime. Existing law, among other things, authorizes a pharmacist to administer immunizations pursuant to a protocol with a prescriber.

This bill would amend and add a section to the Business and professions Code, relating to pharmacy.

ANALYSIS:
This bill would authorize a pharmacist to initiate and administer immunizations pursuant to a protocol with a prescriber or the recommended Immunization Schedules provided by the federal Centers for Disease Control and Prevention. The bill would require a Pharmacist to:

- Complete a specified pharmacy-based immunization delivery training program, prior to initiating and administering immunizations
- Complete 3 hours of immunization-related continuing education coursework annually and to be certified in basic life support.
- Provide the patient with a Vaccine Information Statement at the time of administration of an immunization.
- Provide the patient's physician with documentation of administration of the immunization.
- Maintain a specified immunization administration record, report any adverse event and administer epinephrine for severe allergic reactions, and assure proper storage and handling of vaccines.

BOARD POSITION:
LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
OPPOSE:

ASSEMBLY BILL No. 977

Introduced by Assembly Member Skinner

February 26, 2009

An act to amend Section 4052 of, and to add Section 4052.8 to, the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 977, as introduced, Skinner. Pharmacists: immunization administration.

Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists by the Board of Pharmacy in the Department of Consumer Affairs. A violation of the Pharmacy Law is a crime. Existing law, among other things, authorizes a pharmacist to administer immunizations pursuant to a protocol with a prescriber.

This bill would authorize a pharmacist to initiate and administer immunizations pursuant to a protocol with a prescriber or the recommended Immunization Schedules provided by the federal Centers for Disease Control and Prevention. The bill would require a pharmacist, prior to initiating and administering immunizations, to complete a specified pharmacy-based immunization delivery training program. The bill would also require a pharmacist to complete 3 hours of immunization-related continuing education coursework annually and to be certified in basic life support. The bill would require the pharmacist, at the time of administration of an immunization, to provide the patient with a Vaccine Information Statement and to provide the patient's physician with documentation of administration of the immunization. The bill would also require a pharmacist to maintain a specified immunization administration record, report any adverse event

and administer epinephrine for severe allergic reactions, and assure proper storage and handling of vaccines.

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

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

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

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

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

SECTION 1. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded drug product to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform procedures or functions in a licensed health care facility as authorized by Section 4052.1.

(5) Perform procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, as authorized by Section 4052.2.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) Furnish emergency contraception drug therapy as authorized by Section 4052.3.

(9) ~~Administer~~ *Initiate and administer* immunizations pursuant to ~~a protocol with a prescriber~~ *Section 4052.8*.

(b) A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

(c) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(d) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 2. Section 4052.8 is added to the Business and Professions Code, to read:

4052.8. (a) A pharmacist may initiate and administer immunizations pursuant to either of the following:

(1) A protocol with a prescriber.

(2) The recommended Immunization Schedules for persons aged 7 through 18 years of age and adults provided by the federal Centers for Disease Control and Prevention, as they may be amended from time to time.

(b) Prior to initiating and administering immunizations, a pharmacist shall complete the American Pharmacists Association's Pharmacy-Based Immunization Delivery Certificate Training Program or another pharmacy-based immunization training certificate program endorsed by the federal Centers for Disease Control and Prevention or the Accreditation Council for Pharmaceutical Education.

(c) (1) A pharmacist initiating and administering any immunization pursuant to this section shall also complete three hours of immunization-related continuing education coursework annually.

(2) If a pharmacist fails to satisfy this requirement, he or she shall, in addition to any other applicable disciplinary action, retake the training identified in subdivision (b) and also complete the three hours of immunization-related continuing education coursework described in paragraph (1) prior to initiating and administering any further immunizations.

(3) The three hours of immunization-related continuing education may be applied toward the continuing education requirement described in Section 4231.

(d) A pharmacist initiating and administering any immunization pursuant to this section shall at all times be certified in basic life support.

(e) At the time of administration of an immunization, the pharmacist shall do both of the following:

(1) Provide the patient or the patient's agent with the appropriate Vaccine Information Statement, produced by the Centers for Disease Control and Prevention, for each immunization administered.

(2) Provide documentation of administration of the immunization to the patient and the patient's physician or primary care provider, if one can be identified.

(f) The pharmacist shall maintain an immunization administration record, which shall include, but not be limited to, the name of the vaccine, the expiration date, the date of administration, the manufacturer and lot number, the administration site and route, the Vaccine Information Statement date, and the name and title of the person administering, for the longer of the following periods:

(1) Ten years from the date of administration.

(2) If the patient is younger than 18 years of age at the time of administration, three years beyond the patient's 18th birthday.

(g) Any pharmacist initiating and administering vaccines may initiate and administer epinephrine by injection for severe allergic reactions.

(h) Any adverse event shall be reported to the Vaccine Adverse Event Reporting System within the U.S. Department of Health and Human Services.

(i) Upon receipt of a vaccine as authorized by this section, a pharmacist is responsible for assuring that proper vaccine temperatures are maintained during subsequent storage and handling to preserve the potency of the vaccine.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Furutani	**BILL NUMBER:**	AB 1038
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Health Facilities: nursing hours	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. A violation of these provisions is a crime. Existing law requires that the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, with specified exceptions.

This bill would amend a section of the Health and Safety Code, relating to health facilities.

ANALYSIS:
This bill would require an increase in the number of actual **nursing hours**, per patient, required in a skilled nursing facility, to that of 3.5 hours, commencing January 1, 2010. "Nursing hours" means the number of hours of work performed per patient day by aids, nursing assistant, licensed vocational nurses and registered nurses. Currently, patients only receive 3.2 hours per day.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1038

Introduced by Assembly Member Furutani

February 27, 2009

An act to amend Section 1276.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1038, as introduced, Furutani. Health facilities: nursing hours.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. A violation of these provisions is a crime.

Existing law requires that the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, with specified exceptions.

This bill would increase this requirement to 3.5 nursing hours per patient. By expanding the scope of a crime, this bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. (a) The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities, subject to the specific requirements of Section 14110.7 of the Welfare and Institutions Code. However, notwithstanding Section 14110.7 *of the Welfare and Institutions Code* or any other provision of ~~law, commencing~~ *law:*

(1) Commencing January 1, 2000, the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, except as provided in Section 1276.9.

(2) Commencing January 1, 2010, the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.5 hours, except as provided in Section 1276.9.

(b) (1) For the purposes of this section, "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, by licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital, and except that nursing hours for skilled nursing facilities means the actual hours of work, without doubling the hours performed per patient day by registered nurses and licensed vocational nurses.

(2) Concurrent with implementation of the first year of rates established under the Medi-Cal Long Term Care Reimbursement Act of 1990 (Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code), for the purposes of this section, "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, registered nurses, and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities

providing care for the developmentally disabled or mentally disordered, by licensed psychiatric technicians who performed direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

(c) Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

(d) (1) Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, or an intermediate care facility/developmentally disabled—nursing shall be either a licensed nursing home administrator or a qualified mental retardation professional as defined in Section 483.430 of Title 42 of the Code of Federal Regulations.

(2) To qualify as an administrator for an intermediate care facility for the developmentally disabled, a qualified mental retardation professional shall complete at least six months of administrative training or demonstrate six months of experience in an administrative capacity in a licensed health facility, as defined in Section 1250, excluding those facilities specified in subdivisions (e), (h), and (i).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Carter	**BILL NUMBER:**	AB 1116
SPONSOR:	Carter	**BILL STATUS:**	Assembly
SUBJECT:	Cosmetic surgery	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs which licenses dentists and regulates their practice, including dentists who hold a permit to perform oral and maxillofacial surgery. Existing Law, the Medical Practice Act, establishes the Medical Board of California in the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act requires specified disclosures to patients undergoing procedures involving collagen injections, and also requires the Medical Board of California to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would add sections to the Business and Professions Code, relating to cosmetic surgery.

ANALYSIS:
This bill would enact the Donda West Law which will prohibit the performance of an elective cosmetic surgery procedure on a patient unless prior to the surgery the patient has received a physical examination, including a complete medical history, and has received written clearance for the procedure. This must be completed by the licensed physician and surgeon, dentist performing the cosmetic surgery, another licensed physician, certified nurse practitioner, or a licensed physician assistant.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1116

Introduced by Assembly Member Carter

February 27, 2009

An act to add Sections 1638.2 and 2259.8 to the Business and Professions Code, relating to cosmetic surgery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as introduced, Carter. Cosmetic surgery.

Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs, which licenses dentists and regulates their practice, including dentists who hold a permit to perform oral and maxillofacial surgery. Existing law, the Medical Practice Act, establishes the Medical Board of California in the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act requires specified disclosures to patients undergoing procedures involving collagen injections, and also requires the Medical Board of California to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would enact the Donda West Law, which would prohibit the performance of an elective cosmetic surgery procedure on a patient unless, prior to surgery, the patient has received a physical examination by, and has received written clearance for the procedure from, the licensed physician and surgeon or dentist performing the cosmetic surgery or another licensed physician and surgeon, or a certified nurse practitioner or a licensed physician assistant, as specified. The bill would

require the physical examination to include the taking of a complete medical history. The bill would also provide that a violation of these provisions would not constitute a crime.

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

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

SECTION 1. This act shall be known and may be cited as the Donda West Law.

SEC. 2. Section 1638.2 is added to the Business and Professions Code, to read:

1638.2. (a) Notwithstanding any other provision of law, a person licensed pursuant to Section 1634 who holds a permit to perform elective facial cosmetic surgery issued pursuant to this article may not perform elective facial cosmetic surgery on a patient, unless the patient has received a physical examination by, and written clearance for the procedure from, either of the following:

(1) A licensed physician and surgeon.

(2) The person licensed pursuant to Section 1634 who holds a permit to perform elective facial cosmetic surgery issued pursuant to this article and who will be performing the surgery.

(b) The physical examination described in subdivision (a) shall include the taking of a complete medical history.

(c) A violation of this section shall not constitute a crime.

SEC. 3. Section 2259.8 is added to the Business and Professions Code, to read:

2259.8. (a) Notwithstanding any other provision of law, a cosmetic surgery procedure may not be performed on a patient unless, prior to surgery, the patient has received a physical examination by, and written clearance for the procedure from, any of the following:

(1) The physician and surgeon who will be performing the surgery.

(2) Another licensed physician and surgeon.

(3) A certified nurse practitioner, in accordance with a certified nurse practitioner's scope of practice, unless limited by protocols or a delegation agreement.

(4) A licensed physician assistant, in accordance with a licensed physician assistant's scope of practice, unless limited by protocols or a delegation agreement.

(b) The physical examination described in subdivision (a) shall include the taking of a complete medical history.

(c) "Cosmetic surgery" means an elective surgery that is performed to alter or reshape normal structures of the body in order to improve the patient's appearance, including, but not limited to, liposuction and elective facial cosmetic surgery.

(d) Section 2314 shall not apply to this section.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	De La Torre	**BILL NUMBER:**	AB 1215
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Community colleges: temporary and part-time faculty	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law requires that a person employed to teach adult or community college classes for not more than 67% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee. Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty teaching 60% or more of the hours per week considered a full-time assignment for regular employees may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014. Existing law, the Community College Part-Time Faculty Office Hours Program, authorizes the governing board of a community college district to establish a program to provide part-time faculty office hours. Existing law defines "part-time faculty" as any person who is employed to teach for not more than 60% of the hours per week considered a full-time assignment for regular employees having comparable duties.

This bill would amend sections of the Education Code, relating to community colleges.

ANALYSIS:
This bill would authorize the governing board of a district to employ as a temporary faculty, a person serving as part-time clinical nursing faculty teaching 67% or more of the hours per week considered a full-time assignment. It would also change the definition of "part-time faculty" to apply to any person who is employed to teach for not more than 67% of the hours per week considered a full-time assignment for regular employees having comparable duties.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1295

Introduced by Assembly Member Fuller

February 27, 2009

An act relating to nursing degree programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as introduced, Fuller. Postsecondary education: nursing degree programs.

Existing law establishes the University of California, the California State University, and the California Community Colleges as the 3 segments of public postsecondary education in this state. Under existing law, the Chancellor of the California Community Colleges is required to encourage community college districts to, and the Chancellor of the California State University is required to, standardize all nursing education program prerequisites on a statewide basis and negotiate and implement articulation agreements among the campuses and districts of these 2 segments.

Existing law, the Entry-Level Master's Nursing Programs Act, among other things, requires the Chancellor of the California State University to determine which campuses are eligible for supplemental funds for establishing entry-level master's programs in nursing.

Existing law expresses the intent of the Legislature that, with respect to nursing programs at the University of California, the Regents of the University of California should expand nursing programs to enroll additional students, as specified.

This bill would express the intent of the Legislature to enact legislation to create a model program that facilitates and expedites, for licensed registered nurses who have completed associate degrees in nursing, the

completion of coursework necessary to earn a bachelor of science in nursing degree or a master of science in nursing degree and to create programs that facilitate the completion of master of science in nursing degrees by students with baccalaureate degrees who are enrolled in associate degree nursing programs.

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

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

SECTION 1. It is the intent of the Legislature to enact legislation to do both of the following:

(a) Create a model program that facilitates and expedites, for licensed registered nurses who have completed associate degrees in nursing, the completion of coursework necessary to earn a bachelor of science in nursing degree or master of science in nursing degree.

(b) Create programs that facilitate the completion of master of science in nursing degrees by students who have completed baccalaureate degrees and who are enrolled in associate degree in nursing programs.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Hernandez	**BILL NUMBER:**	AB 1310
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Healing arts: database	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, there exists the Healthcare Workforce Development Division within the Office of Statewide Health Planning and Development (OSHPD) that supports health care accessibility through the promotion of a diverse and competent workforce and provides analysis of California's health care infrastructure. Under existing law, there is also the Health Care Workforce Clearinghouse, established by OSHPD that serves as the central source for collection, analysis, and distribution of information on the health care workforce employment and educational data trends for the state.

This bill would add a section to the Business and Professions Code, relating to healing arts.

ANALYSIS:
This bill would require the Department of Consumer Affairs to add and label as "mandatory" the following fields on an application for initial licensure or a renewal form for applicants applying to healing arts boards:

- First name, middle name, and last name.
- Last four digits of social security number.
- Complete mailing address.
- Educational background and training.
- Birth date and place of birth.
- Sex, race and ethnicity.
- Location of high school.
- Mailing address of primary practice, if applicable, and specified information relative to the practice.

This bill would require the department, in consultation with the Healthcare Workforce Development Division and the clearinghouse, within the Office of Statewide Health Planning and Development, to select a database and to add the data collected in the applications and renewal forms to the database and to submit the data to the

clearinghouse annually on or before January 1. The clearinghouse would be required to prepare a written report relating to the data and to submit the report annually to the Legislature no later than March 1, commencing 2012.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1310

Introduced by Assembly Member Hernandez

February 27, 2009

An act to add Section 857 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1310, as introduced, Hernandez. Healing arts: database.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, there exists the Healthcare Workforce Development Division within the Office of Statewide Health Planning and Development (OSHPD) that supports health care accessibility through the promotion of a diverse and competent workforce and provides analysis of California's health care infrastructure. Under existing law, there is also the Health Care Workforce Clearinghouse, established by OSHPD, that serves as the central source for collection, analysis, and distribution of information on the health care workforce employment and educational data trends for the state.

This bill would require the department to add and label as "mandatory" specified fields on an application for initial licensure or a renewal form for applicants applying to specified healing arts boards. The bill would require the department, in consultation with the division and the clearinghouse, to select a database and to add some of the data collected in these applications and renewal forms to the database and to submit the data to the clearinghouse annually on or before January 1. The bill would require the clearinghouse to prepare a written report relating to

the data and to submit the report annually to the Legislature no later than March 1, commencing March 1, 2012.

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

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

SECTION 1. Section 857 is added to the Business and Professions Code, to read:

857. (a) The department shall add and label as "mandatory" the following fields on an application for initial licensure or renewal for a person applying to a board described in subdivision (c):

(1) First name, middle name, and last name.

(2) Last four digits of social security number.

(3) Complete mailing address.

(4) Educational background and training, including, but not limited to, degree, related school name and location, and year of graduation, and, as applicable, the highest professional degree obtained, related professional school name and location, and year of graduation.

(5) Birth date and place of birth.

(6) Sex.

(7) Race and ethnicity.

(8) Location of high school.

(9) Mailing address of primary practice, if applicable.

(10) Number of hours per week spent at primary practice location, if applicable.

(11) Description of primary practice setting, if applicable.

(12) Primary practice information, including, but not limited to, primary specialty practice, practice location ZIP Code, and county.

(13) Information regarding any additional practice, including, but not limited to, a description of practice setting, practice location ZIP Code, and county.

(b) The department, in consultation with the Healthcare Workforce Development Division and the Health Care Workforce Clearinghouse, shall select a database and shall add the data specified in paragraphs (5) to (13) of subdivision (a), inclusive, to that database.

(c) The following boards are subject to subdivision (a):
(1) The Acupuncture Board.
(2) The Dental Hygiene Committee of California.
(3) The Dental Board of California.
(4) The Medical Board of California.
(5) The Bureau of Naturopathic Medicine.
(6) The California Board of Occupational Therapy.
(7) The State Board of Optometry.
(8) The Osteopathic Medical Board of California.
(9) The California State Board of Pharmacy.
(10) The Physical Therapy Board of California.
(11) The Physician Assistant Committee, Medical Board of California.
(12) The California Board of Podiatric Medicine.
(13) The Board of Psychology.
(14) The Board of Registered Nursing.
(15) The Respiratory Care Board of California.
(16) The Speech-Language Pathology and Audiology Board.
(17) The Board of Vocational Nursing and Psychiatric Technicians of the State of California.
(d) (1) The department shall collect the specified data in the database pursuant to subdivision (b) and shall submit that data to Health Care Workforce Clearinghouse annually on or before January 1.
(2) The Health Care Workforce Clearinghouse shall prepare a written report containing the findings of this data and shall submit the written report annually to the Legislature no later than March 1, commencing March 1, 2012.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Swanson	**BILL NUMBER:**	AB 1430
SPONSOR:	California School Nurse Association	**BILL STATUS:**	Assembly
SUBJECT:	Pupil Health: licensed nurses	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law provides that any pupil who is required to take medication prescribed for him or her by a physician and surgeon during the regular school day, may be assisted by the school nurse, other designated school personnel, or may carry and self-administer prescription auto-injectable epinephrine if the school district receives the appropriate written statements, as prescribed, from the physician and the parent, foster parent, or guardian of the pupil.

The existing Nursing Practice Act regulates the practice of nursing, which is defined in the act as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or treatments, and that require a substantial amount of scientific knowledge or technical skill.

This bill would add a section to the Education Code, relating to pupil health.

ANALYSIS:
This bill would express findings and declarations of the Legislature with respect to a Superior Court ruling relating to the administration of medication to students in California public elementary and secondary schools. The court specifically found that state law authorizes the administration of medication, to a student only by a licensed healthcare professional acting within the scope of practice for which he or she is licensed to perform services. This bill would require that any medication prescribed for a student that must be taken during the regular school day, must be administered by a licensed nurse in compliance with the nursing practice act.

Currently, by law, unlicensed personnel may administer auto-injectable epinephrine and glucagon to students in elementary and secondary schools as prescribed and under specific circumstances.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1430

Introduced by Assembly Member Swanson

February 27, 2009

An act to add Section 49423.4 to the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1430, as introduced, Swanson. Pupil health: licensed nurses.

Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

Existing law provides that any pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician and surgeon, may be assisted by the school nurse or other designated school personnel, or may carry and self-administer prescription auto-injectable epinephrine if the school district receives the appropriate written statements, as prescribed, from the physician and the parent, foster parent, or guardian of the pupil.

The existing Nursing Practice Act regulates the practice of nursing, which is defined in the act as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill.

This bill would express findings and declarations of the Legislature with respect to a Superior Court ruling relating to the administration of medication to pupils in California public elementary and secondary

schools. This bill, notwithstanding the provision referenced above that authorizes assistance to be given to a pupil by school personnel during the schoolday under certain conditions, would require that any medication that is administered to a pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon shall be administered by a licensed nurse in compliance with the Nursing Practice Act.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code) was designed to protect patients in the administration of medications.

(b) According to the ruling of the Superior Court of California in and for the County of Sacramento filed on December 26, 2008, in the case of American Nurses Association et al. v. O'Connell et al., the administration of medication to pupils in California public elementary and secondary schools must be accomplished in accordance with the requirements of the Nursing Practice Act.

(c) The court specifically found that state laws authorize the administration of medication to a student only by a licensed health care professional acting within the scope of practice for which he or she is licensed to perform services.

(d) The court noted the statutorily authorized exceptions that authorize an unlicensed person to administer medication, but specifically noted that assistance within the meaning of Section 49423 of the Education Code does not encompass the administration of medications. The court ruled that the plain meaning of assistance and administration, as well as the legislative history of the section, indicate that assistance is distinct from, rather than synonymous or interchangeable with, administration.

SEC. 2. Section 49423.4 is added to the Education Code, to read:

49423.4. Notwithstanding Section 49423, any medication that is administered to a pupil who is required to take, during the regular

schoolday, medication prescribed for him or her by a physician or surgeon shall be administered by a licensed nurse in compliance with the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code). Nothing in this section prohibits an individual authorized under Section 49414 or 49414.5 from rendering emergency medical aid.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Ammiano	**BILL NUMBER:**	AB 1478
SPONSOR:		**BILL STATUS:**	Assembly
SUBJECT:	Written Acknowledgment: medical nutrition therapy	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law requires a health care practitioner, as specified, to obtain prior verbal and written consent of a patient or the patient's legal representative, as specified, prior to delivery of health care via telemedicine.

This bill would add a section to the Business and Professions Code, relating to healing arts.

ANALYSIS:
This bill would require physician to Inform the patient or the patient's legal representative of the option of medical nutrition therapy treatment for diabetes or heart disease, including a description of the potential risks, consequences, and benefits of this treatment relative to other medical treatment options. It would also require the physician to obtain written acknowledgment from the patient or the patient's legal representative, confirming that the patient received the information and discussed it with the physician, or his or her designee, and that the patient or the patient's legal representative understands this information.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1478

Introduced by Assembly Member Ammiano

February 27, 2009

An act to add Section 2290.6 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1478, as introduced, Ammiano. Written acknowledgment: medical nutrition therapy.

Existing law requires a health care practitioner, as specified, to obtain prior verbal and written consent of a patient or the patient's legal representative, as specified, prior to delivery of health care via telemedicine.

This bill would require that a physician and surgeon obtain a patient's written acknowledgment confirming the receipt of information, as specified, regarding treatment through medical nutrition therapy prior to delivering nonemergency treatment for diabetes or heart disease.

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

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

1 SECTION 1. Section 2290.6 is added to the Business and
2 Professions Code, to read:
3 2290.6. (a) Prior to the delivery to a patient of nonemergency
4 health care for the treatment for diabetes or heart disease, a
5 physician and surgeon licensed pursuant to this chapter shall:

(1) Inform the patient or the patient's legal representative of the option of medical nutrition therapy treatment for diabetes or heart disease, respectively, including a description of the potential risks, consequences, and benefits of this treatment relative to other medical treatment options.

(2) Obtain written acknowledgment from the patient or the patient's legal representative confirming that the patient received this information and discussed it with the physician and surgeon, or his or her designee, and that the patient or the patient's legal representative understands this information.

(b) For purposes of this section, "medical nutrition therapy" shall have the same meaning as set forth in subdivision (a) of Section 2586.

(c) The failure of a physician and surgeon to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(d) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" shall have the same meaning as set forth in subdivision (g) of Section 2290.5.

(e) This section shall not apply in an emergency situation in which a patient is unable to give written acknowledgment and the representative of that patient is not available in a timely manner to give written acknowledgment.

(f) This section shall not apply to a patient under the jurisdiction of the Department of Corrections of Rehabilitation or any other correctional facility.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Ruskin	**BILL NUMBER:**	ACR 31
SPONSOR:	California Federation of Teachers	**BILL STATUS:**	Assembly
SUBJECT:	California Community Colleges: Faculty	**DATE LAST AMENDED:**	Introduced 2/23/09

SUMMARY:
This measure would express the intent of the Legislature that the California Community Colleges increase the number of full-time tenured and tenure-track faculty and increase salaries and specified benefits for part-time and nontenure-track faculty.

ANALYSIS:
This resolution states that, commencing in 2010-11; each campus with less than 75 percent of its full-time equivalent faculty tenured or tenure-track should increase this percentage by at least 10 percent each year, and should reach 75 percent no later than 2017-18. It also states that each district should determine a minimum salary goal for part-time and temporary faculty that is prorated to the salaries of comparable full-time tenured faculty, and that part-time faculty should be able to accumulate seniority.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Assembly Concurrent Resolution No. 31

Introduced by Assembly Member Ruskin

February 23, 2009

Assembly Concurrent Resolution No. 31—Relative to the California Community Colleges.

LEGISLATIVE COUNSEL'S DIGEST

ACR 31, as introduced, Ruskin. California Community Colleges: faculty.

This measure would express the intent of the Legislature that the California Community Colleges increase the number of full-time tenured and tenure-track faculty and increase salaries and specified benefits for part-time and nontenure-track faculty.

Fiscal committee: yes.

WHEREAS, An increasing percentage of the courses offered in public colleges and universities in California are being taught by part-time and other nontenure-track faculty; and

WHEREAS, The system of higher education within the California Community Colleges has become dependent upon a contingent workforce that is poorly compensated and too often lacks basic supports, including health insurance; and

WHEREAS, These twin developments, the economic exploitation of part-time and other contingent faculty and the shrinking of the ranks of full-time tenured faculty, limit the ability of the state's public higher education system to provide high-quality education, research, and support for economic development; and

WHEREAS, Providing sufficient numbers of faculty with full-time tenured and tenure-track employment and improving the conditions under which part-time and other nontenure-track faculty work will result in better service for students, communities, and the economy; and

WHEREAS, Fair tax policies are the financial foundation of a modern society; and

WHEREAS, Property taxes are the most reliable revenue source for public services; and

WHEREAS, Proposition 13, an initiative measure approved by voters at the June 6, 1978, direct primary election, moved education decisionmaking to the state level and created difficulties in funding education; and

WHEREAS, Federal tax breaks have caused cuts in federal support for higher education programs; and

WHEREAS, Funds have been provided through the annual Budget Act to assist community college districts; and

WHEREAS, Many community college districts have made substantial progress in increasing the number of full-time tenured faculty, but too many districts have not; and

WHEREAS, The principle of equal pay for equal work requires that part-time faculty be provided with compensation that is directly proportional to the compensation of full-time faculty; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature that at least 75 percent of the full-time equivalent faculty on each campus of the California Community Colleges be tenured or tenure-track; and be it further

Resolved, That it is further the intent of the Legislature that all part-time and temporary faculty receive pay and benefits that are equal to those of tenured and tenure-track faculty of comparable qualifications doing comparable work, as determined on a pro rata basis; and be it further

Resolved, That each community college district should determine the number of undergraduate courses that will be taught by part-time, temporary, nontenured, tenure-track, and tenured faculty; and be it further

Resolved, That the longstanding policy of the Board of Governors of the California Community Colleges that at least 75

percent of the hours of credit instruction in the colleges be taught by full-time instructors should be advanced; and be it further

Resolved, That commencing in the fall term of the 2010–11 academic year, and continuing each academic term thereafter, each campus of a community college district with less than 75 percent of its full-time equivalent faculty being tenured and tenure-track faculty, should increase the percentage of full-time tenured and tenure-track faculty so that the 75 percent minimum is accomplished no later than the fall term of the 2017–18 academic year; and be it further

Resolved, That commencing with the fall term of the 2010–11 academic year, each campus of a community college district should reduce the gap between 75 percent and the current percentage of full-time equivalent faculty who are tenured or tenure-track by at least 10 percent each academic year; and be it further

Resolved, That each community college district should develop and adopt plans to meet the requirements related to increasing the percentage of full-time tenured and tenure-track faculty; and be it further

Resolved, That the development and adoption of plans related to increasing the percentage of full-time tenured and tenure-track faculty should be subject to a collective bargaining process that includes the exclusive representatives of the full-time and part-time faculty serving at that institution; and be it further

Resolved, That each community college district should determine a minimum salary goal for part-time and temporary faculty employed on each campus that is prorated to the salaries of full-time tenured faculty who have comparable qualifications and do comparable work; and be it further

Resolved, That commencing with the fall term of the 2010–11 academic year, each community college district should increase part-time and nontenure-track faculty salary by an amount sufficient to close any gap between the pro rata salaries of part-time faculty and full-time faculty no later than the fall term of the 2017–18 academic year; and be it further

Resolved, That the determination of the method of prorating salaries should be subject to a collective bargaining process that includes the exclusive representatives of faculty serving at that institution; and be it further

Resolved, That a community college district should reduce the gap between the salaries of part-time and temporary faculty and full-time tenured and tenure-track faculty by at least 15 percent each academic year; and be it further

Resolved, That if, during a calendar year, a part-time or other nontenure-track faculty member of a community college district teaches at least 40 percent of the number of hours per week that is considered to be a full-time assignment for tenured and tenure-track faculty, that part-time faculty member should be eligible for the same health care benefits that are received by tenured and tenure-track faculty at that campus; and be it further

Resolved, That each community college district should establish a process under which part-time and other nontenure-track faculty may, after successful completion of a probationary period, receive timely notice of, and priority consideration for, appropriate teaching assignments in future academic terms and preferential consideration for attaining a tenure-track position when one becomes available; and be it further

Resolved, That the process should ensure that part-time and other nontenure-track faculty receive the accumulation of seniority, notification about job openings at that institution prior to the publication of announcements of those openings outside of that institution, and preferential consideration for appointments to tenure-track positions; and be it further

Resolved, That the implementation of these requirements should be subject to a collective bargaining process that includes the exclusive representatives of the full-time and part-time faculty serving at that institution; and be it further

Resolved, That each community college district should make progress toward the goals described in this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the governing board of each district of the California Community Colleges and to the author for distribution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Oropeza	**BILL NUMBER:**	SB 112
SPONSOR:	California Dialysis Council	**BILL STATUS:**	Senate
SUBJECT:	Hemodialysis Technicians	**DATE LAST AMENDED:**	3/4/09

SUMMARY:
Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified. This bill would amend, repeal and add sections to the Business and Professions Code, relating to healing arts.

ANALYSIS:
This bill would require a hemodialysis technician to be certified by the State Department of Public Health as a Certified Hemodialysis Technician (CHT), prior to providing services to patients. To become certified, an individual would have to meet **one** of the following two requirements:

1. Certification by one of the following national certification programs:
   A. The Board of Nephrology Examiners for Nursing and Technology (BONENT).
   B. The Nephrology Nursing Certification Commission.
   C. The National Nephrology Certification Organization.
   D. Another national commercially available certification program approved by the Centers for Medicare and Medicaid Services.
2. Certification by the department as having met the requirements of the state certification program.

Amended analysis of 3/4/09:
This bill amendment would delete the provision that would have allowed a hemodialysis technician to be certified by a national certification program. It would require the hemodialysis technician to successfully complete a training program with specified requirements, and pass a board-approved standardized test or pass and examination offered by a certification program approved by the Centers for Medicare and Medicaid Services.

BOARD POSITION: Support (2/20/09)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (2/4/09)

SUPPORT:

OPPOSE:

AMENDED IN SENATE MARCH 4, 2009

SENATE BILL No. 112

Introduced by Senator Oropeza

January 29, 2009

An act to amend Sections 1247.2, 1247.4, 1247.6, 1247.63, 1247.64, *and* 1247.8 of, to add Section 1247.61 to, and to add and repeal Section 1247.62 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 112, as amended, Oropeza. Hemodialysis technicians.

Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified.

This bill would revise those requirements and prohibit a person from providing services as a hemodialysis technician without ~~(1) being certified by a specified national certification program or (2)~~ having a high school diploma or equivalency or 4 years of specified work experience, successfully completing a training program meeting

specified requirements, and passing a *board-approved* standardized test *or passing an examination offered by a certification program approved by the Centers for Medicare and Medicaid Services*, as specified. The bill would require technicians certified by the department as of the bill's operative date to meet those requirements by April 15, 2010, as specified. The bill would make other conforming and technical, nonsubstantive changes.

By changing the definition of a crime, this bill would impose a state-mandated local program.

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

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

This bill would also declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In April 2008, the Centers for Medicare and Medicaid Services (CMS) issued final regulations, the Conditions for Coverage of End-Stage Renal Disease Facilities (Conditions for Coverage), at Part 494 of Title 42 of the Code of Federal Regulations, establishing conditions that dialysis facilities must meet to be certified under the Medicare Program.

(b) The Conditions for Coverage require hemodialysis technicians providing services at dialysis facilities to be certified under a state certification program or a national commercially available certification program by a specified date.

(c) The Conditions for Coverage further require hemodialysis technicians providing services at dialysis facilities to, among other things, have a high school diploma or equivalency and have completed a specified training program.

(d) More than ~~6,000~~ *5,000* persons provide services as *state-certified* hemodialysis technicians in California.

(e) Only three national commercially available certification programs have been approved by CMS.

(f) Therefore, it is the intent of the Legislature to revise the Hemodialysis Technician Training Act to ensure that hemodialysis technicians meet the requirements of the Conditions for Coverage so that dialysis facilities in this state may continue to employ those technicians.

SEC. 2. Section 1247.2 of the Business and Professions Code is amended to read:

1247.2. For the purpose of this article, the following terms have the following meaning:

(a) "Immediate supervision" means supervision of dialysis treatment in the same room in which the dialysis treatment is being performed.

(b) "Department" means the State Department of Public Health.

(c) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis.

SEC. 3. Section 1247.4 of the Business and Professions Code is amended to read:

1247.4. The department shall adopt regulations it deems necessary to implement this article.

SEC. 4. Section 1247.6 of the Business and Professions Code is amended to read:

1247.6. (a) Except during training under immediate supervision, and except as provided in Section 1247.62, no person shall provide services as a hemodialysis technician without being certified by the department as a Certified ~~Hemodialysis Technician (CHT). To be certified by the state as a CHT, a person must meet one of the following two requirements:~~

~~(1) Certification by the department as having been certified by one of the following:~~

~~(A) The Board of Nephrology Examiners for Nursing and Technology (BONENT).~~

~~(B) The Nephrology Nursing Certification Commission.~~

~~(C) The National Nephrology Certification Organization.~~

~~(D) Another national commercially available certification program approved by the Centers for Medicare and Medicaid Services.~~

~~(2) Certification by the department as having met the requirements of the state certification program, as set forth in Section 1247.61.~~ *Hemodialysis Technician.*

(b) This article does not apply to home dialysis patients, or patient helpers not employed by the licensed facility, who have undergone a home dialysis training program operated by a licensed clinic or hospital as defined in Sections 1204 and 1250 of the Health and Safety Code and have been certified by the medical director of the facility as being competent to perform home dialysis treatment.

SEC. 5. Section 1247.61 is added to the Business and Professions Code, to read:

1247.61. To be certified by the department as a Certified Hemodialysis Technician (CHT), a person shall meet all ~~three~~ of the following requirements:

(a) Have a high school diploma or equivalency, or have greater than four years of work experience in dialysis as of October 14, 2008.

(b) Have successfully completed a training program that is approved by the medical director and governing body of a hemodialysis clinic or unit, under the direction of a registered nurse, focused on the operation of kidney dialysis equipment and machines, providing direct patient care, and communication and interpersonal skills, including patient sensitivity training and care of difficult patients. For purposes of this subdivision, a person "successfully completes a training program" if he or she completes all didactic portions of the program and demonstrates competency in the knowledge and skills provided by the program.

(1) The training program shall include all of the following subjects:

(A) Principles of dialysis.

(B) Care of patients with kidney failure, including interpersonal skills.

(C) Dialysis procedures and documentation, including initiation, proper cannulation techniques, monitoring, and termination of dialysis.

(D) Possible complications of dialysis.

(E) Water treatment and dialysate preparation.

(F) Infection control.

(G) Safety.

(H) Dialyzer reprocessing, if applicable.

(2) A community or corporate-based training program, or a training program offered by an educational institution, is acceptable if the program meets the requirements of this subdivision.

(3) A person employed as a hemodialysis technician by a hemodialysis clinic or unit for more than two years as of October 14, 2008, who does not have documentation of having successfully completed a training program meeting the requirements of this subdivision, shall be deemed to be in compliance with this subdivision by doing both of the following:

(A) Passing a written exam, offered by a hemodialysis clinic or unit, covering the subjects listed in paragraph (1).

(B) Passing a skills checklist through observation by a registered nurse of the technician's skills.

(c) Successfully accomplish either one of the following:

~~(c)~~

(1) Pass a standardized test that is approved by the department and that covers, at a minimum, the subjects listed in paragraph (1) of subdivision (b). This test shall be administered in a proctored environment by an independent examiner. For purposes of this subdivision, independent examiners may include representatives appointed by End-Stage Renal Disease Network 17, End-Stage Renal Disease Network 18, the California Dialysis Council, or any private testing organization approved by the department for that purpose.

(2) Successfully pass an examination offered by a national, commercially available certification program for hemodialysis technicians which is approved for this purpose by the Centers for Medicare and Medicaid Services.

SEC. 6. Section 1247.62 is added to the Business and Professions Code, to read:

1247.62. (a) Except as provided in subdivision (b), Section 1247.6 shall not apply to a person certified by the department as a hemodialysis technician as of the operative date of this section.

(b) Notwithstanding Section 1247.63, the certification of a person described in subdivision (a) shall be valid until April 15, 2010. That person shall, on or before that date, obtain a new certification under Section 1247.6 in a manner prescribed by the department.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 1247.63 of the Business and Professions Code is amended to read:

1247.63. (a) Certification of a hemodialysis technician issued by the department pursuant to subdivision (a) of Section 1247.6 shall be valid for four years.

(b) A certified hemodialysis technician applying for renewal of his or her certification shall submit proof that he or she has obtained 30 hours of in-service training or continuing education in dialysis care or general health care as a requirement for the renewal of his or her certification.

(c) An expired certification may be renewed at any time within two years after its expiration on the filing of an application for renewal and documentation of the required in-service education.

SEC. 8. Section 1247.64 of the Business and Professions Code is amended to read:

1247.64. A hemodialysis technician may obtain the in-service training or continuing education required by subdivision (b) of Section 1247.63 from one or more of the following sources:

(a) Health-related courses offered by accredited postsecondary institutions.

(b) Health-related courses offered by continuing education providers approved by the California Board of Registered Nursing.

(c) Health-related courses offered by recognized health associations if the department determines the courses to be acceptable.

(d) Health-related, employer-sponsored in-service training or continuing education programs.

SEC. 9. Section 1247.8 of the Business and Professions Code is amended to read:

1247.8. Each hemodialysis unit or clinic shall have information available for inspection by the department survey teams which verifies that the hemodialysis technicians employed at the unit or clinic meet the requirements of subdivision ~~(a) of Section 1247.6~~ *Section 1247.61*.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To avoid a critical shortage of hemodialysis technicians meeting the requirements of the Medicare Program Conditions for Coverage of End-Stage Renal Disease Facilities, it is necessary that this act take effect immediately.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Wright	**BILL NUMBER:**	SB 155
SPONSOR:	Wright	**BILL STATUS:**	Senate
SUBJECT:	Student financial aid: Assumption Program of Loans for Education: school nurses	**DATE LAST AMENDED:**	3/26/09

Existing law provides for a program for the assumption of certain student loans of students who agree to enter into the teaching profession, known as the Assumption Program of Loans for Education (APLE), in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics.

Existing law establishes within the State Nursing Assumption Program of Loans for Education (SNAPLE), a program under which any person who is enrolled in an eligible institution, and who agrees to work full time as a registered nurse in a state-operated 24-hour facility, including a prison, psychiatric hospital, or veterans home, that employs registered nurses, is eligible to receive a conditional loan assumption agreement, to be redeemed upon becoming employed as a clinical registered nurse in an eligible facility.

This bill would add and repeal an article of the Education Code, relating to student financial aid.

ANALYSIS:
This bill would expand the APLE to provide for the assumption of student loans to those students who agree to be employed as a school nurse in a school or school district that meets specific requirements. The student would have to meet the following specified requirements such as:

- Completion of at least 60 semester units, or the equivalent, and enrolled in an academic program leading to a baccalaureate degree, at an eligible institution.
- Enrollment in a program to complete training or coursework in order to be employed as a school nurse in an eligible institution.
- Agreement to be employed full time for at least 4 consecutive academic years after obtaining an appropriate nursing credential.

The term of the loan assumption program, after employment as a school nurse, could result in a total of $11,000 as follows:

- 1 complete year ----- $2000 assumed.
- 2 consecutive years - $3000 assumed.
- 3 consecutive years - $3000 assumed.
- 4 consecutive years - $3000 assumed.

Amended analysis of 3/26/09:
This bill amendment would **delete** the provision for the assumption of student loans under the **APLE** program and establish a program within **SNAPLE.** A student who is enrolled in an eligible program, and who agrees to be employed as a school nurse in an eligible school or school district, would be eligible to receive a conditional loan assumption agreement, to be redeemed upon becoming employed as a school nurse in an eligible public elementary school or secondary school. The bill would provide for a progressive assumption of the amount of a qualifying loan over 4 consecutive years of qualifying employment as a school nurse, up to a total loan assumption of $11,000. The program would be repealed on January 1, 2016.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (3/19/09)

SUPPORT:

OPPOSE:

AMENDED IN SENATE MARCH 26, 2009

SENATE BILL No. 155

Introduced by Senator Wright
(Coauthors: Senators Alquist, Wiggins, and Wyland)

February 12, 2009

An act to ~~amend Sections 69612, 69613, 69613.2, 69613.4, 69613.6, and 69615~~ *add and repeal Article 3 (commencing with Section 70130) of Chapter 3 of Part 42 of Division 5 of Title 3* of the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

SB 155, as amended, Wright. Student financial aid: *State Nursing* Assumption Program of Loans for Education: school nurses.

Existing law establishes within the State Nursing Assumption Program of Loans for Education (SNAPLE), a program under which any person who is enrolled in an eligible institution, and who agrees to work full time as a registered nurse in a state-operated 24-hour facility, including a prison, psychiatric hospital, or veterans home, that employs registered nurses, is eligible to receive a conditional loan assumption agreement, to be redeemed upon becoming employed as a clinical registered nurse in an eligible facility.

This bill would establish a program within the SNAPLE, under which a student who is enrolled in an eligible program, and who agrees to be employed as a school nurse in an eligible school or school district, would be eligible to receive a conditional loan assumption agreement, to be redeemed upon becoming employed as a school nurse in an eligible public elementary school or secondary school. The bill would provide for a progressive assumption of the amount of a qualifying loan over 4 consecutive years of qualifying employment as a school nurse, up to

a total loan assumption of $11,000. The program would be repealed on January 1, 2016.

~~Existing law provides for a program for the assumption of certain student loans of students who agree to enter into the teaching profession, known as the Assumption Program of Loans for Education (APLE), in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics.~~

~~This bill would expand the APLE to additionally provide for the assumption of student loans of students who agree to be employed as a school nurse in a school or school district that meets prescribed requirements. The bill would make conforming changes to the provisions governing the APLE.~~

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

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

SECTION 1. Article 3 (commencing with Section 70130) is added to Chapter 3 of Part 42 of Division 5 of Title 3 of the Education Code, to read:

Article 3. School Nurses

70130. As used in this article, the following terms have the following meanings:

(a) "Commission" means the Student Aid Commission.

(b) "Eligible institution" means a postsecondary institution that is determined by the Student Aid Commission to meet both of the following requirements:

(1) The institution is eligible to participate in state and federal financial aid programs.

(2) The institution maintains a program of professional preparation for the clear school nurse services credential that has been approved by the Commission on Teacher Credentialing.

(c) "Eligible school" means a school that meets any of the following criteria:

(1) It serves a large population of pupils from low-income families, as designated by the Superintendent.

(2) The institution has 20 percent or more teachers holding emergency-type permits including, but not limited to, any of the following:

(A) Provisional internships.

(B) Short-term staff permits.

(C) Credential waivers.

(D) Substitute permits.

(3) It is a school that is ranked in the lowest two deciles on the Academic Performance Index.

(4) It is a school that serves a rural area.

70131. (a) Program participants shall meet all of the following eligibility criteria prior to selection in the program and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The applicant is enrolled in a program to complete training or coursework in order to obtain a clear school nurse services credential and agrees to work as a school nurse in an eligible school.

(2) The applicant is currently enrolled in, or has been admitted to, a program in which he or she will be enrolled on at least a half-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(A) Except as provided in subparagraphs (B) and (C), if a person participating in the program fails to maintain at least half-time enrollment, as required by this article, under the terms of the agreement pursuant to paragraph (2), the loan assumption agreement shall be invalidated and the participant shall be fully liable for all student loan obligations. This subparagraph shall not apply if the participant is in his or her final semester or quarter in school and has no additional coursework required to obtain his or her professional clear school nurse services credential.

(B) Notwithstanding subparagraph (A), if a program participant is unable to maintain at least half-time enrollment due to serious illness, pregnancy, or other natural causes, or is called to active military duty status, the participant is not required to assume full liability for the student loan obligation for a period not to exceed one calendar year, unless approved by the commission for a longer period.

(C) If a natural disaster prevents a program participant from maintaining at least half-time enrollment due to the interruption of instruction at the eligible institution, the term of the loan assumption agreement shall be extended for a period not to exceed one calendar year, unless approved by the commission for a longer period.

(3) The applicant has been judged by his or her postsecondary institution, school district, or county office of education to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any educational loan program approved by the commission.

(5) The applicant has agreed to be employed full time, for at least four consecutive academic years after obtaining a clear school nurse services credential, in a public elementary or secondary school in this state that, at the time that the school nurse is hired, is an eligible school, or in a public elementary or secondary school district in this state that has within it at least one school, that is in the school nurse's service territory, that at the time the school nurse is hired, is an eligible school.

(b) For the purpose of calculating eligible years of school nurse service for the redemption of an award, the designation by the Superintendent of a newly opened school pursuant to Section 52056 shall apply retroactively from the date the school first opened.

(c) A person participating in the program pursuant to this section shall not enter into more than one agreement.

(d) A person participating in the program pursuant to this section shall not owe a refund on any state or federal educational grant nor have defaulted on any student loan.

70132. The commission shall commence loan assumption payments, as specified in Section 70133, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a California clear school nurse services credential, or an equivalent credential from another state, authorizing school nurse services for kindergarten or any of grades 1 to 12, inclusive.

(b) The applicant has provided full-time employment as a school nurse, or the equivalent on a part-time basis, in a public elementary or secondary school for the equivalent of one school year.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

70133. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one school year of employment as a school nurse pursuant to Section 70132, the commission shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated educational loan programs.

(2) After a program participant has completed two consecutive school years of employment as a school nurse, the commission shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(3) After a program participant has completed three consecutive school years of employment as a school nurse, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(4) After a program participant has completed four consecutive school years of employment as a school nurse, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

(b) For purposes of this section, "school year" means at least 175 school days or its equivalent.

(c) An applicant who is employed on less than a full-time basis may participate in the program, but shall not be eligible for loan

repayment until that person completes employment as a school nurse for the equivalent of a full-time academic year.

70134. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive school years of employment as a school nurse on a full-time basis, or the equivalent on a part-time basis, as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (a) of Section 70131, the participant shall be fully liable for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying service pursuant to Section 70131.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of employment as a school nurse on a full-time basis, or the equivalent on a part-time basis, due to serious illness, pregnancy, or other natural causes, or is called to active military duty status, the participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year, unless approved by the commission for a longer period. The commission shall make no further payments under the loan assumption agreement until the applicable requirements specified in Section 70132 have been satisfied.

(c) (1) Notwithstanding subdivision (a), a program participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year, unless approved by the commission for a longer period, if the participant becomes unable to complete one of the four consecutive years of employment as a school nurse due to being laid off, reassigned, or other reasons beyond the control of the participant, as determined by the commission.

(2) The commission shall make no further payments under the loan assumption agreement until the applicable requirements specified in Section 70132 have been satisfied.

(d) If a program participant fails to redeem an agreement for student loan assumption within 10 years of the agreement's issuance, the participant shall be fully liable for all student loan obligations.

70135. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions

regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of employment as a school nurse, and the development of projections for funding purposes.

(b) The commission shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education, the Commission on Teacher Credentialing, school districts, and county offices of education regarding proposed rules and regulations.

70137. The commission shall report annually to the Legislature on the program established under this article. The report shall include, but shall not be limited to, all of the following:

(a) The total number of loan assumption agreements offered, by education level and institution.

(b) The number of loan assumption agreements paid out, by education level and institution.

(c) The number of loan assumption agreements that are redeemed, by year of service.

(d) The annual and cumulative attrition rate of participants, by education level and institution.

70140. This article shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SECTION 1. Section 69612 of the Education Code is amended to read:~~

All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 12, 2009. (JR11)

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Wiggins	**BILL NUMBER:**	SB 158
SPONSOR:		**BILL STATUS:**	Senate
SUBJECT:	Health care coverage: human papillomavirus vaccination	**DATE LAST AMENDED:**	2/12/09

SUMMARY:
Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plan contracts and health insurance policies that include coverage for the treatment or surgery of cervical cancer are deemed to provide coverage for an annual cervical cancer screening test, upon the referral of specified persons.

This bill would amend sections of the Insurance Code and the Health and Safety Code, relating to health coverage.

ANALYSIS:
This bill would require every health care service plan contract and health insurance plan that is issued, amended, or renewed, on or after January 1, 2010, that includes coverage for treatment or surgery of cervical cancer, to provide coverage for the human papillomavirus vaccination, upon the referral of a physician, nurse practitioner, or a certified nurse midwife.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 158

Introduced by Senator Wiggins

February 12, 2009

An act to amend Section 1367.66 of the Health and Safety Code, and to amend Section 10123.18 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 158, as introduced, Wiggins. Health care coverage: human papillomavirus vaccination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plan contracts and health insurance policies that include coverage for the treatment or surgery of cervical cancer are deemed to provide coverage for an annual cervical cancer screening test, upon the referral of specified persons.

This bill would require those plan contracts and insurance policies to also provide coverage for the human papillomavirus vaccination, as specified.

Because a willful violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 1367.66 of the Health and Safety Code is amended to read:

1367.66. *(a)* Every individual or group health care service plan contract, except for a specialized health care service plan, that is issued, amended, or renewed, on or after January 1, 2002, and that includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage for an annual cervical cancer screening test upon the referral of the patient's physician and surgeon, a nurse practitioner, or certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee.

The coverage for an annual cervical cancer screening test provided pursuant to this section shall include the conventional Pap test, a human papillomavirus screening test that is approved by the federal Food and Drug Administration, and the option of any cervical cancer screening test approved by the federal Food and Drug Administration, upon the referral of the patient's health care provider.

(b) Every individual or group health care service plan contract, except for a specialized health care service plan contract, that is issued, amended, or renewed on or after January 1, 2010, and that includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage for a human papillomavirus vaccination upon the referral of the patient's physician and surgeon, a nurse practitioner, or certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee.

~~Nothing~~

(c) Nothing in this section shall be construed to establish a new mandated benefit or to prevent application of deductible or copayment provisions in an existing plan contract. The Legislature intends in this section to provide that cervical cancer screening services are deemed to be covered if the plan contract includes coverage for cervical cancer treatment or surgery.

SEC. 2. Section 10123.18 of the Insurance Code is amended to read:

10123.18. (a) Every individual or group policy of health insurance ~~that provides coverage for hospital, medical, or surgical benefits,~~ that is issued, amended, or renewed, on or after January 1, 2002, and that includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage, upon the referral of a patient's physician and surgeon, a nurse practitioner, or a certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee, for an annual cervical cancer screening test.

The coverage for an annual cervical cancer screening test provided pursuant to this section shall include the conventional Pap test, a human papillomavirus screening test that is approved by the federal Food and Drug Administration, and the option of any cervical cancer screening test approved by the federal Food and Drug Administration, upon the referral of the patient's health care provider.

(b) Every individual or group policy of health insurance that is issued, amended, or renewed, on or after January 1, 2010, and that includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage for a human papillomavirus vaccination upon the referral of a patient's physician and surgeon, a nurse practitioner, or a certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee, for an annual cervical cancer screening test.

~~Nothing~~

(c) Nothing in this section shall be construed to require an individual or group policy to cover treatment or surgery for cervical cancer or to prevent application of deductible or copayment provisions contained in the policy or certificate, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

~~(b)~~

(d) This section shall not apply to vision only, dental only, accident only, specified disease, hospital indemnity, Medicare supplement, CHAMPUS supplement, long-term care, or disability income insurance. For accident only, hospital indemnity, or

specified disease insurance, coverage for benefits under this section shall apply only to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or certificate. Nothing in this section shall be construed as imposing a new benefit mandate on accident only, hospital indemnity, or specified disease insurance.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Ashburn	**BILL NUMBER:**	SB 182
SPONSOR:	Ashburn	**BILL STATUS:**	Senate
SUBJECT:	Community college nursing faculty	**DATE LAST AMENDED:**	Introduced 2/17/09

SUMMARY:
Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

This bill would amend sections of the Education Code, relating to community colleges.

ANALYSIS:
This bill would delete the limitation that temporary clinical nursing faculty be employed for not more than 4 semesters or 6 quarters. The bill would make conforming changes.
This bill would exclude the percentage of hours of credit instruction taught by full-time clinical nursing faculty from the minimum standards and would make conforming changes.

During the 2007-2008 Legislative Session, the board followed SB 182(Ashburn) that had similar language and provisions and was in support of the bill. It did not make it through the Legislature, due to failure of passage in committee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 182

Introduced by Senator Ashburn

February 17, 2009

An act to amend Sections 87482, 87482.6, and 87482.7 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 182, as introduced, Ashburn. Community college nursing faculty.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

This bill would delete the limitation that temporary clinical nursing faculty be employed for not more than 4 semesters or 6 quarters. The bill would make conforming changes.

(2) Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

This bill would exclude the percentage of hours of credit instruction taught by full-time clinical nursing faculty from the minimum standards and would make conforming changes.

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

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

SECTION 1. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) No person~~, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c),~~ shall be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching 60 percent or more of the hours per week considered a full-time assignment for regular employees may be employed by any one district under this section~~ for up to four semesters or six quarters within any period of three consecutive academic years~~ between July 1, 2007, and June 30, 2014, inclusive.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to how many faculty members were hired under this subdivision, and what the ratio of

full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), how many districts hired faculty under this subdivision, how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

~~(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.~~

SEC. 2. Section 87482.6 of the Education Code is amended to read:

87482.6. (a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

(c) For purposes of this section, the percentage of hours of credit instruction shall exclude the hours taught by part-time and full-time clinical nursing faculty.

SEC. 3. Section 87482.7 of the Education Code is amended to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Employment Opportunity Fund pursuant to Section 87107.

(c) The minimum standards established under subdivision (a) shall exclude the hours of credit instruction taught by part-time and full-time clinical nursing faculty.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 294
SPONSOR:	California Nurse Practitioner Association	**BILL STATUS:**	Senate
SUBJECT:	Nurse practitioners	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and specifies requirements for qualification or certification as a nurse practitioner. Under the act, the practice of nursing is defined, in part, as providing direct and indirect patient care services, as specified, including the dispensing of drugs or devices under specified circumstances. The practice of nursing is also described as the implementation, based on observed abnormalities, of standardized procedures, defined as policies and protocols developed by specified facilities in collaboration with administrators and health professionals, including physicians and surgeons and nurses.

This bill would add **Section 2835.7** to the Business and Professions Code, relating to nurse practitioners.

ANALYSIS:
This bill would authorize the implementation of standardized procedures that would expand the duties of a nurse practitioner in the scope of his or her practice, as follows:

- Admit patients to the hospital, provided all admission policies are followed.
- Order durable medical equipment, subject to any limitations set forth in the standardize procedure.
- Certify a disability, after performance of a physical examination.
- Be designated, by the supervising physician, as the primary care provider of record for an individual enrolled in a health care service plan.
- Approve, sign, modify, or add to a plan of treatment or plan of care, for individuals receiving home health services under Medicare or Medi-Cal.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 294

Introduced by Senator Negrete McLeod

February 25, 2009

An act to add Section 2835.7 to the Business and Professions Code, relating to nurse practitioners.

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as introduced, Negrete McLeod. Nurse practitioners.

Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and specifies requirements for qualification or certification as a nurse practitioner. Under the act, the practice of nursing is defined, in part, as providing direct and indirect patient care services, as specified, including the dispensing of drugs or devices under specified circumstances. The practice of nursing is also described as the implementation, based on observed abnormalities, of standardized procedures, defined as policies and protocols developed by specified facilities in collaboration with administrators and health professionals, including physicians and surgeons and nurses.

This bill would authorize the implementation of standardized procedures that would expand the duties of a nurse practitioner in the scope of his or her practice, as enumerated. The bill would make specified findings and declarations in that regard.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Nurse practitioners play a vital and cost-effective role in the delivery of health care services both independently and in collaboration with physicians and surgeons and other health care providers. Nurse practitioners are involved in almost every setting in which health care services are delivered, and, in collaboration with physicians and surgeons, directly provide a wide range of services and care.

(b) Under current law, nurse practitioners have the same statutory authority to provide services and care as do registered nurses. However, the law allows those registered nurses that meet the education requirements for certification as nurse practitioners to provide care and services beyond those specified in statute for registered nurses pursuant to standardized procedures and protocols adopted by each entity delivering health care services in which a nurse practitioner practices.

(c) The Legislature reiterates its intention to allow each health care setting in which a nurse practitioner practices to select and control the services nurse practitioners may perform and provide pursuant to Section 2725 of the Business and Professions Code, and that it is not the intention of the Legislature to grant nurse practitioners the authority to independently perform services beyond the level set forth in statute for registered nurses outside of the standardized procedures.

(d) Notwithstanding the foregoing, the Legislature finds that there is ambiguity in current law regarding what services and functions to be performed by nurse practitioners may be included in standardized procedures and protocols. This ambiguity results in disruptions and delays in care, disputes over billings, and duplication of services.

(e) Therefore, it is the intent of the Legislature to provide clarification that standardized procedures and protocols may include the specified services and functions set forth in this act so that health care entities may allow nurse practitioners to engage in those activities if the entities choose to do so, and that third-party payors understand that those services and functions can be performed by nurse practitioners if they are included in an entity's standardized procedures and protocols.

SEC. 2. Section 2835.7 is added to the Business and Professions Code, to read:

2835.7. (a) Notwithstanding any other provision of law, in addition to any other practices that meet the general criteria set forth in statute or regulation for inclusion in standardized procedures developed through collaboration among administrators and health professionals, including physicians and surgeons and nurses, standardized procedures may be implemented that authorize a nurse practitioner to do any of the following:

(1) Admit patients to a hospital, provided all admissions policies are followed by the nurse practitioner.

(2) Order durable medical equipment, subject to any limitations set forth in the standardized procedures. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payor to require prior approval.

(3) After performance of a physical examination by the nurse practitioner and collaboration with a physician and surgeon, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

(4) Permit a nurse practitioner to be designated by the nurse practitioner's supervising physician and surgeon as the primary care provider of record for an individual enrolled in a health care service plan. Notwithstanding that authority, nothing in this paragraph shall be construed to allow a nurse practitioner to operate independently of a standardized procedure.

(5) For individuals receiving home health services under Medicare or Medi-Cal, or personal care services, approve, sign, modify, or add to a plan of treatment or plan of care.

(b) Nothing in this section shall be construed to affect the validity of any standardized procedures in effect prior to the enactment of this section or those adopted subsequent to enactment.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Alquist	**BILL NUMBER:**	SB 303
SPONSOR:	California Advocates for Nursing Home Reform	**BILL STATUS:**	Senate
SUBJECT:	Nursing facility residents: informed consent	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law provides that patients of skilled nursing facilities and intermediate care facilities shall have prescribed rights. Existing law prescribes the persons to whom the rights of a resident of a skilled nursing or intermediate care facility devolve if the resident is judicially determined to be incompetent, or who is found by his or her physician to be medically incapable of understanding his or her rights or the nature and consequences of proposed treatment, or who exhibits a communication barrier. Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, an attending physician and surgeon that seeks to prescribe, order, or increase an order for an antipsychotic medication for a resident of a skilled nursing facility is required to obtain the informed consent of that resident.

This bill would amend, repeal and add a section to the Health and Safety Code, relating to nursing facility residents.

ANALYSIS:
This bill, among other provisions, would provide for every resident to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. This bill would make the physician responsible for disclosing the information to the resident and obtaining his or her informed consent that includes the disclosure of material information for administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to retain use of a normal bodily function. It would also require a nurse working in a long-term nursing care facility to verify that a resident has given informed consent prior to the administration of a psychotherapeutic drug.

The Department of Public Health would be required to inspect for compliance of these proposed provisions, during inspections.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 303

Introduced by Senator Alquist

February 25, 2009

An act to amend Sections 1418.9 and 1599.1 of, to add Section 1599.15 to, and to repeal and add Section 1599.3 of, the Health and Safety Code, relating to nursing facility residents.

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as introduced, Alquist. Nursing facility residents: informed consent.

Existing law provides that patients of skilled nursing facilities and intermediate care facilities shall have prescribed rights.

This bill would add to these rights the right of every resident to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. This bill would make the physician responsible for disclosing the material information to the resident and obtaining his or her informed consent.

This bill would require that informed consent, as defined, be obtained in accordance with the above requirements of the bill, with respect to a resident's decision to accept or reject the administration of a psychotherapeutic drug, a physical restraint, or the prolonged use of a device that may lead to the inability of a resident to regain use of a normal bodily function.

This bill would also require the State Department of Public Health to inspect for compliance with this requirement during prescribed inspections.

Existing law prescribes the persons to whom the rights of a resident of a skilled nursing or intermediate care facility devolve if the resident is judicially determined to be incompetent, or who is found by his or her physician to be medically incapable of understanding his or her

rights or the nature and consequences of proposed treatment, or who exhibits a communication barrier.

This bill would repeal these provisions, and, instead, would provide that a resident's representative, as defined, shall have the rights of a resident of a skilled nursing or intermediate facility who lacks the capacity to understand his or her rights or the nature and consequences of proposed treatment. The resident's incapacity would be determined by a court in accordance with state law or by the resident's physician unless the physician's determination is disputed by the resident or the resident's representative.

Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, an attending physician and surgeon that seeks to prescribe, order, or increase an order for an antipsychotic medication for a resident of a skilled nursing facility is required to obtain the informed consent of that resident. A violation of this provision is a misdemeanor.

This bill would apply the definition of "informed consent" contained in the bill to this provision. Because this bill would change the definition of a crime, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Nursing Facility Resident Informed Consent Protection Act of
3 2009.
4 SEC. 2. The Legislature finds and declares all of the following:
5 (a) The protection of residents in California's nursing facilities
6 is of paramount importance to the citizens of California.
7 (b) Almost 60 percent of California nursing facility residents
8 are prescribed psychoactive drugs, many of which have dangerous
9 side effects.
10 (c) Nearly 20 percent of California nursing facility residents are
11 receiving powerful antipsychotic drugs that are not intended or
12 approved for the resident's underlying medical condition.

(d) The United States Food and Drug Administration (FDA) has issued black box warnings for the antipsychotic drugs most commonly provided to nursing facility residents. The warnings state that these antipsychotic drugs greatly increase the risk of death for seniors with dementia.

(e) Nursing facility residents and resident's representatives rarely see the medication inserts that provide the black box warnings and often do not receive sufficient information about the side effects of medications.

(f) Nursing facility residents and resident's representatives must be well-informed in advance about the risks of proposed antipsychotic drugs and their consent must be obtained before medications are used.

(g) California's existing regulations on informed consent for nursing facility residents are rarely enforced.

(h) It is, therefore, the intent of the Legislature to enact legislation that would do all of the following:

(1) Codify provisions that establish a resident's right to informed consent concerning the use of psychotherapeutic drugs.

(2) Specify that residents and their representatives must be informed in writing about the content of black box warnings for proposed drugs and whether the drug's proposed use has been approved by the FDA.

(3) Require the State Department of Public Health to evaluate nursing facility compliance with these provisions during periodic state licensing inspections.

SEC. 3. Section 1418.9 of the Health and Safety Code is amended to read:

1418.9. (a) If the attending physician and surgeon of a resident in a skilled nursing facility prescribes, orders, or increases an order for an antipsychotic medication for the resident, the physician and surgeon shall do both of the following:

(1) Obtain the informed consent, *in accordance with the requirements of subdivision (j) of Section 1599.1 and Section 1599.15*, of the resident for purposes of prescribing, ordering, or increasing an order for the medication.

(2) Seek the consent of the resident to notify the resident's interested family member, as designated in the medical record. If the resident consents to the notice, the physician and surgeon shall make reasonable attempts, either personally or through a designee,

to notify the interested family member, as designated in the medical record, within 48 hours of the prescription, order, or increase of an order.

(b) Notification of an interested family member is not required under paragraph (2) of subdivision (a) if any of the following circumstances exist:

(1) There is no interested family member designated in the medical record.

(2) The resident has been diagnosed as terminally ill by his or her physician and surgeon and is receiving hospice services from a licensed, certified hospice agency in the facility.

(3) The resident has not consented to the notification.

(c) As used in this section, the following definitions shall apply:

(1) "Resident" means a patient of a skilled nursing facility who has the capacity to consent to make decisions concerning his or her health care, including medications.

(2) "Designee" means a person who has agreed with the physician and surgeon to provide the notice required by this section.

(3) "Antipsychotic medication" means a medication approved by the United States Food and Drug Administration for the treatment of psychosis.

(4) "Increase of an order" means an increase of the dosage of the medication above the dosage range stated in a prior consent from the resident.

(d) This section shall not be construed to require consent from an interested family member for an attending physician and surgeon of a resident to prescribe, order, or increase an order for antipsychotic medication.

SEC. 4. Section 1599.1 of the Health and Safety Code is amended to read:

1599.1. Written policies regarding the rights of patients shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Those policies and procedures shall ensure that each patient admitted to the facility has the following rights and is notified of the following facility obligations, in addition to those specified by regulation:

(a) The facility shall employ an adequate number of qualified personnel to carry out all of the functions of the facility.

(b) Each patient shall show evidence of good personal hygiene and be given care to prevent bedsores, and measures shall be used to prevent and reduce incontinence for each patient.

(c) The facility shall provide food of the quality and quantity to meet the patients' needs in accordance with physicians' orders.

(d) The facility shall provide an activity program staffed and equipped to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities. Patients shall be encouraged to participate in activities suited to their individual needs.

(e) The facility shall be clean, sanitary, and in good repair at all times.

(f) A nurses' call system shall be maintained in operating order in all nursing units and provide visible and audible signal communication between nursing personnel and patients. Extension cords to each patient's bed shall be readily accessible to patients at all times.

(g) (1) If a facility has a significant beneficial interest in an ancillary health service provider or if a facility knows that an ancillary health service provider has a significant beneficial interest in the facility, as provided by subdivision (a) of Section 1323, or if the facility has a significant beneficial interest in another facility, as provided by subdivision (c) of Section 1323, the facility shall disclose that interest in writing to the patient, or his or her representative, and advise the patient, or his or her representative, that the patient may choose to have another ancillary health service provider, or facility, as the case may be, provide any supplies or services ordered by a member of the medical staff of the facility.

(2) A facility is not required to make any disclosures required by this subdivision to any patient, or his or her representative, if the patient is enrolled in an organization or entity that provides or arranges for the provision of health care services in exchange for a prepaid capitation payment or premium.

(h) (1) If a resident of a long-term health care facility has been hospitalized in an acute care hospital and asserts his or her rights to readmission pursuant to bed hold provisions, or readmission rights of either state or federal law, and the facility refuses to readmit him or her, the resident may appeal the facility's refusal.

(2) The refusal of the facility as described in this subdivision shall be treated as if it were an involuntary transfer under federal

law, and the rights and procedures that apply to appeals of transfers and discharges of nursing facility residents shall apply to the resident's appeal under this subdivision.

(3) If the resident appeals pursuant to this subdivision, and the resident is eligible under the Medi-Cal program, the resident shall remain in the hospital and the hospital may be reimbursed at the administrative day rate, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(4) If the resident appeals pursuant to this subdivision, and the resident is not eligible under the Medi-Cal program, the resident shall remain in the hospital if other payment is available, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(5) If the resident is not eligible for participation in the Medi-Cal program and has no other source of payment, the hearing and final determination shall be made within 48 hours.

(i) Effective July 1, 2007, Sections 483.10, 483.12, 483.13, and 483.15 of Title 42 of the Code of Federal Regulations in effect on July 1, 2006, shall apply to each skilled nursing facility and intermediate care facility, regardless of a resident's payment source or the Medi-Cal or Medicare certification status of the skilled nursing facility or intermediate care facility in which the resident resides, except that a noncertified facility is not obligated to provide notice of Medicaid or Medicare benefits, covered services, or eligibility procedures.

(j) The resident shall have the right to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. The disclosure of material information for administration of psychotherapeutic drugs or physical restraints or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function shall include the disclosures required by Section 1599.15.

SEC. 5. Section 1599.15 is added to the Health and Safety Code, to read:

1599.15. (a) As used in this section, the following definitions shall apply:

(1) "Attending physician" means the physician chosen by the resident or the resident's representative to be responsible for the medical treatment of the resident in the facility.

(2) "Informed consent" means the voluntary agreement of a patient or a resident's representative to accept a treatment or procedure after receiving information in accordance with subdivisions (b) to (f), inclusive, and subdivision (j) of Section 1599.1.

(3) "Psychotherapeutic drug" means a medication to control behavior or to treat thought disorder processes.

(4) "Physical restraint" means any physical or mechanical device or material attached or adjacent to a resident's body that the resident cannot remove easily, which has the effect of restricting the resident's freedom of movement. Physical restraint does not include the use of the least restrictive immobilization reasonably necessary to administer necessary treatment of a therapeutic, noncontinuous nature, such as a single injection of antibiotics, and where the immobilization is removed upon the administration of that treatment. This exception shall not include immobilizations for continuously administered treatments such as intravenous therapy.

(b) It is the responsibility of the attending physician to determine what information a reasonable person in the resident's condition and circumstances would consider material to a decision to accept or refuse a proposed treatment or procedure. Information that is commonly appreciated need not be disclosed. The disclosure of the material information and obtaining informed consent shall be the responsibility of the physician.

(c) The information material to a decision concerning the administration of a psychotherapeutic drug, physical restraint, or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function, shall include, but not be limited to, the following:

(1) The reason for the treatment and the nature and seriousness of the resident's illness.

(2) The nature of the procedure to be used in the proposed treatment, including the procedure's probable frequency and duration.

(3) The probable degree and duration, whether temporary or permanent, of improvement or remission expected with or without the proposed treatment.

(4) The nature, degree, duration, and probability of the side effects and significant risks that are commonly known by the health professions. Information on risks associated with psychotherapeutic drugs shall include, but not be limited to, whether a proposed medication is being prescribed for a purpose or medical condition other than the purpose or medical condition for which the United States Food and Drug Administration (FDA) has specifically approved that medication. Information on risks of a proposed medication shall also include, in writing, any current boxed warning labels and accompanying detailed information regarding contraindications, warnings, and precautions required by the FDA.

(5) The reasonable alternative treatments and risks, and why the health professional is recommending a particular treatment.

(6) That the resident has the right to accept or refuse the proposed treatment, and, if he or she consents, the right to revoke his or her consent for any reason at any time.

(d) Before initiating the administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function, facility staff shall verify with the resident or the resident's representative that the resident has been fully informed about the proposed treatment or procedure and has consented. This verification shall be specifically documented in the resident's health record. The facility shall also ensure that all decisions concerning the withdrawal or withholding of life sustaining treatment are documented in the resident's health record.

(e) Residents' rights policies and procedures established under this section concerning consent, informed consent, and refusal of treatments or procedures shall specify how the facility will verify that the resident provided informed consent or refused treatment or procedure pertaining to the administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to regain the use of a normal bodily function.

(f) This section shall not be construed to require obtaining informed consent each time a treatment or procedure is administered unless material circumstances or risks change.

(g) The State Department of Public Health shall inspect nursing facilities for compliance with this section during the periodic inspections required under Section 1422 and, as appropriate, during complaint investigations required under Section 1420. This inspection requirement shall not limit the department's authority in other circumstances to cite for violations of this section or to inspect for compliance with this section.

(h) A violation of the informed consent rights provided for in this section may constitute a class "B," "A," or "AA" violation pursuant to the standards established in Section 1424.

SEC. 6. Section 1599.3 of the Health and Safety Code is repealed.

~~1599.3. Any rights under this chapter of a patient judicially determined to be incompetent, or who is found by his physician to be medically incapable of understanding such information, or who exhibits a communication barrier, shall devolve to such patient's guardian, conservator, next of kin, sponsoring agency, or representative payer, except when the facility itself is the representative payer.~~

SEC. 7. Section 1599.3 is added to the Health and Safety Code, to read:

1599.3. (a) If a resident lacks the capacity to understand his or her rights or the nature and consequences of a proposed treatment, the resident's representative shall have the rights specified in this chapter to the extent the right may devolve to another, unless the representative's authority is otherwise limited. The resident's incapacity shall be determined by a court in accordance with state law or by the resident's physician unless the physician's determination is disputed by the resident or resident's representative.

(b) As used in this chapter, the term "resident's representative" means a conservator, as authorized by Parts 3 and 4 (commencing with Section 1800) of Division 4 of the Probate Code, a person designated as attorney in fact in the resident's valid durable power of attorney for health care, the resident's next of kin, other appropriate legally recognized health care decisionmaker designated consistent with statutory and case law, a person appointed by a court authorizing treatment pursuant to Part 7 (commencing with Section 3200) of Division 4 of the Probate

Code, or, if the resident is a minor, a person lawfully authorized to represent the minor.

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

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 3, 2009
BILL ANALYSIS

AUTHOR:	Yee	**BILL NUMBER:**	SB 360
SPONSOR:	California Nurses Association	**BILL STATUS:**	Senate
SUBJECT:	Health Facilities: direct care nurses	**DATE LAST AMENDED:**	3/23/09

SUMMARY:
Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would amend sections of the Health and Safety Code, relating to direct care nurses.

ANALYSIS:
This bill, among other provisions, would require every direct care registered nurse, including casual, per diem, temporary agency, registry, and traveler staff, hired by an acute care hospital, to:

- Receive and complete an orientation to the hospital and patient care unit or clinical area in which he or she would be working.
- Demonstrate competency in providing patient care in the assigned clinical area for a minimum of five shifts, with competency validation by another direct care registered nurse.

This bill would require a registered nurse, who is competent in the patient population that the new hire would be working in, to be the observing direct care nurse for the purpose of validating the competency of the new nurse. He/she would observe the new nurse, to assess if he/she provides nursing care according to the nursing process and complies with the Standards of Competent Performance as noted in the Nursing Practice Act. The new nurse would be considered to be in orientation, and not calculated in the nurse-to-patient ratio, until he/she completed the hospital orientation and competence was validated.

This bill would also require health facilities to adopt written policies and procedures for the training and orientation of nursing staff, including temporary personnel.

The bill would also permit the Department of Public Health to take into consideration the

unique nature of the University of California teaching hospitals as educational institutions when establishing licensed nurse-to-patient ratios. The department would be required to coordinate with the Board of Registered Nursing to ensure that staffing ratios were consistent with the Board of Registered Nursing approved nursing education requirements. This would include nursing clinical experience incidental to a work-study program rendered in a University of California clinical facility, approved by the Board of Registered Nursing, providing there would be sufficient direct care registered nurse preceptors available to ensure safe patient care. **This provision is to be amended out of this bill.**

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (3/19/09)

SUPPORT:

OPPOSE:

SENATE BILL No. 360

Introduced by Senator Yee

February 25, 2009

An act to amend Section 1276.4 of, and to add Section 1276.45 to, the Health and Safety Code, relating to direct care nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as introduced, Yee. Health facilities: direct care nurses.

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would exempt a state inpatient mental health hospital, a state developmental center, or a state veterans' home from these provisions.

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

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

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

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

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

SECTION 1. Section 1276.4 of the Health and Safety Code is amended to read:

1276.4. (a) By January 1, 2002, the State Department of *Public* Health ~~Services~~ shall adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for all health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250. The department shall adopt these regulations in accordance with the department's licensing and certification regulations as stated in Sections 70053.2, 70215, and 70217 of Title 22 of the California Code of Regulations, and the professional and vocational regulations in Section 1443.5 of Title 16 of the California Code of Regulations. The department shall review these regulations five years after adoption and shall report to the Legislature regarding any proposed changes. Flexibility shall be considered by the department for rural general acute care hospitals in response to their special needs. As used in this subdivision, "hospital unit" means a critical care unit, burn unit, labor and delivery room, postanesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit. The regulation addressing the emergency department shall distinguish between regularly scheduled core staff licensed nurses and additional licensed nurses required to care for critical care patients in the emergency department.

(b) These ratios shall constitute the minimum number of registered and licensed nurses that shall be allocated. Additional

staff shall be assigned in accordance with a documented patient classification system for determining nursing care requirements, including the severity of the illness, the need for specialized equipment and technology, the complexity of clinical judgment needed to design, implement, and evaluate the patient care plan and the ability for self-care, and the licensure of the personnel required for care.

(c) "Critical care unit" as used in this section means a unit that is established to safeguard and protect patients whose severity of medical conditions requires continuous monitoring, and complex intervention by licensed nurses.

~~(d) All health facilities licensed under subdivision (a), (b), or (f) of Section 1250 shall adopt written policies and procedures for training and orientation of nursing staff.~~

~~(e) No registered nurse shall be assigned to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area, and has demonstrated current competence in providing care in that area.~~

~~(f) The written policies and procedures for orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to competency validation consistent with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.~~

~~(g)~~

(d) Requests for waivers to this section that do not jeopardize the health, safety, and well-being of patients affected and that are needed for increased operational efficiency may be granted by the state department to rural general acute care hospitals meeting the criteria set forth in Section 70059.1 of Title 22 of the California Code of Regulations.

~~(h)~~

(e) In case of conflict between this section and any provision or regulation defining the scope of nursing practice, the scope of practice provisions shall control.

~~(i)~~

(f) The regulations adopted by the department shall augment and not replace existing nurse-to-patient ratios that exist in regulation or law for the intensive care units, the neonatal intensive care units, or the operating room.

~~(j)~~

(g) The regulations adopted by the department shall not replace existing licensed staff-to-patient ratios for hospitals operated by the State Department of Mental Health.

~~(k)~~

(h) The regulations adopted by the department for health facilities licensed under subdivision (b) of Section 1250 that are not operated by the State Department of Mental Health shall take into account the special needs of the patients served in the psychiatric units.

~~(l)~~

(i) The department may take into consideration the unique nature of the University of California teaching hospitals as educational institutions when establishing licensed nurse-to-patient ratios. The department shall coordinate with the Board of Registered Nursing to ensure that staffing ratios are consistent with the Board of Registered Nursing approved nursing education requirements. This includes nursing clinical experience incidental to a work-study program rendered in a University of California clinical facility approved by the Board of Registered Nursing provided there will be sufficient direct care registered nurse preceptors available to ensure safe patient care.

SEC. 2. Section 1276.45 is added to the Health and Safety Code, to read:

1276.45. (a) Each general acute care hospital, acute psychiatric hospital, and special hospital, as defined in subdivisions (a), (b), and (f) of Section 1250, shall ensure that all direct care registered nurses, including new hires, casual, per diem, temporary agency, registry, and traveler staff, shall receive and complete orientation to the hospital and patient care unit or clinical care area in which they will be working. All health facilities subject to this section shall adopt written policies and procedures for the training and orientation of nursing staff.

(b) (1) Every direct care registered nurse shall have current demonstrated and validated competency required for the specific individual needs of the patient population admitted to the unit or clinical area before being assigned to patient care for that unit or clinical area. In accordance with paragraph (2), current competency may only be demonstrated and validated by the direct observation of the orientee by another direct care registered nurse who has

previously demonstrated current competency in the relevant patient population. Self-assessments are prohibited.

(2) The observing direct care registered nurse shall be required to directly observe and assess the orientee within the relevant clinical area and with the relevant patient population for a minimum of five standard nursing shifts in order to determine if the orientee displays the required knowledge, performance, and skills of patient assessment, patient care planning, education, intervention, patient evaluation, and patient advocacy to satisfactorily fulfill the duties required by the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code) and the Standards of Competent Performance.

(c) The written policies and procedures for the orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to validation of demonstrated competency consistent with the requirements of this section and with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.

(d) An orientee shall not be included in the calculation of the licensed nurse-to-patient ratio required by Section 1276.4.

(e) As used in this section, "orientee" means a direct care registered nurse who has not received and completed orientation to the hospital and patient care unit or clinical area and whose current competency has not been demonstrated and validated.

(f) This section shall not apply to a state inpatient mental health hospital, as defined in Section 4100 of the Welfare and Institutions Code, a state developmental center, as defined in Section 4400 of the Welfare and Institutions Code, or a state veterans' home, as defined in Chapter 1 (commencing with Section 1010) of Division 5 of the Military and Veterans Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Negrete Mc Leod	**BILL NUMBER:**	SB 599
SPONSOR:		**BILL STATUS:**	Senate
SUBJECT:	Licensing boards: disciplinary actions	**DATE LAST AMENDED:**	2/27/09

SUMMARY:
Existing law establishes the Department of Consumer Affairs in the State and Consumer Services Agency. Existing law establishes within the department specified boards, bureaus, and commissions for the purpose of ensuring that private businesses and professionals engaging in activities that have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law authorizes those entities to license qualified persons according to set and accepted professional standards, and to provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity. Existing law requires certain of those entities to provide on the Internet information regarding the status of every license issued by an entity in accordance with the California Public Records Act.

This bill would add a section to the Business and Professions Code, relating to business and professions.

ANALYSIS:
This bill would require every board to post each accusation, statement of issues, or disciplinary action taken by the board on that board's Internet Web site within 10 days of the filing date of the accusation or statement of issues, or the effective date of the disciplinary action. It also requires that the link to each posted action be easily accessible from the board's Internet home page.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 599

Introduced by Senator Negrete McLeod

February 27, 2009

An act to add Section 27.5 to the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 599, as introduced, Negrete McLeod. Licensing boards: disciplinary actions.

Existing law establishes the Department of Consumer Affairs in the State and Consumer Services Agency. Existing law establishes within the department specified boards, bureaus, and commissions for the purpose of ensuring that private businesses and professionals engaging in activities that have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law authorizes those entities to license qualified persons according to set and accepted professional standards, and to provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity. Existing law requires certain of those entities to provide on the Internet information regarding the status of every license issued by an entity in accordance with the California Public Records Act.

This bill would require every board, as defined, to post each accusation, statement of issues, or disciplinary action taken by the board on that board's Internet Web site within 10 days of the filing date of the accusation or statement of issues, or the effective date of the disciplinary action.

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

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

SECTION 1. Section 27.5 is added to the Business and Professions Code, to read:

27.5. In addition to any applicable requirements specified in Section 27, every board, as defined in Section 22, shall post each accusation, statement of issues, or disciplinary action taken by the board on that board's Internet Web site within 10 days of the filing date of the accusation or statement of issues, or the effective date of the disciplinary action. The link to each posted action shall be easily accessible from the board's Internet home page.

O

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 638
SPONSOR:	Negrete McLeod	**BILL STATUS:**	Senate
SUBJECT:	Regulatory boards: operations	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs, with board members serving specified terms of office. Existing law generally makes the regulatory boards inoperative and repealed on specified dates, unless those dates are deleted or extended by subsequent legislation, and subjects these boards that are scheduled to become inoperative and repealed as well as other boards in state government, as specified, to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Under existing law, that committee, following a specified procedure, recommends whether the board should be continued or its functions modified. Existing law requires the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California to submit certain analyses and reports to the committee on specified dates and requires the committee to review those boards and hold hearings as specified, and to make certain evaluations and findings.

This bill would amend sections of the Business and Professions Code, 5relating to regulatory boards

ANALYSIS:
This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and would authorize the appropriate policy committees of the Legislature to carry out its duties. The bill would terminate the terms of office of each board member or bureau chief within the department on unspecified dates and would authorize successor board members and bureau chiefs to be appointed, as specified. The bill would authorize the appropriate policy committees of the Legislature to review the boards, bureaus, or entities that are scheduled to have their board membership or bureau chief so terminated or reviewed, and would authorize the appropriate policy committees of the Legislature to investigate their operations and to hold public hearings.

The policy committees that would, jointly, review the Board of Registered Nursing would be the Senate Business, Professions & Economic Development Committee and the Assembly Business and professions Committee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 638

Introduced by Senator Negrete McLeod

February 27, 2009

An act to amend Sections 22, 473.1, 473.15, 473.2, 473.3, 473.4, 473.6, and 9882 of, to add Sections 473.12 and 473.7 to, to repeal Sections 473.16 and 473.5 of, and to repeal and add Sections 101.1 and 473 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 638, as introduced, Negrete McLeod. Regulatory boards: operations.

Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs, with board members serving specified terms of office. Existing law generally makes the regulatory boards inoperative and repealed on specified dates, unless those dates are deleted or extended by subsequent legislation, and subjects these boards that are scheduled to become inoperative and repealed as well as other boards in state government, as specified, to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Under existing law, that committee, following a specified procedure, recommends whether the board should be continued or its functions modified. Existing law requires the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California to submit certain analyses and reports to the committee on specified dates and requires the committee to review those boards and hold hearings as specified, and to make certain evaluations and findings.

This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and would authorize the appropriate policy committees of the Legislature to carry out its duties. The bill would terminate the terms of office of each board member or bureau chief

within the department on unspecified dates and would authorize successor board members and bureau chiefs to be appointed, as specified. The bill would also subject interior design organizations, the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and the Tax Education Council to review on unspecified dates. The bill would authorize the appropriate policy committees of the Legislature to review the boards, bureaus, or entities that are scheduled to have their board membership or bureau chief so terminated or reviewed, as specified, and would authorize the appropriate policy committees of the Legislature to investigate their operations and to hold specified public hearings. The bill would require a board, bureau, or entity, if their annual report contains certain information, to post it on its Internet Web site. The bill would make other conforming changes.

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

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

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. ~~(a)~~ "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

~~(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a "bureau."~~

SEC. 2. Section 101.1 of the Business and Professions Code is repealed.

~~101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).~~

~~(b) (1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.~~

~~(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.~~

~~(3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.~~

~~(c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.~~

SEC. 3. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other provision of law, if the terms of office of the members of a board are terminated in accordance with the act that added this section or by subsequent acts, successor members shall be appointed that shall succeed to, and be vested with, all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made inoperative of the members that they are succeeding. The successor members shall be appointed by the same appointing authorities, for the remainder of the previous members' terms, and shall be subject to the same membership requirements as the members they are succeeding.

(b) Notwithstanding any other provision of law, if the term of office for a bureau chief is terminated in accordance with the act that added this section or by subsequent acts, a successor bureau chief shall be appointed who shall succeed to, and be vested with,

all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made inoperative of the bureau chief that he or she is succeeding. The successor bureau chief shall be appointed by the same appointing authorities, for the remainder of the previous bureau chief's term, and shall be subject to the same requirements as the bureau chief he or she is succeeding.

SEC. 4. Section 473 of the Business and Professions Code is repealed.

~~473. (a) There is hereby established the Joint Committee on Boards, Commissions, and Consumer Protection.~~

~~(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consist of three members appointed by the Senate Committee on Rules and three members appointed by the Speaker of the Assembly. No more than two of the three members appointed from either the Senate or the Assembly shall be from the same party. The Joint Rules Committee shall appoint the chairperson of the committee.~~

~~(c) The Joint Committee on Boards, Commissions, and Consumer Protection shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.~~

~~(d) The Speaker of the Assembly and the Senate Committee on Rules may designate staff for the Joint Committee on Boards, Commissions, and Consumer Protection.~~

~~(e) The Joint Committee on Boards, Commissions, and Consumer Protection is authorized to act until January 1, 2012, at which time the committee's existence shall terminate.~~

SEC. 5. Section 473 is added to the Business and Professions Code, to read:

473. Whenever the provisions of this code refer to the Joint Committee on Boards, Commissions and Consumer Protection, the reference shall be construed to be a reference to the appropriate policy committees of the Legislature.

SEC. 6. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to ~~become inoperative and to be repealed~~ *have its membership reconstituted* on a specified date as provided by ~~the specific act relating to the board~~ *subdivision (a) of Section 473.12*.

(b) ~~The Bureau for Postsecondary and Vocational Education. For purposes of this chapter, "board" includes the bureau~~*Every bureau that is named in subdivision (b) of Section 473.12*.

(c) ~~The Cemetery and Funeral Bureau~~*Every entity that is named in subdivision (c) of Section 473.12*.

SEC. 7. Section 473.12 is added to the Business and Professions Code, to read:

473.12. (a) Notwithstanding any other provision of law, the term of office of each member of the following boards in the department shall terminate on the date listed, unless a later enacted statute, that is enacted before the date listed for that board, deletes or extends that date:

(1) The Dental Board of California: January 1, ____.

(2) The Medical Board of California: January 1, ____.

(3) The State Board of Optometry: January 1, ____.

(4) The California State Board of Pharmacy: January 1, ____.

(5) The Veterinary Medical Board: January 1, ____.

(6) The California Board of Accountancy: January 1, ____.

(7) The California Architects Board: January 1, ____.

(8) The State Board of Barbering and Cosmetology: January 1, ____.

(9) The Board for Professional Engineers and Land Surveyors: January 1, ____.

(10) The Contractors' State License Board: January 1, ____.

(11) The Structural Pest Control Board: January 1, ____.

(12) The Board of Registered Nursing: January 1, ____.

(13) The Board of Behavioral Sciences: January 1, ____.

(14) The State Athletic Commission: January 1, ____.

(15) The State Board of Guide Dogs for the Blind: January 1, ____.

(16) The Court Reporters Board of California: January 1, ____.

(17) The Board of Vocational Nursing and Psychiatric Technicians: January 1, ____.

(18) The Landscape Architects Technical Committee: January 1, ____.

(19) The Board for Geologists and Geophysicists: January 1, ____.

(20) The Respiratory Care Board of California: January 1, ____.

(21) The Acupuncture Board: January 1, ____.

(22) The Board of Psychology: January 1, ____.

(23) The California Board of Podiatric Medicine: January 1, ____.

(24) The Physical Therapy Board of California: January 1, ____.

(25) The Physician Assistant Committee, Medical Board of California: January 1, ____.

(26) The Speech-Language Pathology and Audiology Board: January 1, ____.

(27) The California Board of Occupational Therapy: January 1, ____.

(28) The Dental Hygiene Committee of California: January 1, ____.

(b) Notwithstanding any other provision of law, the term of office for the bureau chief of each of the following bureaus shall terminate on the date listed, unless a later enacted statute, that is enacted before the date listed for that bureau, deletes or extends that date:

(1) Arbitration Review Program: January 1, ____.

(2) Bureau for Private Postsecondary Education: January 1, ____.

(3) Bureau of Automotive Repair: January 1, ____.

(4) Bureau of Electronic and Appliance Repair: January 1, ____.

(5) Bureau of Home Furnishings and Thermal Insulation: January 1, ____.

(6) Bureau of Naturopathic Medicine: January 1, ____.

(7) Bureau of Security and Investigative Services: January 1, ____.

(8) Cemetery and Funeral Bureau: January 1, ____.

(9) Hearing Aid Dispensers Bureau: January 1, ____.

(10) Professional Fiduciaries Bureau: January 1, ____.

(11) Telephone Medical Advice Services Bureau: January 1, ____.

(12) Division of Investigation: January 1, ____.

(c) Notwithstanding any other provision of law, the following shall be subject to review under this chapter on the following dates:

(1) Interior design certification organizations: January 1, ____.

(2) State Board of Chiropractic Examiners pursuant to Section 473.15: January 1, ____.

(3) Osteopathic Medical Board of California pursuant to Section 473.15: January 1, ____.

(4) California Tax Education Council: January 1, ____.

(d) Nothing in this section or in Section 101.1 shall be construed to preclude, prohibit, or in any manner alter the requirement of Senate confirmation of a board member, chief officer, or other appointee that is subject to confirmation by the Senate as otherwise required by law.

(e) It is not the intent of the Legislature in enacting this section to amend the initiative measure that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SEC. 8. Section 473.15 of the Business and Professions Code is amended to read:

473.15. (a) The ~~Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473~~ *appropriate policy committees of the Legislature* shall review the following boards established by initiative measures, as provided in this section:

(1) The State Board of Chiropractic Examiners established by an initiative measure approved by electors November 7, 1922.

(2) The Osteopathic Medical Board of California established by an initiative measure approved June 2, 1913, and acts amendatory thereto approved by electors November 7, 1922.

(b) The Osteopathic Medical Board of California shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* on or before September 1, 2010.

(c) The State Board of Chiropractic Examiners shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* on or before September 1, 2011.

(d) The ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall, during the interim recess of ~~2004~~ *2011* for the Osteopathic Medical Board of California, and during the interim

recess of 2011 for the State Board of Chiropractic Examiners, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, the public, and the regulated industry. In that hearing, each board shall be prepared to demonstrate a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall evaluate and make determinations pursuant to Section 473.4 ~~and shall report its findings and recommendations to the department as provided in Section 473.5~~.

(f) In the exercise of its inherent power to make investigations and ascertain facts to formulate public policy and determine the necessity and expediency of contemplated legislation for the protection of the public health, safety, and welfare, it is the intent of the Legislature that the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California be reviewed pursuant to this section.

(g) It is not the intent of the Legislature in ~~requiring a review under~~ *enacting* this section to amend the initiative measures that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SEC. 9. Section 473.16 of the Business and Professions Code is repealed.

~~473.16. The Joint Committee on Boards, Commissions, and Consumer Protection shall examine the composition of the Medical Board of California and its initial and biennial fees and report to the Governor and the Legislature its findings no later than July 1, 2008.~~

SEC. 10. Section 473.2 of the Business and Professions Code is amended to read:

473.2. *(a)* All boards ~~to which this chapter applies~~ *or bureaus listed in Section 473.12* shall, with the assistance of the Department of Consumer Affairs, prepare an analysis and submit a report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* no later than 22 months before that ~~board~~ *board's membership or the bureau chief's term* shall ~~become inoperative~~ *be terminated*

pursuant to Section 473.12. The analysis and report shall include, at a minimum, all of the following:

~~(a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.~~

~~(b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.~~

~~(c) The board's~~

(1) The number of complaints it received per year, the number of complaints per year that proceeded to investigation, the number of accusations filed per year, and the number and kind of disciplinary actions taken, including, but not limited to, interim suspension orders, revocations, probations, and suspensions.

(2) The average amount of time per year that elapsed between receipt of a complaint and the complaint being closed or referred to investigation; the average amount of time per year elapsed between the commencement of an investigation and the complaint either being closed or an accusation being filed; the average amount of time elapsed per year between the filing of an accusation and a final decision, including appeals; and the average and median costs per case.

(3) The average amount of time per year between final disposition of a complaint and notice to the complainant.

(4) A copy of the enforcement priorities including criteria for seeking an interim suspension order.

(5) A brief description of the board's or bureau's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

~~(d) The board's description of its licensing process including the time and costs~~

(6) A brief description of the cost per year required to implement and administer its licensing examination, ownership of the license examination, *the last assessment of the* relevancy and validity of the licensing examination, ~~and~~ *the* passage rate *for each of the last four years*, and areas of examination.

~~(e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.~~

(7) A copy of sponsored legislation and a description of its budget change proposals.

(8) A brief assessment of its licensing fees as to whether they are sufficient, too high, or too low.

(9) A brief statement detailing how the board or bureau over the prior four years has improved its enforcement, public disclosure, accessibility to the public, including, but not limited to, Web casts of its proceedings, and fiscal condition.

(b) If an annual report contains information that is required by this section, a board or bureau may submit the annual report to the committees and it shall post it on the board's or bureau's Internet Web site.

SEC. 11. Section 473.3 of the Business and Professions Code is amended to read:

473.3. ~~(a)~~ Prior to the termination~~, continuation, or reestablishment~~ *of the terms of office* of *the membership of* any board or ~~any of the board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall~~ *the chief of any bureau described in Section 473.12, the appropriate policy committees of the Legislature*, during the interim recess preceding the date upon which a ~~board becomes inoperative~~ *board member's or bureau chief's term of office is to be terminated, may* hold public hearings to receive *and consider* testimony from the Director of Consumer Affairs, the board *or bureau* involved, ~~and~~ *the Attorney General, members of* the public, and *representatives of the* regulated industry~~. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare~~ *regarding whether the board's or bureau's policies and practices, including enforcement, disclosure, licensing exam, and fee structure, are sufficient to protect consumers and are fair to licensees and prospective licensees, whether licensure of the profession is required to protect the public, and whether an enforcement monitor may be necessary to obtain further information on operations*.

~~(b) In addition to subdivision (a), in 2002 and every four years thereafter, the committee, in cooperation with the California Postsecondary Education Commission, shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the~~

~~Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(c) The committee, in cooperation with the California Postsecondary Education Commission, shall evaluate and review the effectiveness and efficiency of the Bureau for Private Postsecondary and Vocational Education, based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.~~

~~(d) In addition to subdivision (a), in 2003 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the Bureau of Automotive Repair. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(e) The committee shall evaluate and review the effectiveness and efficiency of the Bureau of Automotive Repair based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.~~

SEC. 12. Section 473.4 of the Business and Professions Code is amended to read:

473.4. (a) The ~~Joint Committee on Boards, Commissions, and Consumer Protection shall~~ *appropriate policy committees of the Legislature may* evaluate and determine whether a board or regulatory program has demonstrated a public need for the continued existence of the ~~board or~~ regulatory program and for the degree of regulation the board or regulatory program

implements based on the following factors and minimum standards of performance:

(1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.

(2) Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.

(3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.

(4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.

(6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.

(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.

(8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.

(9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

~~(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.~~

~~(c)~~

(b) Nothing in this section precludes any board from submitting other appropriate information to the ~~Joint Committee on Boards, Commissions, and Consumer Protection.~~ *appropriate policy committees of the Legislature.*

SEC. 13. Section 473.5 of the Business and Professions Code is repealed.

~~473.5. The Joint Committee on Boards, Commissions, and Consumer Protection shall report its findings and preliminary recommendations to the department for its review, and, within 90 days of receiving the report, the department shall report its findings and recommendations to the Joint Committee on Boards, Commissions, and Consumer Protection during the next year of the regular session that follows the hearings described in Section 473.3. The committee shall then meet to vote on final recommendations. A final report shall be completed by the committee and made available to the public and the Legislature. The report shall include final recommendations of the department and the committee and whether each board or function scheduled for repeal shall be terminated, continued, or reestablished, and whether its functions should be revised. If the committee or the department deems it advisable, the report may include proposed bills to carry out its recommendations.~~

SEC. 14. Section 473.6 of the Business and Professions Code is amended to read:

473.6. The chairpersons of the appropriate policy committees of the Legislature may refer to ~~the Joint Committee on Boards, Commissions, and Consumer Protection for~~ *interim study* review of any legislative issues or proposals to create new licensure or regulatory categories, change licensing requirements, modify scope of practice, or create a new licensing board under the provisions of this code or pursuant to Chapter 1.5 (commencing with Section 9148) of Part 1 of Division 2 of Title 2 of the Government Code.

SEC. 15. Section 473.7 is added to the Business and Professions Code, to read:

473.7. The appropriate policy committees of the Legislature may, through their oversight function, investigate the operations of any entity to which this chapter applies and hold public hearings on any matter subject to public hearing under Section 473.3.

SEC. 16. Section 9882 of the Business and Professions Code is amended to read:

9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In 2003 and every four years thereafter, the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall hold a public hearing to receive *and consider* testimony from the Director of Consumer Affairs ~~and~~, the bureau~~. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare~~, *the Attorney General, members of the public, and representatives of this industry regarding the bureau's policies and practices as specified in Section 473.3*. The ~~committee shall~~ *appropriate policy committees of the Legislature may* evaluate and review the effectiveness and efficiency of the bureau based on factors and minimum standards of performance that are specified in Section 473.4. ~~The committee shall report its findings and recommendations as specified in Section 473.5.~~ The bureau shall prepare an analysis and submit a report to the ~~committee~~ *appropriate policy committees of the Legislature* as specified in Section 473.2.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 674
SPONSOR:	Negrete McLeod	**BILL STATUS:**	Senate
SUBJECT:	Healing arts: outpatient settings	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

Existing law requires, on or before January 1, 2009, the Medical Board of California and the Board of Registered Nursing to promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

This bill would amend sections of the Business and Professions code and the Health and Safety Code.

ANALYSIS:
On or before July 1, 2010, the Medical Board of California would have to adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations would not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

During the 2007-2008 Legislative Session, the Board of Registered Nursing and the Medical Board conducted three public forums through-out the state to provide the public an opportunity to address any issues relative to the use of lasers for elective cosmetic procedures.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 674

Introduced by Senator Negrete McLeod

February 27, 2009

An act to amend Sections 651, 680, and 2023.5 of, and to add Section 2027.5 to, the Business and Professions Code, and to amend Sections 1248, 1248.15, 1248.2, 1248.25, 1248.35, and 1248.5 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 674, as introduced, Negrete McLeod. Healing arts: outpatient settings.

(1) Existing law provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which he or she is licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor.

This bill would impose specific advertising requirements on certain healing arts licensees. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires a health care practitioner to disclose, while working, his or her name and license status on a specified name tag. However, existing law exempts from this requirement a health care practitioner, in a practice or office, whose license is prominently displayed.

This bill would delete that exemption and would instead authorize a health care practitioner, in a practice or office, to disclose his or her name and his or her type of license verbally.

(3) Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would require the board to adopt regulations by July 1, 2010, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures.

(4) Existing law requires the board to post on the Internet specified information regarding licensed physicians and surgeons.

This bill would require the board to post on its Internet Web site an easy-to-understand factsheet to educate the public about cosmetic surgery and procedures, as specified.

(5) Existing law requires the Medical Board of California, as successor to the Division of Licensing of the Medical Board of California, to adopt standards for accreditation of outpatient settings, as defined, and, in approving accreditation agencies to perform this accreditation, to ensure that the certification program shall, at a minimum, include standards for specified aspects of the settings' operations.

This bill would include, among those specified aspects, the submission for approval by an accrediting agency at the time of accreditation, a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery. The bill would also modify the definition of "outpatient setting" to include facilities that offer in vitro fertilization, as defined, and assisted reproduction technology treatments.

(6) Existing law also requires the Medical Board of California to obtain and maintain a list of all accredited, certified, and licensed outpatient settings, and to notify the public, upon inquiry, whether a setting is accredited, certified, or licensed, or whether the setting's accreditation, certification, or license has been revoked.

This bill would require the board, absent inquiry, to notify the public whether a setting is accredited, certified, or licensed, or the setting's accreditation, certification, or license has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency.

(7) Existing law requires accreditation of an outpatient setting to be denied if the setting does not meet specified standards. Existing law authorizes an outpatient setting to reapply for accreditation at any time after receiving notification of the denial.

This bill would require the accrediting agency to immediately report to the Medical Board of California if the outpatient setting's certificate for accreditation has been denied.

(8) Existing law authorizes the Medical Board of California as successor to the Division of Medical Quality of the Medical Board of California, or an accreditation agency to, upon reasonable prior notice and presentation of proper identification, enter and inspect any accredited outpatient setting to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of the specified law.

This bill would delete the notice and identification requirements, and the bill would require that every outpatient setting that is accredited be periodically inspected by the board or the accreditation agency, as specified.

(9) Existing law authorizes the Medical Board of California to evaluate the performance of an approved accreditation agency no less than every 3 years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the board.

This bill would make that evaluation mandatory.

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

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

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

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

SECTION 1. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public

communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim

that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall

condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board

or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board

or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) (1) Advertising by the following licensees shall include the designations as follows:

(A) Advertising by a chiropractor licensed under Chapter 2 (commencing with Section 1000) shall include the designation "DC" immediately following the chiropractor's name.

(B) Advertising by a dentist licensed under Chapter 4 (commencing with Section 1600) shall include the designation "DDS" immediately following the dentist's name.

(C) Advertising by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) shall include the designation "MD" immediately following the physician and surgeon's name.

(D) Advertising by an osteopathic physician and surgeon certified under Article 21 (commencing with Section 2450) shall include the designation "DO" immediately following the osteopathic physician and surgeon's name.

(E) Advertising by a podiatrist certified under Article 22 (commencing with Section 2460) of Chapter 5 shall include the designation "DPM" immediately following the podiatrist's name.

(F) Advertising by a registered nurse licensed under Chapter 6 (commencing with Section 2700) shall include the designation "RN" immediately following the registered nurse's name.

(G) Advertising by a licensed vocational nurse under Chapter 6.5 (commencing with Section 2840) shall include the designation "LVN" immediately following the licensed vocational nurse's name.

(H) Advertising by a psychologist licensed under Chapter 6.6 (commencing with Section 2900) shall include the designation "Ph.D." immediately following the psychologist's name.

(I) Advertising by an optometrist licensed under Chapter 7 (commencing with Section 3000) shall include the designation "OD" immediately following the optometrist's name.

(J) Advertising by a physician assistant licensed under Chapter 7.7 (commencing with Section 3500) shall include the designation "PA" immediately following the physician assistant's name.

(K) Advertising by a naturopathic doctor licensed under Chapter 8.2 (commencing with Section 3610) shall include the designation "ND" immediately following the naturopathic doctor's name.

(2) For purposes of this subdivision, "advertisement" includes communication by means of mail, television, radio, motion picture, newspaper, book, directory, Internet, or other electronic communication.

(3) Advertisements do not include any of the following:

(A) A medical directory released by a health care service plan or a health insurer.

(B) A billing statement from a health care practitioner to a patient.

(C) An appointment reminder from a health care practitioner to a patient.

(4) This subdivision shall not apply until January 1, 2011, to any advertisement that is published annually and prior to July 1, 2010.

(5) This subdivision shall not apply to any advertisement or business card disseminated by a health care service plan that is subject to the requirements of Section 1367.26 of the Health and Safety Code.

~~(i)~~

(j) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

~~(j)~~

(k) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys,

county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

~~(k)~~

(l) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 2. Section 680 of the Business and Professions Code is amended to read:

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and *the* practitioner's *type of* license~~ status~~, as granted by this state, on a name tag in at least 18-point type.~~ A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag.~~ *A health care practitioner in a practice or office may opt to disclose this information verbally.* If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of *Public* Health~~ Services~~ shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of *Public* Health~~ Services~~ shall verify through periodic inspections that the policies required

pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

SEC. 3. Section 2023.5 of the Business and Professions Code is amended to read:

2023.5. (a) The board, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

(1) The appropriate level of physician supervision needed.

(2) The appropriate level of training to ensure competency.

(3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:

(A) Patient selection.

(B) Patient education, instruction, and informed consent.

(C) Use of topical agents.

(D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) On or before January 1, 2009, the board and the Board of Registered Nursing shall promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

(c) On or before July 1, 2010, the board shall adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations shall not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

SEC. 4. Section 2027.5 is added to the Business and Professions Code, to read:

2027.5. The board shall post on its Internet Web site an easy-to-understand factsheet to educate the public and about cosmetic surgery and procedures, including their risks. Included with the factsheet shall be a comprehensive list of questions for patients to ask their physician and surgeon regarding cosmetic surgery.

SEC. 5. Section 1248 of the Health and Safety Code is amended to read:

1248. For purposes of this chapter, the following definitions shall apply:

(a) "Division" means the ~~Division of Licensing of the~~ Medical Board of California. *All references in this chapter to the division, the Division of Licensing of the Medical Board of California, or the Division of Medical Quality shall be deemed to refer to the Medical Board of California pursuant to Section 2002 of the Business and Professions Code.*

~~(b) "Division of Medical Quality" means the Division of Medical Quality of the Medical Board of California.~~

~~(c)~~

(b) "Outpatient setting" means any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined in Section 1250, and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. *"Outpatient setting" also means facilities that offer in vitro fertilization, as defined in subdivision (b) of Section 1374.55, or facilities that offer assisted reproduction technology treatments.*

"Outpatient setting" does not include, among other settings, any setting where anxiolytics and analgesics are administered, when done so in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

~~(d)~~

(c) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the ~~division~~ *board* pursuant to Sections 1248.15 and 1248.4.

SEC. 6. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The ~~division~~ *board* shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

~~(iii) Submit~~

(D) Submission for approval by an accrediting agency *of* a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(E) Submission for approval by an accrediting agency at the time of accreditation of a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm and to govern emergency and urgent care situations.

~~(D)~~

(F) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body, the Health Care Financing Administration, the State Department of *Public* Health ~~Services~~, and the appropriate licensing authority.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of *Division 2 of* the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of *Division 2 of* the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of *Division 2 of* the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations governed by the same standards may elect to have all service sites surveyed on any accreditation survey. Organizations that do not elect to have all sites surveyed shall have a sample, not to exceed 20 percent of all service sites, surveyed. The actual sample size shall be determined by the ~~division~~ *board*. The accreditation agency shall determine the location of the sites to be surveyed. Outpatient settings that have five or fewer sites shall have at least one site surveyed. When an organization that elects to have a sample of sites surveyed is approved for accreditation, all of the organizations' sites shall be automatically accredited.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the ~~division~~ *board* to protect the public health and safety.

(d) No accreditation standard adopted or approved by the ~~division~~ *board*, and no standard included in any certification program of any accreditation agency approved by the ~~division~~ *board*, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards

established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

SEC. 7. Section 1248.2 of the Health and Safety Code is amended to read:

1248.2. (a) Any outpatient setting may apply to an accreditation agency for a certificate of accreditation. Accreditation shall be issued by the accreditation agency solely on the basis of compliance with its standards as approved by the ~~division~~ *board* under this chapter.

(b) The ~~division~~ *board* shall obtain and maintain a list of all accredited, certified, and licensed outpatient settings from the information provided by the accreditation, certification, and licensing agencies approved by the ~~division~~ *board*, and shall notify the public~~, upon inquiry,~~ whether a setting is accredited, certified, or licensed, or ~~whether~~ the setting's accreditation, certification, or license has been revoked, *suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency*.

SEC. 8. Section 1248.25 of the Health and Safety Code is amended to read:

1248.25. If an outpatient setting does not meet the standards approved by the ~~division~~ *board*, accreditation shall be denied by the accreditation agency, which shall provide the outpatient setting notification of the reasons for the denial. An outpatient setting may reapply for accreditation at any time after receiving notification of the denial. *The accrediting agency shall immediately report to the board if the outpatient setting's certificate for accreditation has been denied.*

SEC. 9. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) ~~The Division of Medical Quality~~*Every outpatient setting which is accredited shall be periodically inspected by the Medical Board of California* or ~~an~~ *the* accreditation agency ~~may,~~. *The frequency of inspection shall depend* upon ~~reasonable prior notice~~ *the type* and ~~presentation~~ *complexity* of ~~proper identification,~~ *the outpatient setting to be inspected. Inspections shall be conducted no less often than once every three years and as often as necessary to ensure the quality of care provided. The Medical Board of California or the accreditation agency may* enter and inspect any outpatient setting that is accredited by an accreditation

agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(b) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Issue a reprimand.

(2) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the ~~division~~ *board* or the accreditation agency, to correct the deficiencies.

(3) Suspend or revoke the outpatient setting's certification of accreditation.

(c) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and *the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting* reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient center. *During that allotted time, a list of deficiencies and the plan of correction shall be conspicuously posted in a clinic location accessible to public view.* The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(d) If the ~~division~~ *board* determines that deficiencies found during an inspection suggests that the accreditation agency does not comply with the standards approved by the ~~division~~ *board*, the ~~division~~ *board* may conduct inspections, as described in this section, of other settings accredited by the accreditation agency to determine if the agency is accrediting settings in accordance with Section 1248.15.

(e) Reports on the results of each inspection shall be kept on file with the board or the accrediting agency along with the plan

of correction and the outpatient setting comments. The inspection report may include a recommendation for reinspection. All inspection reports, lists of deficiencies, and plans of correction shall be public records open to public inspection.

(f) The accrediting agency shall immediately report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation.

SEC. 10. Section 1248.5 of the Health and Safety Code is amended to read:

1248.5. The ~~division may~~ *board shall* evaluate the performance of an approved accreditation agency no less than every three years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the ~~division~~ *board*.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
APRIL 3, 2009
BILL ANALYSIS

AUTHOR:	Committee on Business, Professions, and Economic Development	**BILL NUMBER:**	SB 819
SPONSOR:	Negrete McLeod (chair)	**BILL STATUS:**	Senate
SUBJECT:	Professions and vocations (Omnibus Bill)	**DATE LAST AMENDED:**	Introduced 3/10/09

SUMMARY:
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, 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 amend sections of the Business and Professions Code, Government Code, Health and Safety code, and the Welfare and Institutions Code.

ANALYSIS:
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.

Business and Professions Code 2760.1(a) would be amended as follows:
A registered nurse whose license has been revoked or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including reduction or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action, or if the order of the board or any portion of it is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety, **<u>or for a registered nurse whose initial license application is subject to a disciplinary decision, from the date the initial license was issued:</u>**

(1) Except as otherwise provided in this section, at least three years for reinstatement of a license that was revoked, except that the board may, in its sole discretion, specify in its order a lesser period of time provided that the period shall be not less than one year.

(2) At least two years for early termination of a probation period of three years or more.
(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

During the 2007-2008 Legislative Session, the board followed SB1779 that had the same provisions and was in support of the bill. The bill passed the Legislature but was vetoed by the Governor.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 819

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

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 introduced, 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 permitholder 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)~~, on or after July 1, 2001,~~ 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.

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

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

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

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

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

(9) The Cemetery ~~Program~~ *and Funeral Bureau* shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, *cemetery managers, crematory managers, cemetery authorities,* crematories, ~~and~~ cremated remains disposers, *embalmers, funeral establishments, and funeral directors*.

(10) The ~~Funeral Directors and Embalmers Program~~ *Professional Fiduciaries Bureau* shall disclose information on its licensees~~, including embalmers, funeral establishments, and funeral directors~~.

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

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

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

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

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary and Vocational Education.

(*l*) The Structural Pest Control Board.

(m) The Bureau of Home Furnishings and Thermal Insulation.

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery and Funeral Bureau.

(r) The State Board of Guide Dogs for the Blind.

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The Landscape Architects Technical Committee.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.

(z) The State Board of Registration for Geologists and Geophysicists.

(aa) The Respiratory Care Board of California.

(ab) The Acupuncture Board.

(ac) The Board of Psychology.

(ad) The California Board of Podiatric Medicine.

(ae) The Physical Therapy Board of California.

(af) The Arbitration Review Program.

(ag) The Hearing Aid Dispensers Bureau.

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

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

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

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

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

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

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

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

(5) State Board of Guide Dogs for the Blind.

(6) California State Board of Pharmacy.

(7) Board of Registered Nursing.

(8) Veterinary Medical Board.

(9) Registered Veterinary Technician Committee.

(10) Board of Vocational Nursing and Psychiatric Technicians.

(11) Respiratory Care Board of California.

(12) Hearing Aid Dispensers Advisory Commission.

(13) Physical Therapy Board of California.

(14) Physician Assistant Committee of the Medical Board of California.

(15) Speech-Language Pathology and Audiology Board.

(16) Medical Board of California.

(17) State Board of Optometry.

(18) Acupuncture Board.

(19) Cemetery and Funeral Bureau.

(20) Bureau of Security and Investigative Services.

(21) Division of Investigation.

(22) Board of Psychology.

(23) The California Board of Occupational Therapy.

(24) Structural Pest Control Board.

(25) Contractors' State License Board.

(26) Bureau of Naturopathic Medicine.

(27) The Professional Fiduciaries Bureau.

(c) The provisions of paragraph (24) of subdivision (b) shall become operative on July 1, 2004. The provisions of paragraph (25) of subdivision (b) shall become operative on the date on which sufficient funds are available for the Contractors' State License

Board and the Department of Justice to conduct a criminal history record check pursuant to this section or on July 1, 2005, whichever occurs first.

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

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

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

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

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

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

(1) Sections 2052 and 2054.

(2) Section 2630.

(3) Section 2903.

(4) Section 3660.

(5) Sections 3760 and 3761.

(6) Section 4080.

(7) Section 4825.

(8) Section 4935.

(9) Section 4980.

(10) Section 4996.

(11) Section 5536.

(12) Section 6704.

(13) Section 6980.10.

(14) Section 7317.

(15) Section 7502 or 7592.
(16) Section 7520.
(17) Section 7617 or 7641.
(18) Subdivision (a) of Section 7872.
(19) Section 8016.
(20) Section 8505.
(21) Section 8725.
(22) Section 9681.
(23) Section 9840.
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

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

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), 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 license, registration, or certificate for the profession or vocation *the absence of* which was the basis for his or her conviction.

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

149. (a) If, upon investigation, an agency designated in subdivision (e) 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 the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

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

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

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

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

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

(1) The Bureau of Barbering and Cosmetology.

(2) The Funeral Directors and Embalmers Program.

(3) The Veterinary Medical Board.

(4) The Hearing Aid Dispensers Advisory Commission.

(5) The Landscape Architects Technical Committee.

(6) The California Board of Podiatric Medicine.

(7) The Respiratory Care Board of California.

(8) The Bureau of Home Furnishings and Thermal Insulation.

(9) The Bureau of Security and Investigative Services.

(10) The Bureau of Electronic and Appliance Repair.

(11) The Bureau of Automotive Repair.

(12) The Tax Preparers Program.

(13) The California Architects Board.

(14) The Speech-Language Pathology and Audiology Board.

(15) The Board for Professional Engineers and Land Surveyors.

(16) The Board of Behavioral Sciences.

(17) The State Board for Geologists and Geophysicists.

(18) The Structural Pest Control Board.

(19) The Acupuncture Board.

(20) The Board of Psychology.

(21) The California Board of Accountancy.

(22) The Bureau of Naturopathic Medicine.

(23) The Physical Therapy Board of California.

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

683. (a) A board shall report, within 10 working days, 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 by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, ~~and~~ the State Board of Chiropractic Examiners, *and the California Board of Occupational Therapy*.

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

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

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

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

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

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

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough

to the site from which the prescription or order is transferred, to ensure the patient has timely access to the drug or device.

(C) Return the prescription to the patient and refer the patient. The licentiate shall make a reasonable effort to refer the patient to a pharmacy that stocks the prescription drug or device that is near enough to the referring site to ensure that the patient has timely access to the drug or device.

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

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

(d) The provisions of this section shall apply to the drug therapy described in ~~paragraph (8) of subdivision (a) of Section 4052~~ *Section 4052.3*.

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

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

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

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of

Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, ~~and~~ the Speech-Language Pathology and Audiology Board, *the California Board of Occupational Therapy, and the Acupuncture Board* shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

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

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

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

(4) Disciplinary information reported pursuant to Section 805.

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

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

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

(c) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her

complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

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

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

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

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

801. (a) Except as provided in Section 801.01 and subdivisions (b), (c), and (d) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) 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.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral ~~Science Examiners~~ *Sciences* 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 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 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 consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

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

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

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

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

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

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

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

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

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or

paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

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

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

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

(g) Failure of the licensee or claimant, or counsel representing the licensee or claimant, to comply with subdivision (f) is a public

offense punishable by a fine of not less than fifty dollars ($50) and not more than five hundred dollars ($500). A knowing and intentional failure to comply with subdivision (f) or a conspiracy or collusion not to comply with subdivision (f), or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000).

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

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

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

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

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

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

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

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

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

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

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, or the California Board 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 ~~Science Examiners~~ *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 ~~an~~ *a residency program,* approved ~~residency program~~ *by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC),* in family practice or in the clinical area of the instruction for which credit is being sought.

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

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

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

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

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

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

(4) The clinical instruction shall be supervised by a full-time director of medical education, and the head of the department for

each core clinical course shall hold a full-time faculty appointment of the medical school or school of osteopathic medicine and shall be board certified or eligible, or have an equivalent credential in that specialty area appropriate to the country in which the hospital is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170). ~~If an applicant has not satisfactorily completed at least two years of approved postgraduate~~

~~training, the applicant shall also pass the clinical competency written examination.~~ An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination required by this subdivision.

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

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

2107. (a) The Legislature intends that the ~~Division of Licensing~~ *board* shall have the authority to substitute postgraduate education and training to remedy deficiencies in an applicant's medical school education and training. The Legislature further intends that applicants who substantially completed their clinical training shall be granted that substitute credit if their postgraduate education took place in an accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the ~~Division of Licensing~~ *board* may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the ~~division~~ *board* shall consider the applicant's medical education and performance on standardized national examinations, and may substitute approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the ~~year of~~ postgraduate training required by Sections 2102 and 2103.

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

2135. The ~~Division of Licensing~~ *board* shall issue a physician and surgeon's certificate to an applicant who meets all of the following requirements:

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

(1) Successful completion of a resident course of professional instruction *leading to a degree of medical doctor* equivalent to

that specified in Section 2089. However, nothing in this section shall be construed to require the ~~division~~ *board* to evaluate for equivalency any coursework obtained at a medical school disapproved by the ~~division~~ *board* pursuant to Article 4 (commencing with Section 2080).

(2) Taking and passing a written examination that is recognized by the ~~division~~ *board* to be equivalent in content to that administered in California.

(b) The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the ~~division~~ *board* shall not be included in the calculation of this four-year period.

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

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

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

(f) Any application received from an applicant who has held an unrestricted license to practice medicine, in a state or states, or Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program for four or more years shall be reviewed and

processed pursuant to this section. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the ~~division~~ *board* shall not be included in the calculation of this four-year period. This subdivision does not apply to applications that may be reviewed and processed pursuant to Section 2151.

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

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

(b) A person who holds a special faculty permit shall show at the time of license renewal that he or she continues to meet the eligibility criteria set forth in Section 2168.1. After the first renewal of a special faculty permit, the permitholder shall not be required to hold a full-time faculty position, and may instead be employed part-time in a position that otherwise meets the requirements set forth in paragraph (1) of subdivision (a) of Section 2168.1.

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

~~(c)~~

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

~~(d)~~

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

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

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

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

~~2172. The Division of Licensing may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as examination commissioners. The board may fix the compensation of such persons subject to the provisions of applicable state laws and regulations.~~

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

~~2173. The examination shall be conducted in the English language. Upon the submission of satisfactory proof from the applicant that he or she is unable to meet the requirements of the examination in English, the Division of Licensing may allow the use of an interpreter, either to be present in the examination room or thereafter to interpret and transcribe the answers of the applicant. The division in its discretion may select an examinee's interpreter or approve the selection of an interpreter by the examinee. The expenses of the interpreter shall be paid by the examinee and shall be paid before the examination is administered.~~

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

~~2174. The examinations may be conducted in any part of the state or another state designated by the Division of Licensing. A notice of each examination administered by the divison shall specify the time and place of the examination.~~

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

2175. ~~Examination~~ *State examination* records shall be kept on file by the ~~Division of Licensing for a period of two years or more~~ *board until June 1, 2070*. Examinees shall be known and designated by number only, and the name attached to the number shall be kept secret until the examinee is sent notification of the results of the examinations.

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

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

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

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

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

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

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

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

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

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

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

~~(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the board in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code, and the review procedures set forth in Section 2335.~~

~~(d)~~

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

~~(e)~~

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the ~~final decision or action regarding the~~ denial of his or her application, except that the board may, in its discretion

and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the ~~final decision or action regarding the~~ denial.

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

2307. (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the ~~Division of Medical Quality~~ *board* for reinstatement or modification of penalty, including modification or termination of probation.

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

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

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

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

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

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

(e) The panel of the ~~division~~ *board* or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for

which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

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

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

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

(i) Nothing in this section shall be deemed to alter Sections 822 and 823 ~~of the Business and Professions Code~~.

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

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

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

(c) A proposed decision shall be acted upon by the board or by any panel appointed pursuant to Section 2008 or by the California Board of Podiatric Medicine, as the case may be, in accordance

with Section 11517 of the Government Code, except that all of the following shall apply to proceedings against licensees under this chapter:

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

(2) The board's staff or the staff of the California Board of Podiatric Medicine shall poll the members of the board or panel or of the California Board of Podiatric Medicine by written mail ballot concerning the proposed decision. The mail ballot shall be sent within 10 calendar days of receipt of the proposed decision, and shall poll each member on whether the member votes to approve the decision, to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of additional evidence, to defer final decision pending discussion of the case by the panel or board as a whole, or to nonadopt the decision. No party to the proceeding, including employees of the agency that filed the accusation, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the decision, may communicate directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any member of the panel or board, without notice and opportunity for all parties to participate in the communication. The votes of a majority of the board or of the panel, and a majority of the California Board of Podiatric Medicine, are required to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of further evidence, or to nonadopt the decision. The votes of two members of the panel or board are required to defer final decision pending discussion of the case by the panel or board as a whole. If there is a vote by the specified number to defer final decision pending discussion of the case by the panel or board as a whole, provision shall be made for that discussion before the ~~90-day~~ *100-day* period specified in paragraph (3) expires, but in no event shall that ~~90-day~~ *100-day* period be extended.

(3) If a majority of the board or of the panel, or a majority of the California Board of Podiatric Medicine vote to do so, the board

or the panel or the California Board of Podiatric Medicine shall issue an order of nonadoption of a proposed decision within ~~90~~ *100* calendar days of the date it is received by the board. If the board or the panel or the California Board of Podiatric Medicine does not refer the case back to the administrative law judge for the taking of additional evidence or issue an order of nonadoption within ~~90~~ *100 calendar* days, the decision shall be final and subject to review under Section 2337. Members of the board or of any panel or of the California Board of Podiatric Medicine who review a proposed decision or other matter and vote by mail as provided in paragraph (2) shall return their votes by mail to the board within 30 days from receipt of the proposed decision or other matter.

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

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

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

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

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

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

National Board of Podiatric Medical Examiners of the United States.

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

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

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

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

(g) A disciplinary databank report regarding the applicant ~~has been directly presented to~~ *is received by* the board from the Federation of Podiatric Medical Boards.

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

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

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

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

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

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

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

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

(g) A disciplinary ~~data bank~~ *databank* report regarding the applicant ~~has been submitted to the board directly~~ *is received by the board* from the Federation of Podiatric Medical Boards.

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

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

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

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

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

2570.6. An applicant applying for a license as an occupational therapist or certification as an occupational therapy assistant shall file with the board a written application provided by the board,

showing to the satisfaction of the board that he or she meets all of the following requirements:

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

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

(2) The curriculum of an ~~education~~ *educational* program for occupational therapists shall contain the content ~~specifically~~ required ~~in~~ *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 ~~life span~~ *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 ~~process that shall include the following:~~ *processes.*

~~(i) Human performance, that shall include occupational performance throughout the life cycle, human interaction, roles, values, and the influences of the nonhuman environment.~~

~~(ii) Activity processes that shall include the following:~~

~~(I) Theories underlying the use of purposeful activity and the meaning and dynamics of activity.~~

~~(II) Performance of selected life tasks and activities.~~

~~(III) Analysis, adaptation, and application of purposeful activity as therapeutic intervention.~~

~~(IV) Use of self, dyadic, and group interaction.~~

~~(iii) Theoretical approaches, including those related to purposeful activity, human performance, and adaptation.~~

~~(iv) Application of occupational therapy theory to practice, that shall include the following:~~

~~(I) Assessment and interpretation, observation, interviews, history, and standardized and nonstandardized tests.~~

~~(II) Directing, planning, and implementation, that shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate recommendations to maximize treatment gains.~~

~~(III) Program termination including reevaluation, determination of discharge, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.~~

~~(IV) Documentation.~~

~~(v) Development and implementation of quality assurance.~~

~~(vi) Management of occupational therapy service, that shall include:~~

~~(I) Planning services for client groups.~~

~~(II) Personnel management, including occupational therapy assistants, aides, volunteers, and level I students.~~

~~(III) Departmental operations, including budgeting, scheduling, recordkeeping, safety, and maintenance of supplies and equipment.~~

(3) The curriculum of an ~~education~~ *educational* program for occupational therapy assistants shall contain the content ~~specifically~~ required ~~in~~ *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~~, that shall include the following:~~.

~~(i) Human performance, including life tasks and roles as related to the developmental process from birth to death.~~

~~(ii) Activity processes and skills, that shall include the following:~~

~~(I) Performance of selected life tasks and activities.~~

~~(II) Analysis and adaptation of activities.~~

~~(III) Instruction of individuals and groups in selected life tasks and activities.~~

~~(iii) Concepts related to occupational therapy practice, that shall include the following:~~

~~(I) The importance of human occupation as a health determinant.~~

~~(II) The use of self, interpersonal, and communication skills.~~

~~(iv) Use of occupational therapy concepts and skills, that shall include the following:~~

~~(I) Data collection, that shall include structured observation and interviews, history, and structured tests.~~

~~(II) Participation in planning and implementation, that shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including mental health techniques, energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate balance of self-care and work.~~

~~(III) Program termination, including assisting in reevaluation, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.~~

~~(IV) Documentation.~~

(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

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

~~(c)~~

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

~~(1) For an occupational therapist, a minimum of 960 hours of supervised fieldwork experience shall be completed within 24 months of the completion of didactic coursework.~~

~~(2) For an occupational therapy assistant, a minimum of 640 hours of supervised fieldwork experience shall be completed within 20 months of the completion of didactic coursework.~~

~~(d)~~

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

~~(e)~~

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

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

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

(b) Each applicant for licensure or certification shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants approved by the board, such as the examination administered by the National Board for

Certification in Occupational Therapy ~~or by another nationally recognized credentialing body~~, *the American Occupational Therapy Certification Board, or the American Occupational Therapy Association*. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.

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

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

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

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

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

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

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

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

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

2760.1. (a) A registered nurse whose license has been revoked~~,~~ or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including reduction or termination of probation, after a period not less than

the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action, or if the order of the board or any portion of it is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety*, or for a registered nurse whose initial license application is subject to a disciplinary decision, from the date the initial license was issued*:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a license that was revoked, except that the board may, in its sole discretion, specify in its order a lesser period of time provided that the period shall be not less than one year.

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

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

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

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

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

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

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

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

accusation or petition to revoke probation pending against the petitioner.

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

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

3503. No person other than one who has been licensed to practice as a physician assistant ~~or authorized to practice on interim approval under Section 3517~~ shall practice as a physician assistant or in a similar capacity to a physician and surgeon or podiatrist or hold himself or herself out as a "physician assistant," or shall use any other term indicating or implying that he or she is a physician assistant.

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

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

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

~~The committee may grant interim approval to an applicant for licensure as a physician assistant.~~

~~Every applicant who has complied with Section 3519, subdivision (a), who has filed an application with the committee may, between the date of receipt of notice that the application is on file and the date of receipt of his or her license, practice as a physician assistant on interim approval under the supervision of an approved physician. Applicants shall notify the committee in writing of any and all supervising physicians under whom they will be performing services prior to practicing under interim approval. If the applicant shall fail to take the next succeeding licensure examination or fails to pass the examination or fails to receive a license, all privileges under this section shall automatically cease upon written notification sent to the applicant by the committee.~~

~~In the event the licensure examination required by the committee is under a uniform examination system, the applicant shall provide evidence satisfactory to the committee (a) that an application has been filed and accepted for the examination and (b) that the organization administering the examination has been requested to transmit the applicant's scores to the committee in order for the applicant to maintain interim approval. The applicant shall be deemed to have failed the examination unless the applicant provides evidence to the committee within 30 days after scores have been released that he or she has passed the examination.~~

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

3518. The committee shall keep current, two separate registers, one for approved supervising physicians and one for licensed physician's assistants, by specialty if applicable. These registers shall show the name of each licensee, his or her last known address of record, and the date of his or her licensure or approval~~, including those persons practicing under interim approval under Section 3517~~. Any interested person is entitled to obtain a copy of the register in accordance with 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) upon application to the committee together with a sum as may be fixed by the committee, which amount shall not exceed the cost of this list so furnished.

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

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

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

(1) The Governor shall appoint one physician and surgeon member, one naturopathic doctor member, and one public member, with term expirations of June 1, 2006; one physician and surgeon member with a term expiration date of June 1, 2007~~.~~*; and* one naturopathic doctor member with a term expiration date of June 1, 2008.

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

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

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

(2) A person shall not be appointed as a public member if the person or the person's immediate family in any manner owns an interest in a college, school, or institution engaged in naturopathic education, or the person or the person's immediate family has an economic interest in naturopathy or has any other conflict of interest. "Immediate family" means the public member's spouse, parents, children, or his or her children's spouses.

(d) In order to operate in as cost-effective a manner as possible, the advisory council and any advisory committee created pursuant to this chapter shall meet as few times as necessary to perform its duties~~, and its members shall receive no compensation, travel allowances, or reimbursement for their expenses~~.

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

3633.1. The bureau may grant a license to an applicant who meets the requirements of Section 3630, but who graduated prior to 1986, pre-NPLEX, and passed a state or Canadian Province naturopathic licensing examination. Applications under this section shall be received no later than December 31, ~~2007~~ *2010*.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3685. (a) The provisions of Article 8 (commencing with Section 3680) shall become operative on January 1, 2004, but the remaining provisions of this chapter shall become operative on July 1, 2004. It is the intent of the Legislature that the initial implementation of this chapter be administered by fees collected in advance from applicants. Therefore, the bureau shall have the power and authority to establish fees and receive applications for licensure or intents to file application statements on and after January 1, 2004. The department shall certify that sufficient funds are available prior to implementing this chapter. Funds from the General Fund may not be used for the purpose of implementing this chapter.~~

~~(b)~~

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

~~(c)~~

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

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

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

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

(b) Used, *while licensed or applying for a license under this chapter,* any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, ~~or~~ any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, *or any alcoholic beverage, to an extent or in a manner dangerous or injurious to himself or herself, another person, or the public, or to the extent that the use impaired his or her ability to conduct with safety to the public the practice authorized by this chapter*.

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

(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in ~~subdivisions~~ *subdivision* (a) ~~and (b)~~, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

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

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

SEC. 44. Section 3753.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

~~(a)~~

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

~~(b)~~

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

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

SEC. 46. Section 4022.5 of the Business and Professions Code is amended to read:

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

(b) "Designated representative-in-charge" means a designated representative or a pharmacist ~~who is the supervisor or manager of a wholesaler or veterinary food-animal drug retailer~~ *proposed by a wholesaler or veterinary food-animal drug retailer and approved by the board as the supervisor or manager responsible for ensuring the wholesaler's or veterinary food-animal drug retailer's compliance with all state and federal laws and regulations pertaining to practice in the applicable license category*.

~~(c) This section shall become operative on January 1, 2006.~~

SEC. 47. Section 4027 of the Business and Professions Code is amended to read:

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

(b) As used in ~~paragraph (4) of subdivision (a) of~~ Section ~~4052~~ *4052.1*, "licensed health care facility" means a facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or a facility, as defined in Section 1250 of the Health and Safety Code, operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(c) As used in ~~paragraph (5) of subdivision (a) of~~ Section ~~4052~~ *4052.2*, "health care facility" means a facility, other than a facility

licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of the Health and Safety Code, or by an organization under common ownership or control of the health care service plan; "licensed home health agency" means a private or public organization licensed by the State Department of *Public* Health ~~Services~~ pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code, as further defined in Section 1727 of the Health and Safety Code; and "licensed clinic" means a clinic licensed pursuant to Article 1 (commencing with Section 1200) of Chapter 1 of Division 2 of the Health and Safety Code.

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

SEC. 48. 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. 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 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *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 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *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 controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph ~~(3)~~ *(2)* of subdivision ~~(b)~~ *(a)* of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

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

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

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

SEC. 50. Section 4051 of the Business and Professions Code is amended to read:

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

(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a prescription, pursuant to Section ~~4052~~ *4052.1, 4052.2, or 4052.3*, and otherwise provide clinical advice or information or patient consultation if all of the following conditions are met:

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

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

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

SEC. 51. Section 4059.5 of the Business and Professions Code is amended to read:

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

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

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

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

(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer does so in compliance with the laws of this state and of the United States and of the state or country to which the dangerous drugs or dangerous devices are to be transferred, sold, or delivered. Compliance with the laws of this state and the United States and of the state or country to which the dangerous drugs or dangerous devices are to be delivered shall include, but not be limited to, determining that the recipient of the dangerous drugs or dangerous devices is authorized by law to receive the dangerous drugs or dangerous devices.

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

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

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

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

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

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

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

~~(g) This section shall become operative on January 1, 2006.~~

SEC. 52. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

SEC. 53. Section 4062 of the Business and Professions Code is amended to read:

4062. (a) Notwithstanding Section 4059 or any other provision of law, a pharmacist may, in good faith, furnish a dangerous drug or dangerous device in reasonable quantities without a prescription during a federal, state, or local emergency, to further the health

and safety of the public. A record containing the date, name, and address of the person to whom the drug or device is furnished, and the name, strength, and quantity of the drug or device furnished shall be maintained. The pharmacist shall communicate this information to the patient's attending physician as soon as possible. Notwithstanding Section 4060 or any other provision of law, a person may possess a dangerous drug or dangerous device furnished without prescription pursuant to this section.

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

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

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

(2) The mobile pharmacy retains records of dispensing, as 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. 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 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *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 pursuant to a policy, procedure, or protocol pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*.

(5) The date of issue.

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

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

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

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

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

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

(i) Prescriptions dispensed by a veterinarian.

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

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

(B) This paragraph applies to outpatient pharmacies only.

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

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

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

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, 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 pursuant to a policy, procedure, or protocol pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the

Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

SEC. 55. Section 4081 of the Business and Professions Code is amended to read:

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

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

~~(d) This section shall become operative on January 1, 2006.~~

SEC. 56. 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) The mobile pharmacy shall provide services only on or immediately contiguous to the site of the damaged or destroyed pharmacy.

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

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

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

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

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

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

SEC. 57. Section 4111 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(d) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a person licensed on or before August 1, 1981, under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and qualified on or before August 1, 1981, under subsection (d) of Section 1310 of Title XIII of the federal Public Health Service Act, as amended, whose ownership includes persons defined pursuant to paragraphs (1) and (2) of subdivision (a).

(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *either Section 4052.1 or 4052.2*.

SEC. 58. Section 4126.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

(7) To another pharmacy under common control.

(b) Notwithstanding any other provision of law, a violation of this section ~~by either a pharmacy whose primary or sole business is filling prescriptions for patients of long-term care facilities or a person engaged in a prohibited transaction with a pharmacy whose primary or sole business is filling prescriptions for patients of long-term care facilities~~ may subject the *person or* persons who committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence pursuant to a citation issued by the board.

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

~~(e) For purposes of subdivision (b) of this section and subdivision (s) of Section 4301, “long-term care facility” shall have the same meaning given the term in Section 1418 of the Health and Safety Code.~~

SEC. 59. 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.

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

(h) A nonresident wholesaler shall at all times maintain a valid, unexpired license, permit, or registration to conduct the business

of the wholesaler in compliance with the laws of the state in which it is a resident. An application for a nonresident wholesaler license in this state shall include a license verification from the licensing authority in the applicant's state of residence.

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

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

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

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

SEC. 60. Section 4174 of the Business and Professions Code is amended to read:

4174. Notwithstanding any other provision of law, a pharmacist may dispense drugs or devices upon the drug order of a nurse

practitioner functioning pursuant to Section 2836.1 or a certified nurse-midwife functioning pursuant to Section 2746.51, a drug order of a physician assistant functioning pursuant to Section 3502.1 or a naturopathic doctor functioning pursuant to Section 3640.5, or the order of a pharmacist acting under Section ~~4052~~ *4052.1, 4052.2, or 4052.3*.

SEC. 61. Section 4231 of the Business and Professions Code is amended to read:

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

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

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

(d) If, as part of an investigation or audit conducted by the board, a pharmacist fails to provide documentation substantiating the completion of continuing education as required in subdivision (a), the board shall cancel the active pharmacist license and issue an inactive pharmacist license in its place. A licensee with an inactive pharmacist license issued pursuant to this section may obtain an active pharmacist license by paying the renewal fees due and submitting satisfactory proof to the board that the licensee has completed 30 hours of continuing pharmacy education.

SEC. 62. Section 4301 of the Business and Professions Code is amended to read:

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

Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.

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

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

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

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

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

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

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

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

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

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

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

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

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

regulations established by the board or by any other state or federal regulatory agency.

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

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

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

(s) The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but not be limited to, the amount of dangerous drugs furnished to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities, the previous ordering pattern of the pharmacy, and the general patient population to whom the pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be considered in determining whether there has been a violation of this subdivision. This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code. *For purposes of this section, "long-term care facility" shall have the same meaning given the term in Section 1418 of the Health and Safety Code.*

~~(t) This section shall become operative on January 1, 2006.~~

SEC. 63. Section 4305 of the Business and Professions Code is amended to read:

4305. (a) ~~Any person who has obtained a license to conduct a pharmacy, shall notify the board within 30 days of the termination of employment of any pharmacist who takes charge of, or acts as manager of the pharmacy. Failure to notify the board within the 30-day period shall constitute grounds for disciplinary action.~~

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

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

~~(b)~~

(c) Any person who has obtained a license to conduct a pharmacy, who willfully fails to *timely* notify the board *that the pharmacist-in-charge* of the ~~termination of employment of any pharmacist who takes charge of, or acts as manager of the~~ pharmacy *has ceased to act in that capacity*, and who continues to permit the compounding or dispensing of prescriptions, or the furnishing of drugs or poisons, in his or her pharmacy, except by a pharmacist *subject to the supervision and management of a responsible pharmacist-in-charge*, shall be subject to summary suspension or revocation of his or her license to conduct a pharmacy.

~~(c) Any pharmacist who takes charge of, or acts as manager of a pharmacy, who terminates his or her employment at the pharmacy, shall notify the board within 30 days of termination of employment. Failure to notify the board within the 30-day period shall constitute grounds for disciplinary action.~~

SEC. 64. Section 4329 of the Business and Professions Code is amended to read:

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

SEC. 65. Section 4330 of the Business and Professions Code is amended to read:

4330. (a) Any person who has obtained a license to conduct a pharmacy, who fails to place in charge of the pharmacy a pharmacist, or any person, who by himself or herself, or by any other person, permits the compounding or dispensing of 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 ~~nonpharmacist~~ *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. 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 ~~laws or regulations~~ *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 ,~~ *issue,* or when the veterinarian is acting to comply with ~~federal ,~~ *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 violation of this section. In addition, any veterinarian who

negligently releases confidential information shall be liable in a civil action for any damages caused by the release of that information.

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

SEC. 67. Section 4980.04 is added to the Business and Professions Code, to read:

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

SEC. 68. Section 4980.30 of the Business and Professions Code is amended to read:

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

SEC. 69. Section 4980.43 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

(C) Not more than 100 hours of personal psychotherapy as described in paragraph (2) of subdivision (*l*). The applicant shall

be credited for three hours of experience for each hour of personal psychotherapy.

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

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

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

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

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

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

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

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

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their 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. Section 4981 of the Business and Professions Code is repealed.

~~4981. This article applies to licenses to engage in the business of marriage and family therapy, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the board shall have all powers provided in this article not inconsistent with this chapter.~~

SEC. 71. 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.

SEC. 72. Section 4994.1 of the Business and Professions Code is repealed.

~~4994.1. If those moneys transferred from the Behavioral Science Examiners Fund to the General Fund pursuant to the 1991 Budget Act are redeposited to the Behavioral Science Examiners Fund, the fees assessed by the board shall be reduced correspondingly.~~

SEC. 73. Section 4996.2 of the Business and Professions Code is amended to read:

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

(a) Is at least 21 years of age.

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

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

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

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

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

the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

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

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

SEC. 74. Section 4996.17 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 75. Section 4996.18 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(e) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section ~~4996.20, 4996.21, or~~ 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

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

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

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

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

SEC. 76. Section 4996.20 of the Business and Professions Code is repealed.

~~4996.20. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:~~

~~(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.~~

~~(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.~~

~~For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than eight supervisees at a time.~~

~~(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed~~

~~health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:~~

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

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

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

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

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

~~(e) This section shall apply only to persons who apply for registration on or before December 31, 1998.~~

SEC. 77. Section 4996.21 of the Business and Professions Code is repealed.

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

~~(a) On or after January 1, 1999, an associate shall have at least 3,200 hours of post-master's degree experience in providing clinical social work services as permitted by Section 4996.9. At least 1,700 of these hours shall be gained under the supervision of a licensed clinical social worker. The remaining hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined in a regulation adopted by the board. Experience shall consist of the following:~~

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

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

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

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

~~(c) Consultation or peer discussion shall not be considered to be supervision.~~

~~(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group setting of not more than eight persons.~~

~~(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.~~

~~(f) (1) Experience shall only be gained in a setting that meets both of the following:~~

~~(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.~~

~~(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.~~

~~(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.~~

~~(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.~~

~~(4) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.~~

~~(5) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.~~

~~(6) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.~~

~~(g) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to associates.~~

~~(h) An associate shall not do the following:~~

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

~~(2) Have any proprietary interest in the employer's business.~~

~~(i) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.~~

SEC. 78. Section 5515.5 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

SEC. 79. Section 5801 of the Business and Professions Code 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. 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 ~~as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or the licensee has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired~~ *for cause as a conservator, guardian, trustee, personal representative or has ever resigned as a conservator, guardian, trustee, or personal representative in a specific case, the circumstances causing that removal or resignation, and the case names, court locations, and case numbers associated with the removal or resignation*.

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

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

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

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

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

SEC. 81. Section 6536 of the Business and Professions Code is amended to read:

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

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

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

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

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

(e) Has been removed as a ~~professional~~ fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or has demonstrated a pattern of negligent conduct, including a removal prior to January 1, 2009, and all appeals have been taken, or the time to file an appeal has expired.

SEC. 82. Section 6561 of the Business and Professions Code is amended to read:

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

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

(2) Whether or not he or she has 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 he or she has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired~~ *conservator, guardian, trustee, or personal representative for cause*. The licensee may file an additional statement of the issues and facts pertaining to the case.

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

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

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

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

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

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

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

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

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

SEC. 83. Section 6761 of the Business and Professions Code is repealed.

~~6761. In determining the qualifications of an applicant for registration, a majority vote of the board is required.~~

SEC. 84. Section 7616 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

~~(f) Every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal of its funeral director's license, be issued a funeral establishment license.~~

SEC. 85. Section 7629 of the Business and Professions Code is amended to read:

7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral ~~director~~ *establishment* so as to constitute an unfair method of competition.

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

SEC. 86. Section 8740 of the Business and Professions Code is amended to read:

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

(b) The board may authorize an organization specified by the board pursuant to Section ~~8747~~ *8745* to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 87. Section 8746 of the Business and Professions Code is amended to read:

~~8746. In determining the qualifications of any applicant for license, a majority vote of the board is required.~~

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

SEC. 88. Section 9855.15 is added to the Business and Professions Code, to read:

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

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

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned 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. 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 ~~such~~ *those* services, regardless of how or under what circumstances or by what cause ~~such~~ *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. 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 ~~board of trustees~~ *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. 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 ~~subparagraph (D) of~~

~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *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 the scope of Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

SEC. 92. Section 11165 of the Health and Safety Code is amended to read:

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

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy

Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

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

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

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

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

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

(5) Quantity of the controlled substance dispensed.

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

(7) Number of refills ordered.

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

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

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

SEC. 93. Section 14132.100 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

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

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

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and Service Administration (HRSA).

(3) No change in costs shall, in and of itself, be considered a scope-of-service change unless all of the following apply:

(A) The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.

(B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

(C) The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.

(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average

per-visit rate of all sites for the purposes of calculating the cost associated with a scope-of-service change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

(4) An FQHC or RHC may submit requests for scope-of-service changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(5) An FQHC or RHC shall submit a scope-of-service rate change request within 90 days of the beginning of any FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of services provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a scope-of-service rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.

(6) Notwithstanding paragraph (4), if the approved scope-of-service change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service change, the adjusted reimbursement rate for that scope-of-service change shall be made retroactive to the date the scope-of-service change was initially implemented. Scope-of-service changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f) (1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC

or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (*l*). These supplemental payments shall be determined separately from the scope-of-service adjustments described in subdivision (e). 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 reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a ~~medical doctor, osteopath~~ *physician and surgeon*, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal services practitioner, as defined in Section 51179.1 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist or a dental hygienist in alternative practice.

(B) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice for the purposes of establishing its FQHC or RHC rate shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist or a dental hygienist

in alternative practice has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist 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.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(2) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(3) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis until it is informed of its enrollment as an FQHC or RHC, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, or in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC or RHC establishing the intermittent clinic site or the mobile unit, subject to the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

(k) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all MEI increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable scope-of-services adjustments as provided in subdivision (e).

(*l*) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, scope-of-service changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

(m) The department shall, by no later than March 30, 2008, promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

(n) The department shall implement this section only to the extent that federal financial participation is obtained.

SEC. 94. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

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