Legislative & Regulatory Committee

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P (916) 263-2300 F (916) 263-2140 www.dbc.ca.gov

NOTICE OF PUBLIC MEETING – Notice is hereby given that a public meeting of the Legislative and Regulatory Committee of the Dental Board of California will be held as follows:

NOTICE OF LEGISLATIVE AND REGULATORY COMMITTEE MEETING

Thursday, May 19, 2011
Upon Conclusion of Dental Assisting Committee Meeting
Embassy Suites SFO - 150 Anza Blvd.
Burlingame, CA 94010
650-342-4600/916-263-2300

LEGISLATIVE & REGULATORY COMMITTEE
Chair – Fran Burton, Public Member
Vice Chair – Stephen Casagrande, DDS
Steve Afriat, Public Member
Luis Dominicis, DDS
Huong Le, DDS
Suzanne McCormick, DDS
Steve Morrow, DDS

CALL TO ORDER

ROLL CALL AND ESTABLISHMENT OF QUORUM

LEG 1 – Approval of the February 24, 2011 Legislative and Regulatory Committee Meeting Minutes

LEG 2 – 2011 Tentative Legislative Calendar – Information Only

LEG 3 – Discussion and Possible Action on the Following Legislation:
AB 127 (Logue) Regulations: effective date
AB 991 (Olsen) State government: licenses: California Licensing and Permit Center
AB 1088 (Eng) State agencies: collection of demographic data
SB 100 (Price) Healing arts
SB 103 (Liu) State government: meetings
SB 540 (Price) Dentistry
SB 541 (Price) Regulatory boards: expert consultants (SME contracts)
SB 544 (Price) Professions and vocations: regulatory boards
SB 694 (Padilla) Dental care
SB 943 (Committee on Business, Professions and Economic Development) Healing arts
Other legislation impacting the Board that staff becomes aware of between the time the meeting notice is posted and the Board meeting.

LEG 4 – Update on Pending Regulatory Packages
A. Retroactive Fingerprinting *(California Code of Regulations, Title 16, Sections 1007, 1008, and 1017.2)*
B. Dental Assisting Educational Programs and Courses *(California Code of Regulations, Title 16, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8 and 1071)*
C. Minimum Standards for Infection Control *(California Code of Regulations, Title 16, Section 1005)*
D. Consumer Protection Enforcement Initiative *(California Code of Regulations, Title 16, Sections 1018.05 and 1020)*
E. Uniform Standards Relating to Substance Abusing Licensees and Disciplinary Guidelines *(California Code of Regulations, Title 16, Sections 1018 and 1020.5)*
F. Sponsored Free Health Care Events *(California Code of Regulations, Title 16, Sections 1023.15, 1023.16, 1023.17, and 1023.18)*

LEG 5 – Prospective Legislative Proposals

Request for proposals - Stakeholders Are Encouraged to Submit Proposals in Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

PUBLIC COMMENT

ADJOURNMENT

Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the Committee Chair. For verification of the meeting, call (916) 263-2300 or access the Board's Web Site at **www.dbc.ca.gov**. The meeting facilities are accessible to individuals with physical disabilities. Please make any request for accommodations to Richard DeCuir at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, no later than one week prior to the day of the meeting.

LEG 1

Feb. 24, 2011 Minutes

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LEGISLATIVE AND REGULATORY COMMITTEE MEETING MINUTES
Thursday, February 24, 2011
San Diego

DRAFT

Members Present:
Fran Burton, Public Member, Chair
Stephen Casagrande, DDS, Vice Chair
John Bettinger, DDS
Luis Dominicis, DDS
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS

Members Absent:
Steven Afriat, Public Member

Staff Present:
Richard DeCuir, Executive Officer
Donna Kantner, Licensing & Examination Unit Manager
Kim A. Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Licensing Analyst
Sarah Wallace, Legislation and Regulations Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

ROLL CALL AND ESTABLISHMENT OF QUORUM
Ms. Burton, chair, called the meeting to order at 9:30 a.m. Roll was called and a quorum was established.

LEG 1 – Approval of the November 4, 2010 Legislative and Regulatory Committee Meeting Minutes
M/S/C (McCormick/Le) to approve the November 4, 2010 Legislative and Regulatory Committee meeting minutes. The motion passed unanimously.

LEG 2 – 2011 Tentative Legislative Calendar – Information Only
The 2011 Tentative Legislative calendar was enclosed for informational purposes.

LEG 3 – Discussion and Possible Action on the Following Legislation:
Sarah Wallace, Legislative and Regulatory Analyst reported that after this meeting packet was put together, there were several new bills of interest to the board that were just introduced which she has included in the handout.

- **AB 28 (Huber) – State agencies: repeals**
  This bill will establish repeal dates for various agencies that would be eligible for review by the Joint Sunset Review Committee. At this time, this bill does not directly affect the Dental Board of California. M/S/C (Burton/Forsythe) to "Watch" this bill. The motion passed unanimously.

- **AB 127 (Logue) - Regulations: effective date**
  This bill would require that a regulation or an order of appeal of a regulation become effective on January 1 next following a 90-day period after the date it is filed with the Secretary of State, except as provided, instead of the current 30th day after it is filed with the secretary of State, except as provided. Richard DeCuir, Executive Officer, stated that this bill as proposed could extend the already lengthy rulemaking process which in turn could endanger the public. Kristy Shellans stated that this bill, as written, would still allow you to prescribe an earlier effective date for your regulations but you would have to order that every single time that you adopted regulations. As we've seen in the past, sometimes things take longer than the date you've set which may add confusion to the process. M/S/C (Casagrande/Morrow) to "Oppose" this bill and get a letter off to the author right away. The motion passed unanimously.

- **SB 100 (Price) – Healing Arts**
  As it applies to the Dental Board of California, this bill requires dentists to use the designation of "DDS" or "DMD" immediately following the dentist's name in all advertising. This bill may affect the Dental Board's Oral and Maxillofacial Surgery (OMS) holders who own or are employed by ambulatory surgical centers. This bill only affects the permit for the site and not the permit holder. Kristy Shellans, Legal Counsel, stated that this bill contains many different issues that it is trying to address. As far as the Dental Board is concerned it might be a good idea to watch the advertising section of this bill. M/S/C (Burton/Bettinger) to "Watch" this bill. The motion passed unanimously.

- **SB 103 (Liu) - State government: meetings: teleconferencing**
  This bill urges state bodies to hold teleconference meetings when legally and financially possible. Dr. Morrow stated that as he understands it, this bill is urging not requiring. Ms. Wallace confirmed this. M/S/C (Burton/Bettinger) to "Watch" this bill. The motion passed unanimously.

- **Other legislation impacting the Board that staff becomes aware of between the time the meeting notice is posted and the Board meeting.**
  Ms. Wallace stated that there are an additional 9 bills which could have some impact on the Dental Board. The majority of these bills make only technical not substantive changes.
  AB 536 regarding the Department of Consumer Affairs makes technical changes to the language. M/S/C (Burton/Bettinger) to "Watch" this bill. The motion passed unanimously.
  AB 675 regarding the general provisions pertaining to all healing arts boards would provide that continuing education courses that advance or promote labor organizing on behalf of a union, or that advance or promote statutory or regulatory changes, political candidates, political advocacy, or political strategy shall not be considered content relevant to the practice regulated by the board and shall not be acceptable for meeting requirements for licensure renewal. M/S/C (McCormick/Morrow) to "Support" this bill. Ms. Burton asked if this was a "spot" bill. Ms. Wallace stated that at this point this bill would make substantive changes to the statute because the Dental Board already has pretty specific continuing education requirements in regulation. Kristy Shellans asked if there was a copy of the text that the Board could see and Ms. Wallace stated that it was not available. Kristy Shellans stated that she would be uncomfortable on the Board voting on something that they hadn't actually had the text for. Ms Burton stated that as long as the hearing is still pretty far away, she would caution against taking a position now that we can't change later. Dr. McCormick stated that she would be happy to withdraw her motion but that perhaps the same should be done for the other 8 bills the board does not have the language for. Ms. Shellans stated that the Board does have the language for SB 540 and 694. M/S/C (McCormick/Dominicis) that the Board take a "Watch" position on the remaining bills of interest AB 675 Continuing Education, AB 958 Regulatory Boards: limitations periods, AB 1207 Department of Consumer Affairs, AB 1328 Professions and Vocations, SB 227 Business Professions: licensure, SB 231 Regulatory boards: healing arts, SB 399 Healing

arts: advertising and SB 544 Healing arts with the exceptions being SB 540 and SB 694. The motion passed unanimously with Ms. Burton abstaining.
SB 540 regarding extending the repeal date of the Dental Board of California until January 1, 2016. Dr. Bettinger moved to support. Mr. DeCuir asked the board to proceed with caution on this bill because this could be the caveat for the committee to load in language during Sunset Review. There may be some provisions that come about as a result of Sunset Review that the Board may not want to accept. Dr. Bettinger offered to amend his motion. Bill Lewis with California Dental Association (CDA) commented that it makes the most sense to not take a position until more details are known. Dr. Bettinger withdrew his motion. M/S/C (Bettinger/Le) to remain "Neutral" on this bill. The motion passed unanimously.
SB 694 regarding access to dental care. Dr. Bettinger stated that this may be a bill that will allow the creation of mid-level providers. Dr. Le stated that this bill was actually introduced by the Children's Partnership. They are working on proposing a new category of dental people. Dr. Bettinger stated that this is another bill where we don't have the language and we don't know where they're going with it. Bill Lewis CDA commented that they have been in some preliminary discussions with Children's Partnership regarding where everyone is on the issue at this point. CDA has previously worked with Senator Padilla the author of this bill and takes no position at this time but watch closely. Dr. Le would like to recues herself as she has been in some discussions with Children's Partnership. Katie Dawson from the California Dental Hygienists Association stated that as a profession, they are also looking at this mid-level provider. There are many different models all over the country and we should get as much input as possible especially from dental hygienists and possibly dental assistants who would be used to create this new position. We have not been involved with other organizations officially but we would like to encourage as much input as possible when coming to any decisions. M/S/C (Burton/ McCormick) to "Watch" this bill. The motion passed unanimously with Dr. Le abstaining.

LEG 4 – Update on Pending Regulatory Packages:

A. Disciplinary Guidelines *(California Code of Regulations, Title 16, Section 1018)*

Sarah Wallace reported that the Disciplinary Guidelines were approved by the Office of Administrative Law and filed with the Secretary of State on Dec. 14, 2010. The regulation became effective on January 13, 2011. A copy of these guidelines can be found can be found on the Boards website at: http://www.dbc.ca.gov/formspubs/pub_dgml.pdf

B. Retroactive Fingerprinting *(California Code of Regulations, Title 16, Sections 1007,1008 and 1017.2)*

Ms. Wallace reported that this rulemaking was signed by the appropriate parties and turned in to the Office of Administrative Law (OAL) on January 28, 2011. OAL has 30 working days to either approve or disapprove the file. If the file is approved, it will be filed with the Secretary of State and the regulation will become effective 30 days later. Staff anticipates that the file will be approved and the regulation will become effective sometime in mid-April. Dr. Morrow asked if these regulations also pertain to dentists. Ms Wallace said yes, they pertain to all licensees of the Dental Board.

C. Dental Assisting Educational Programs and Courses *(California Code of Regulations, Title 16, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8 and 1071)*

Ms. Wallace reported that since the last meeting the Dental Assisting Educational Programs and Courses regulatory package had gone out for a third modified text. The board received 1 comment in support and 1 adverse comment. Those comments were discussed during Friday's board meeting.

D. Minimum Standards for Infection Control *(California Code of Regulations, Title 16, Section 1005)*

Ms. Wallace reported that the final text was adopted by the board at the December teleconference. Staff is currently working on the final statement of reasons for this rulemaking to turn in to the Office of Administrative Law before the one year deadline which is August 26, 2011.

E. Consumer Protection Enforcement Initiative *(California Code of Regulations, Title 16, Sections 1018.05 and 1020)*

Ms. Wallace reported that the Consumer Protection Enforcement Initiative (CPEI) regulations which were approved by the board in November have been filed with the Office of Administrative Law (OAL). They were published by OAL on February 18, 2011. The 45 day public comment period began on 2/18/2011 and will end on April 4, 2011. A regulatory hearing has been scheduled for April 4, 2011 at 10:00 a.m. at the DBC Sacramento office on Evergreen Street.

Ms. Wallace stated that a couple of items that were not included in this package but that are currently being worked on include the Sponsored Healthcare Event Regulations which comply with AB 2699 provisions that will be discussed on Friday. We are also working on the Uniform Standards for substance abusing licensee's regulatory package that will be discussed on Friday. In addition, we are working with the subcommittee on the Portfolio regulations for drafting. Mr. DeCuir commented that from his past experience, he has never seen a board work on more than one or two regulatory packages through the course of a year. Before this meeting is through, we will be trudging through eight regulatory packages. Mr. DeCuir wanted it to be clear about the workload being placed on Sarah in particular and staff in general and on the board. He said he felt obligated to make everyone aware of this. Dr. Bettinger commended the staff for their hard work and Richard for his leadership in dealing with so many regulatory packages. Everyone on the board and in the Legislative and Regulatory committee appreciates all the hard work that everyone has put into it.

LEG 5 – Prospective Legislative Proposals

(A) Discussion and Possible Action to Recommend Statutory Amendments to Business and Professions Code Section 651 Regarding Advertising of Specialty Licensure

Ms. Wallace reported that in February 2001 AB 1026 was introduced and sponsored by the California Dental Association (CDA). The bill was similar to the board's prior regulatory language that had been deemed unconstitutional in a previous lawsuit. The bill was enacted into law ON September 23, 2002 and was chaptered as B & P code Section 651(h)(5)(A). As a result of the enactment of AB 1026, a lawsuit was filed challenging the constitutionality of this law. The board attempted to settle the case and the threat of any future litigation by pursuing statutory amendments. However, the board was unsuccessful in finding an author to sponsor the legislation. In October of 2010 a United States District Court Judge ruled that section 651(h)(5)(A) violates the First Amendment and must be invalidated. The board is constitutionally obligated to appeal that decision and the issue is currently on appeal in the Ninth Circuit Court of Appeals. At this time, staff is again seeking an author to carry new language to repeal the B & P Code Section 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii). Ms. Burton stated that there had been a meet and greet at Senator Price's office where some preliminary discussions on this issue were brought up. It is her understanding that this is something that is in the Sunset Review process. The committee thinks it is possible to take care of this issue through those Sunset Review hearings making it unnecessary for us to carry a bill as this would be loaded into whatever legislation is done as a result of Sunset Review. Ms. Burton stated that she thinks that we don't need to do anything at this point. We need to wait to see the outcome of the Sunset Review hearing on March 14, 2011. Bill Lewis, CDA, stated that they wish they were not in the position to have to take this action since they were the sponsors and worked hard to get this enacted but clearly the tide has been running against us on this particular issue. We recognize the burden put upon the board in trying to defend this statute. We are in agreement with the board on moving forward with this. He asked legal counsel if they thought that just waiting to see what would happen after Sunset Review was the appropriate action. Kristy Shellans stated that it is a policy call by the board in how they want to pursue it. Does the committee agree with this approach? Dr. Bettinger stated that all three attorneys agree on this language. Kristy Shellans stated that she thinks it would solve the problems of future litigation for the board. M/S (Bettinger/Forsythe) that the language be forwarded to the full board for approval and direct the Executive Officer to seek an author to introduce this language as an urgency

measure during the 2011-2012 Legislative session to repeal Business and Professions Code Sections 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii). Mr. DeCuir stated that he thinks we need to take a step back because we're not going to get an urgency bill through and as long as the sunset Review process includes this language then this motion would be incorporated into the Sunset Review process. Ms. Burton stated that the motion is that we want to move this language forward to the full board tomorrow for approval and we want to ask that this language either be incorporated into the Sunset Review process or into a bill for which we will seek an author. Ms. Burton stated that the reason she wanted to add that last part is that she wants to be sure that we are finally going to get a solution to this problem. Ms. Burton stated that she also wanted to be sure that when we get into Sunset Review things don't get out of hand with some other provisions that we had not considered or had an opportunity to talk about. Dr. Bettinger asked to amend his motion. M/S/C (Bettinger/Forsythe) to move the language be forwarded to the full board for approval and incorporation into the Sunset Review process or direct the Executive Officer to seek an author to introduce this language during the 2011-2012 Legislative session to repeal Business and Professions Code Sections 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii). The motion passed unanimously.

(B) Request for proposals - Stakeholders Are Encouraged to Submit Proposals in Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

Ms. Burton reminded everyone that the clock is ticking on this so if there are things that the committee needs to be aware of they need to be brought forward.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Ms. Burton thanked Sarah Wallace for all her hard work on these many regulations. The committee adjourned at 10:21 a.m.

LEG 2

2011 Legislative Calendar

STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

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MEMORANDUM

DATE	May 3, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item LEG 2:** 2011 Tentative Legislative Calendar – Information Only

Background
The 2011 Tentative Legislative Calendar is enclosed.

Action Requested:
No action necessary.

TENTATIVE STATE LEGISLATIVE CALENDAR 2011

First Year of 11-12 Biennial Session

January 1, 2011	Statutes take effect
January 3	Legislature reconvenes
January 10	Budget must be submitted by Governor
January 17	Martin Luther King, Jr. Day
January 21	**Last day to submit bill requests to the Office of Legislative Counsel**
February 18	**Last day for bills to be introduced**
February 21	Presidents' Day observed
March 28	Cesar Chavez Day observed
April 14	Spring Recess begins at end of this day's session
April 25	Legislature reconvenes from Spring Recess
May 6	**Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house**
May 13	**Last day for policy committees to hear and report to the floor non-fiscal bills introduced in their house**
May 20	Last day for policy committees to meet prior to June 6
May 27	**Last day for fiscal committees to hear and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to June6**
May 30	Memorial Day observed
May 31 - June 3	Floor session only. No committee may meet for any purpose
June 3	**Last day to pass bills out of house of origin**
June 6	Committee meetings may resume
June 15	Budget Bill must be passed by midnight
July 4	Independence Day observed
July 8	**Last day for policy committees to meet and report bills.**
July 15	Summer Recess begins at the end of this day's session, provided Budget Bill has been enacted.
August 15	Legislature reconvenes from Summer Recess
August 26	**Last day for fiscal committees to meet and report bills to the Floor**
August 26 - September 9	Floor session only. No committees, other than conference committees and Rules Committee, may meet for any pupose.
September 2	**Last day to amend bills on the Floor**
September 5	**Labor Day Observed**
September 9	**Last day for each house to pass bills. Interim Study Recess begins at end of this day's sssion.**
October 9	**Last day for Governor to sign or veto bills passed by the Legislature on or before September 9 and in the Governor's posession after September 9.**
January 1, 2012	Statutes take effect
January 4, 2012	Legislature reconvenes.

LEG 3

Discussion and Possible Action on Legislation

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MEMORANDUM

DATE	May 5, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item LEG 3:** Discussion and Possible Action on Legislation

Background

Staff has enclosed a matrix summarizing the status, location, and current Board position for the following proposed legislation:

- AB 127 (Logue) Regulations: effective date
- AB 991 (Olsen) State government: licenses: California Licensing and Permit Center
- AB 1088 (Eng) State agencies: collection of demographic data
- SB 100 (Price) Healing arts
- SB 103 (Liu) State government: meetings
- SB 540 (Price) Dentistry
- SB 541 (Price) Contractors' State License Regulatory boards: expert consultants
- SB 544 (Price) Professions and vocations: regulatory boards
- SB 694 (Padilla) Dental care
- SB 943 (Committee on Business, Professions and Economic Development) Healing arts

Copies of the staff analysis and proposed language for each bill are enclosed for the Committee's review. Other legislation impacting the Board that staff becomes aware of before the meeting will be hand-carried to the Board meeting.

Senate Bill 540 (Price) and Senate Bill 544 (Price) will be discussed by the full board on Friday, May 20, 2011.

Action Requested:

The Committee may take action to recommend a position of support, oppose, watch, or neutral to the full Board on each bill.

DENTAL BOARD OF CALIFORNIA
LEGISLATIVE INDEX
MAY 19-20, 2011 BOARD MEETING

MEASURE	AUTHOR	TOPIC	CURRENT TEXT VERSION	INTRODUCED	STATUS	LOCATION	BOARD POSITION
ASSEMBLY BILLS							
AB 127	Logue	Regulations: effective date	Introduced: 1/1/2011	1/1/2011	4/11/2011 - Re-referred to Coms. on B., P. & C.P. and A. & A.R. pursuant to Asssembly Rule 96.	4/11/2011 - A . B.,P. & C.P.	Oppose
AB 991	Olsen	State government: licenses: California Licensing and Permit Center	Amended: 4/13/2011	2/18/2011	4/26/2011 - From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 26). Re-referred to Com.	4/26/2011 - A . APPR.	
AB 1088	Eng	State agencies: collection of demographic data	Amended: 4/25/2011	2/18/2011	4/26/2011 - Re-referred to Com. on B., P. & C.P.	4/26/2011 - A . B.,P. & C.P.	
SENATE BILLS							
SB 100	Price	Healing arts	Amended 4/25/2011	1/11/2011	5/2/2011 - Do pass, but re-refer to the Committee on Health.	5/2/2011 - S . HEALTH	Watch
SB 103	Liu	State government: meetings	Amended: 4/26/2011	1/12/2011	4/29/2011 - Set for hearing May 9.	4/26/2011 - S . APPR.	Watch
SB 540	Price	Dentistry	Amended: 4/25/2011	2/17/2011	5/2/2011 - Do pass as amended, and re-refer to the Committee on Appropriations.	5/2/2011 - S . APPR.	Watch
SB 541	Price	Contractors' State License Regulatory boards: expert consultants	Amended: 4/13/2011	2/17/2011	5/2/2011 - Do pass, but re-refer to the Committee on Appropriations.	5/2/2011 - S . APPR.	

SB 544	Price	Professions and vocations: regulatory boards	Amended: 4/14/20111	2/17/2011	5/2/2011 - Set, first hearing. Hearing canceled at the request of author.	4/14/2011 - S . B., P. & E.D.	Watch
SB 694	Padilla	Dental care	Amended: 3/29/2011	2/18/2011	4/7/2011 - Re-referred to Com. on B., P. & E.D.	4/7/2011 - S . B., P. & E.D.	Watch
SB 943	Senate B., P., & E. D. Committee	Healing arts	Introduced: 3/31/2011	3/31/2011	5/2/2011 - Do pass, but re-refer to the Committee on Appropriations.	5/2/2011 - S . APPR.	

AB 127 (Logue)

Regulations: Effective Date

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	AB 127		
AUTHOR:	Assemblymember Dan Logue	**SPONSOR:**	
VERSION:	Introduced 1/11/2011	**INTRODUCED:**	1/11/2011
BILL STATUS:	4/11/11 - Re-referred to Committees on Business, Professions & Consumer Protection and Accountability. & Administrative Review pursuant to Assembly Rule 96	**BILL LOCATION:**	4/11/11 – Assembly Business, Professions & Consumer Protection
SUBJECT:	Regulations: effective date	**RELATED BILLS:**	

SUMMARY

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Under existing law, a regulation or an order of repeal of a regulation becomes effective on the 30th day after it is filed with the Secretary of State, except as provided.

This bill would require that a regulation or an order of repeal of a regulation become effective, instead, on January 1 next following a 90-day period after the date it is filed with the Secretary of State, except as provided.

ANALYSIS

The current rulemaking process takes an estimated 12 to 18 months to complete. The Dental Board of California's (Board) highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violating of the Dental Practice Act (DPA); monitoring licensees whose license has been placed on probation; and managing the Diversion Program for licensees, whose practice may be impaired due to abuse of dangerous drugs or alcohol. The Board is authorized to adopt reasonably necessary rules to implement, interpret, or make specific the statutes that govern the Dental Practice Act. Extending the time before a regulation may become effective could unnecessarily endanger the public.

REGISTERED SUPPORT/OPPOSITION

Support: None on file as of 5/2/2011.

Opposition: None on file as of 5/22011.

BOARD POSITION
The Board opposed this bill at the February 2011 meeting.

ASSEMBLY BILL No. 127

Introduced by Assembly Member Logue

January 11, 2011

An act to amend Section 11343.4 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 127, as introduced, Logue. Regulations: effective date.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Under existing law, a regulation or an order of repeal of a regulation becomes effective on the 30th day after it is filed with the Secretary of State, except as provided.

This bill would require that a regulation or an order of repeal of a regulation become effective, instead, on January 1 next following a 90-day period after the date it is filed with the Secretary of State, except as provided.

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 11343.4 of the Government Code is amended to read:

11343.4. A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on ~~the 30th day~~

January 1 next following a 90-day period after the date of filing unless:

(a) Otherwise specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.

(b) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(c) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

O

AB 991 (Olsen)

State Gov't.: Licenses

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	AB 991		
AUTHOR:	Assembly Member Kristin Olsen	**SPONSOR:**	
VERSION:	Amended 4/13/2011	**INTRODUCED:**	2/18/2011
BILL STATUS:	4/26/2011 – Referred to Committee on Appropriations	**BILL LOCATION:**	4/26/2011 – Assembly Appropriations
SUBJECT:	State Government: licenses: California Licensing and Permit Center.	**RELATED BILLS:**	

SUMMARY

This bill would require the Governor, or his or her designee, in cooperation with the California Technology Agency, to establish the California Licensing and Permit Center (CLPC) and corresponding user friendly Web site to assist the public with licensing, permitting, and registration requirements of state agencies. The CLPC's Web site shall be accessible from the Governor's Web site and shall be provided to the public free of charge. This bill requires the Web site to contain information on the licensing, permitting, and registration requirements of state agencies, including the following information:

a) Assisting potential applicants with identifying the type of applications, forms, or other similar documents an applicant may need;

b) Providing a digital copy of all state applications, forms, or other similar documents; and,

c) Instructing potential applicants where to transmit applications, forms, or other similar documents.

Each state agency determined by the Governor to have licensing authority to participate fully with this program by providing accurate updated information about its licensing requirements.

This bill requires the Governor, or his or her designee, to operate, via electronic mail and telephone methods, a help center that will assist applicants with licensing, permitting, and registration requirements.
This bill establishes the California License and Permit Fund (Fund) in the State Treasury, and provides that all moneys in the Fund shall, upon appropriation by the Legislature, be used by the Governor only for the purposes of this bill. Each state agency required to participate in the CLPC to reallocate funds annually from its operating budget to the Fund in the amount necessary to pay for the agency's proportionate share of establishing and operating the CLPC.

ANALYSIS

As introduced, this bill requires the Board to provide CLPC accurate updated information regarding our licensing requirements, digital copies of the various type of applications, forms, or any other documents an applicant may need, and instructions on where to transmit applications. This information is currently available via the Board's Web site and readily available to forward to another agency, if needed.

This bill also requires the Board to reallocate the necessary funds annually from its operating budget to fund this program. It is anticipated that the Board would experience a significant fiscal impact as a result of this bill. In addition, this bill appears to be another layer of bureaucracy, as this information is already available via the Board's Web site.

REGISTERED SUPPORT/OPPOSITION

Support: The National Federation of Independent Business as of 4/13/2011.
Opposition: California Board of Accountancy as of 4/13/2011.

BOARD POSITION

The Committee may take action to recommend a position of support, oppose, watch, or neutral to the full Board on Assembly Bill 991.

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 991

Introduced by Assembly Member Olsen
(Principal coauthors: Assembly Members Gatto, ~~and Perea~~ *Gordon, Hagman, Harkey, Knight, Mansoor, Perea, Portantino, Silva, and Wagner*)
~~(Coauthor: Senator Berryhill)~~
(Coauthors: Senators Berryhill, Fuller, Harman, and Runner)

February 18, 2011

An act to add Section 12019.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 991, as amended, Olsen. State government: licenses: California Licensing and Permit Center.

Existing law requires members of the public to obtain license, permits, or to register with state agencies prior to undertaking certain types of tasks.

This bill would require the Governor to establish a Internet Web site, known as the California Licensing and Permit Center (CLPC), to assist the public with licensing, permitting, and registration requirements of state agencies. This bill would require the Governor to operate, via both e-mail and telephone methods, a help center to assist applicants with licensing, permitting, and registration requirements. This bill would require state agencies that the Governor determines has licensing authority to cooperate with this program by providing accurate updated information about their licensing requirements.

This bill would create the California License and Permit Fund in the State Treasury, and require state agencies that are required to participate in the CLPC to reallocate a portion of their operating budget, as specified, to pay for the operating cost of the CLPC. This bill would state that upon appropriation by the Legislature, revenues from the fund will be used only for purposes of the bill.

This bill would require the CLPC to be provided to *the* public free of charge.

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 12019.5 is added to the Government Code, to read:

12019.5. (a) The Governor, or his or her designee, shall, in cooperation with the California Technology Agency, establish an Internet Web site to assist the public with licensing, permitting, and registration requirements. This Internet Web site shall be known as the California Licensing and Permit Center (CLPC) and shall be accessible from the Governor's Web site. This Internet Web site shall contain information on *the* licensing, permitting, and registration requirements of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists potential applicants with identifying the type of applications, forms, or other similar documents an applicant may need.

(2) Provides a digital copy of all state applications, forms, or other similar documents.

(3) Instructs potential applicants where to transmit applications, forms, or other similar documents.

(b) The Governor, or his or her designee, shall operate, via both e-mail and telephone methods, a help center that will assist applicants with licensing, permitting, and registration requirements.

(c) The Governor, in cooperation with the California Technology Agency, shall ensure that the Internet Web site is user friendly and provides accurate, updated resources.

(d) Each state agency that the Governor determines has licensing authority shall participate fully with this program by providing accurate updated information about its licensing requirements.

(e) (1) The California License and Permit Fund is hereby created in the State Treasury. Each state agency that is required to participate in the CLPC shall reallocate funds annually from its operating budget to the fund in the amount necessary to pay for the agency's proportionate share of establishing and operating the CLPC.

(2) All moneys in the fund shall, upon appropriation by the Legislature, be used by the Governor only for the purposes of this section.

(f) The CLPC shall be provided to the public free of any charges.

O

AB 1088 (Eng)

State Agencies: Demographics

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	AB 1088		
AUTHOR:	Assembly Member Mike Eng	**SPONSOR:**	
VERSION:	Amended 4/25/2011	**INTRODUCED:**	2/18/2011
BILL STATUS:	4/26/2011 – Re-referred to Business, Professions and Consumer Protection	**BILL LOCATION:**	4/26/2011 – Assembly Business, Professions, and Consumer Protection Committee
SUBJECT:	State Agencies: Collection of Demographic Data.	**RELATED BILLS:**	

SUMMARY

This bill would require every state agency, board, or commission that directly or by contract, collects demographic data as to the ancestry or ethnic origin of Californians shall use additional separate collection categories and tabulations for each major Asian groups, including, but not limited to, Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan Asian Indian, Bangladeshi, Cambodian, Chinese, Filipino, Hmong, Indonesian, Japanese, Korean, Laotian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, Vietnamese, Fijian, Native Hawaiian, Guamanian (also known as Chamorro), Samoan, and Tongan. This information shall be included in every demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2012, and be available to the public in accordance with state and federal law. A state agency shall, within 18 months after the United States Census is released to the public; update their data collection to reflect the additional Asian groups and additional Native Hawaiian and Pacific Islander groups as they are reported by the United States Census Bureau.

This bill would further require the State Department of Health Care Services, the State Department of Public Health, the Department of Industrial Relations, and the Department of Fair Employment and Housing to make this information publicly available, except for personal identifying information, which shall be deemed confidential, by posting the data on the Internet Website of the agency on or before July 1, 2012, and annually thereafter. This would not prevent any other state agency from posting the information on their Internet Web site.

ANALYSIS

This bill would require the Board to use additional separate collection categories and tabulations for other major Asian groups and Native Hawaiian and other Pacific Islander groups as to the ancestry or ethnic origin of Californians. The Board would be required to update this information to reflect any additional Asian groups, Native Hawaiian, and Pacific Islander groups as they are reported by the United States Census Bureau, within 18 months after it is released to the public. This information is required be included in every demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2012, and be available to the public in accordance with state and federal law.

Existing law, Business and Professions Code Section 1715.5, requires the Board to collect specific data from all licensees with the purpose of identifying areas in California that are under served with professionals with cultural or linguistic competencies in the dental health care field, effective January 1, 2009. The data currently collected includes cultural background and foreign language proficiency and is published on the Board's web site annually. The provisions of this bill will require additional workload to revise applications/renewal forms, compile information, modify the Board's web site, and maintain the reports on the web site.

REGISTERED SUPPORT/OPPOSITION

Support: as of 5/3/2011:
Asian Americans for Civil Rights and Equality (co-sponsor)
Asian Pacific American Legal Center (co-sponsor)
Asian Pacific Islanders Community Action Network (co-sponsor)
Advancement Project
American Cancer Society
Asian Pacific Policy & Planning Council
Asian & Pacific Islander American Health Forum
Asian & Pacific Islanders California Action Network
Asian Business Association
Asian Pacific Health Corps at UCLA
Asian Pacific Liver Center
Asian Resources, Inc.
Asian Law Alliance
Asian Youth Center
California Association for Bilingual Education
California Health Nail Salon Collaborative
California Pan-Ethnic Health Network
Californians Together Coalition
Center for Asian American Wellness
Chinatown Service Center
Council on American-Islamic Relations California
Department of Adult Education, Montebello Unified School District
Empowering Pacific Islander Communities
EndOil and Communities for Clean Ports

Families in Good Health at St. Mary Medical Center
First 5 LA
Guam Communications Network
Having Our Say!
International Children Assistance Network
Korean American Family Service Center
Koreatown Immigrant Workers Alliance
Koreatown Youth & Community Center
La Casa de San Gabriel Community Center
National Asian Pacific American Families Against Substance Abuse
National Cambodian American Organization
NICOS Chinese Health Coalition
Orange County Asian and Pacific Islander Community Alliance, Inc.
Pacific Asian Counseling Services
Pacific Clinics
Pacific Islander Consortium in Employment
PELE, The Sorority of Oceania
Search to Involve Pilipino Americans
South Asian Network
Special Service for Groups, Inc./PALS for Health
Taiwanese American Citizens League
TOA Institute
Tongan Community Service Center
Union of Pan Asian Communities
Viet Dreams
Vietnamese American Cancer Foundation
Numerous individuals

Opposition: None on file as of 5/3/2011.

BOARD POSITION

The Committee may take action to recommend a position of support, oppose, watch, or neutral to the full Board on Assembly Bill 1088.

ASSEMBLY BILL No. 1088

Introduced by Assembly Member Eng

February 18, 2011

An act to amend Section 8310.5 of, and to add Section 8310.7 to, the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1088, as introduced, Eng. State agencies: collection of demographic data.

Existing law requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander group, including, but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and Cambodian.

This bill would require specified state agencies to use additional separate collection categories and tabulations for other major Asian groups and Native Hawaiian and other Pacific Islander groups, including, but not limited to, Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan. This bill would also require that these specified state agencies update their data collection categories to match those used by the United States Census Bureau. This bill would further require a state agency, board, or commission that directly or by contract collects demographic data, include data on specified collection categories and tabulations in every demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2012. This bill would further require a state agency, board, or commission to make the collected data

available to the public, in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential. The bill would also require a state agency, board, or commission to post, and annually update, the demographic data on its Internet Web site.

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 hereby finds and declares all of the following:

(a) More than one-third of the nation's Asians and Pacific Islanders live in California, making the state home to more Asians and Pacific Islanders than any other state in the nation.

(b) Asians and Pacific Islanders represent 14 percent of the state's population, and grew by 52 percent from 1990 to 2000.

(c) Asians and Pacific Islanders are an incredibly diverse group. Due to this diversity, the United States Office of Management and Budget's Statistical Policy Directive No. 15, entitled Race and Ethnic Standards for Federal Statistics and Administrative Reporting, separated the "Asian and Pacific Islander" category into two distinct and separate categories, now called "Asians" and "Native Hawaiians and Other Pacific Islanders," and these two distinct categories were used in the 2000 United States Census. The United States Census Bureau currently reports data for more than 20 different ethnicities within these two categories.

(d) While Asians and Pacific Islanders are often misrepresented as a homogeneous group, they actually represent dozens of different cultures, languages, and ethnic groups and have a wide range of economic, educational, and social needs.

(e) Existing state law requires state demographic data to be divided into some Asian and some Native Hawaiian and Pacific Islander ethnic groups. However, additional groups reported by the United States Census Bureau are not included in state demographic data.

(f) Given the diversity of languages and cultures, separating data for additional Asian and additional Native Hawaiian and Pacific Islander ethnic groups is critical for enhancing our state's

understanding of the needs and experiences of these different communities.

SEC. 2. Section 8310.5 of the Government Code is amended to read:

8310.5. ~~Any~~ *(a) Every* state agency, board, or commission ~~which~~ *that* directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians shall use separate collection categories and tabulations for each major Asian ~~and Pacific Islander~~ group, including, but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, ~~Hawaiian, Guamanian, Samoan,~~ Laotian, and ~~Cambodian~~ *Cambodian, and each major Native Hawaiian and Pacific Islander group, including, but not limited to, Native Hawaiian, Guamanian (also known as Chamorro), and Samoan.*

(b) The data collected pursuant to the different collection categories and tabulations described in subdivision (a) shall be included in every demographic report on ancestry or ethnic origins of Californians by the state agency, board, or commission published or released on or after July 1, 2012. The data shall be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential.

(c) Every state agency, board, or commission that directly or by contract collects the demographic data in the manner prescribed by subdivision (a) shall make the data publicly available, except for personal identifying information, which shall be deemed confidential, by posting the data on its Internet Web site by July 1, 2012, and annually thereafter.

SEC. 3. Section 8310.7 is added to the Government Code, to read:

8310.7. (a) In addition to the duties imposed under Section 8310.5, the following state agencies, in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, shall collect and tabulate data for additional major Asian groups, including, but not limited to, Bangladeshi, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, and Thai, and additional major Native Hawaiian and other Pacific Islander groups, including, but not limited to, Fijian and Tongan:

(1) The State Department of Health Care Services.

(2) The State Department of Public Health.

(3) The State Department of Social Services.
(4) The Employment Development Department.
(5) The Department of Industrial Relations.
(6) The State Personnel Board.
(7) The Department of Fair Employment and Housing.
(8) The State Department of Education.

(b) During the normal process of reporting demographic data, the state agencies identified in subdivision (a) shall report the collected data according to each Asian group and each Native Hawaiian and Pacific Islander group specified in subdivision (a) and make that data available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential.

(c) The state agencies set forth in subdivision (a) shall comply as early as possible, but no later than July 1, 2012.

(d) Any state agency identified in subdivision (a) shall make the collected demographic data described in subdivision (a) publicly available, except for personal identifying information, which shall be deemed confidential, by posting the data on the agency's Internet Web site by July 1, 2012, and annually thereafter.

(e) Notwithstanding subdivision (c), the state agencies pursuant to subdivision (a) shall, within 18 months after the United States Census is released to the public, update their data collection to reflect the additional Asian groups and additional Native Hawaiian and Pacific Islander groups as they are reported by the United States Census Bureau.

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SB 100 (Price)

Healing Arts

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
FEBRUARY 24-25, 2011 BOARD MEETING

BILL NUMBER:	SB 100		
AUTHOR:	Senator Curren Price	**SPONSOR:**	
VERSION:	Amended 4/25/2011	**INTRODUCED:**	1/11/2011
BILL STATUS:	5/3/11 From committee with author's amendments. Read second time and amended. Re-referred to Committee on Health.	**BILL LOCATION:**	5/3/11 – Senate Health Committee
SUBJECT:	Healing arts	**RELATED BILLS:**	

SUMMARY

1) This bill requires the Medical Board of California (MBC) to adopt regulations on or before January 1, 2013 regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. The bill specifies that the regulations to be adopted will 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.

2) This bill expands the definition of outpatient settings to include facilities that offer in vitro fertilization procedures. The MBC is required to adopt standards for outpatient settings that offer in vitro fertilization.

3) This bill requires an outpatient setting to submit 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 that would place a patient at high risk for injury or harm or to govern emergency or urgent care situations. The bill specifies that the plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:
    a) Notify the individual designated by the patient to be notified in case of emergency;
    b) Ensure that the mode of transfer is consistent with the patient's medical condition;
    c) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer; and,

d) Continue to provide appropriate care to the patient until the transfer is effectuated.

4) This bill authorizes the MBC to adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition outpatient setting, as specified.

5) This bill requires the accrediting agency, as part of the accreditation process, to conduct a reasonable investigation of the prior history of the outpatient setting, including all physicians and surgeons who have an ownership interest, to determine whether there have been any adverse accreditation decisions, as specified. This bill states that conducting a reasonable investigation means querying the MBC and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, it its owners are licensed physicians and surgeons, and if those physicians and surgeons have been subject to an adverse accreditation decision.

6) This bill requires an outpatient setting to comply with existing adverse event reporting requirements and penalties that apply to health facilities.

7) This bill requires the MBC to place the list of accredited outpatient setting it currently maintains on its web site on whether an outpatient setting is accredited or the accreditation has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accrediting agency. This bill specifies that the list shall include the name, address and telephone number of any owners and their medical license numbers, name and address of the facility, name and telephone number of the accreditation agency, and the effective and expiration dates of the accreditation. This bill requires accrediting agencies to provide and update the MBC on all outpatient settings that are accredited.

8) This bill requires an accrediting agency to report within 3 business days to the MBC if an outpatient setting's certificate for accreditation has been denied for failure to meet the standards approved by the MBC, as specified.

9) This bill states that every outpatient setting shall be inspected by accrediting agencies and may be inspected by the MBC. The bill includes the following requirements in the inspection:
   a) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected; and,
   b) Inspections shall be conducted no less than once every 3 years by the accrediting agency and as often as necessary by the MBC to ensure quality of care provided.

10) This bill requires, if an accreditation agency determines as a result of its inspection that an outpatient setting is not in compliance with standards, as specified, correction of any identified deficiencies within a set timeframe. The bill states that

failure to comply would result in the accrediting agency issuing a reprimand, suspending or revoking the outpatient setting's accreditation.

11) The bill requires that prior to suspending or revoking a certificate of accreditation, an outpatient setting must agree with the accreditation agency on a plan of correction. The bill specifies that the plan of correction, which includes the deficiencies, shall be conspicuously posted in a location accessible to public view. The bill provides that within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to the MBC.

12) The bill states that if an outpatient setting does not comply with a corrective action plan within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation, suspend or revoke the accreditation of an outpatient setting, and to notify the MBC of this action. The bill provides that this provision shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

13) The bill requires an accreditation agency, within 24 hours, to report to the MBC if an 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.

14) This bill requires an accreditation agency, upon receipt of a complaint from the MBC that an outpatient setting poses an immediate risk to public safety, to inspect an outpatient setting and report its findings of inspection to the MBC within 5 business days. The bill provides that if an accrediting agency receives any other complaint from the MBC, it shall investigate the outpatient setting and report its finding of investigation to the MBC within 30 days.

15) The bill requires that reports on the results of inspection to be kept on file with the MBC and the accreditation agency along with the plan of correction and the comments of the outpatient setting. The bill indicates that the inspection report may include a recommendation for re-inspection, and that all inspection reports, list of deficiencies, and plans of correction are public records open to public inspection.

16) The bill provides that if one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. The bill allows an outpatient setting to reapply for accreditation with another accrediting agency upon disclosure of the full accreditation report of the accrediting agency that denied accreditation. The bill indicates that any outpatient setting that has been denied accreditation shall disclose the accreditation report to any other accrediting agency to which it submits an application.

17) The bill requires that if an outpatient setting's accreditation has been suspended, revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following: a) notify the MBC of this action; b) send a notification letter to the outpatient setting, and the notification letter should state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation; and, c) require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

18) The bill allows the MBC to take any appropriate action it deems necessary, as specified, if the outpatient setting's certification of accreditation has been suspended, revoked, or if the accreditation has been denied.

19) The bill requires, instead of allows, the MBC to evaluate the performance of accrediting agencies no less than every three years, as specified.

20) The bill requires the MBC to investigate all complaints concerning a violation, as specified. Requires the MBC or the local district attorney, upon discovery that an outpatient setting is not complying with certification requirements, to bring an action to enjoin the outpatient setting's accreditation, as specified. The bill states that if an outpatient setting is operating without a certificate of accreditation, this shall be prima facie evidence that a violation has occurred, as specified, and additional proof shall not be necessary to enjoin an outpatient setting's operation.

21) The bill clarifies that a survey does not constitute an inspection for purposes of outpatient settings.

22) The bill deletes the requirement that the MBC or the accrediting agency give reasonable prior notice and present proper identification prior to an inspection.

ANALYSIS

This bill may affect the Dental Board's Oral and Maxillofacial Surgery (OMS) permit holders who own or work in "outpatient settings". OMS permit holders are licensed by the Medical Board of California as physicians and surgeons and have a dental license in another state. According to the Senate Committee Analysis, the Author points out that this bill provides for greater oversight and regulation of surgical clinics, and other types of clinics such as fertility and outpatient settings, and ensures that quality of care standards are in place at these clinics and checked by the appropriate credentialing agency. In California, cosmetic surgery can be performed by any licensed physician, and many physicians, who may or may not be trained in cosmetic procedures are conducting increasingly complex procedures in settings outside of hospitals such as outpatient surgery centers and doctors' offices. Additionally, the Senate Committee Analysis points out that there is a need to improve and strengthen the oversight of these outpatient clinics. For example, there is a lack of specific requirements at the clinics dealing with pre- and post-operative procedures, and the standards are unclear as to the regularity of inspections. This bill will improve and ensure the quality and effectiveness of medical procedures conducted at these outpatient settings.

REGISTERED SUPPORT/OPPOSITION

Support:
California Medical Association
California Society of Dermatology and Dermatologic Society

Opposition: None on file as of 4/26/2011.

BOARD POSITION

The Board took a "watch" position on SB 100 at the February Board meeting.

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL No. 100

Introduced by Senator Price

January 11, 2011

~~An act to amend Sections 651 and 2023.5 of, and to add Section 2027.5 to, the Business and Professions Code, and to amend Sections 1204, 1248, 1248.15, 1248.2, 1248.25, 1248.35, 1248.5, 1248.55, and 1279 of, and to add Sections 1204.6, 1204.7, and 1204.8 to, the Health~~ *An act to amend Section 2023.5 of the Business and Professions Code, and to amend Sections 1248, 1248.15, 1248.2, 1248.25, 1248.35, 1248.5, 1248.7, and 1248.85 of the Health* and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 100, as amended, Price. Healing arts.

(1) Existing law provides for the licensure and regulation of various healing arts practitioners and requires certain of those practitioners to use particular designations following their names in specified instances. 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 they are 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 require certain healing arts licensees to include in advertisements, as defined, certain words or designations following their names indicating the particular educational degree they hold or

healing art they practice, as specified. By changing the definition of a crime, this bill would impose a state-mandated local program.

~~(2) Existing~~

(1) Existing law provides for the licensure and regulation of various healing arts practitioners by boards under the Department of Consumer Affairs. 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 January 1, 2013, 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.

~~(3) Existing law requires the Medical Board of California 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.~~

~~(4) Under existing law, the State Department of Public Health licenses and regulates clinics, including surgical clinics, as defined.~~

~~This bill would expand the definition of surgical clinics to include a surgical clinic owned in whole or in part by a physician and would require, until the department promulgates regulations for the licensing of surgical clinics, the department to use specified federal conditions of coverage.~~

~~(5)~~

(2) 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. Existing law makes a willful violation of these and other provisions relating to outpatient settings a crime.

This bill would include, among those specified aspects, the submission for approval by an accreditation 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. *This bill would, as part of the accreditation process, authorize the accrediting agency to conduct a reasonable investigation, as defined, of the prior history of the outpatient setting.* The bill would also modify the definition of "outpatient setting" to include facilities that offer in vitro fertilization, as defined. By changing the definition of a crime, this bill would impose a state-mandated local program.

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. The bill would also require the board to give the department notice of all accredited, certified, and licensed outpatient settings and to notify the department of accreditation standards, changes in the accreditation of an outpatient setting, or any disciplinary actions and corrective actions.~~

This bill would, instead, require the board to obtain and maintain the list for all accredited outpatient settings, and to notify the public by placing the information on its Internet Web site, whether the setting is accredited or the setting's accreditation has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency.

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 accreditation agency to ~~immediately~~ report *within 3 business days* to the Medical Board of California if the outpatient setting's certificate for accreditation has been denied. Because a willful violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would also apply the denial of accreditation, or the revocation or suspension of accreditation by one accrediting agency, to all other accrediting agencies.

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. The bill would require that every outpatient setting that is accredited be inspected by the accreditation agency, as specified, and would specify that it may also be inspected by the board and the department, as specified. The bill would require the board to ensure that accreditation agencies inspect outpatient settings.

~~Existing law authorizes the Medical Board of California to terminate approval of an accreditation agency if the agency is not meeting the criteria set by the board.~~

~~This bill would also authorize the board to issue a citation to the agency, including an administrative fine, in accordance with a specified system established by the board.~~

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.

~~(5) Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health and requires the department to periodically inspect those facilities, as specified.~~

~~This bill would state the intent of the Legislature that the department, as part of its periodic inspections of acute care hospitals, inspect the peer review process utilized by those hospitals.~~

Existing law authorizes the board or the local district attorney to bring an action to enjoin a violation or threatened violation of the licensing provisions for outpatient settings in the superior court in and for the county in which the violation occurred or is about to occur.

This bill would require the board to investigate all complaints concerning a violation of these provisions and, with respect to any complaints, or upon discovery that an outpatient setting is not in compliance with a specified provision, would require the board or the local district attorney to bring an action to enjoin the outpatient setting's operation as specified.

~~(6)~~

(3) 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. (a) It is the intent of the Legislature to clarify Capen v. Shewry (2007) 147 Cal.App.4th 680 and give surgical clinics that are owned in whole or in part by physicians the option to be licensed by the State Department of Public Health. It is further the intent of the Legislature that this clarification shall not be construed to permit the practice of medicine in prohibition of the corporate practice of medicine pursuant to Section 2400 of the Business and Professions Code.~~

~~(b) It is the further intent of the Legislature to continue to give physicians and surgeons the option to obtain licensure from the State Department of Public Health if they are operating surgical clinics, or an accreditation through an accrediting agency approved by the Medical Board of California pursuant to Chapter 1.3 (commencing with Section 1248) of Division 2 of the Health and Safety Code.~~

~~(c) It is the further intent of the Legislature, in order to ensure patient protection, to provide appropriate oversight by the State Department of Public Health, and to allow corrective action to be taken against an outpatient setting if there is reason to believe that there may be risk to patient safety, health, or welfare, that an outpatient setting shall be deemed licensed by the State Department of Public Health.~~

~~SEC. 2. 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 "D.C." or the word "chiropractor" immediately following the chiropractor's name.~~

~~(B) Advertising by a dentist licensed under Chapter 4 (commencing with Section 1600) shall include the designation "D.D.S." or "D.M.D." 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 "M.D." 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 "D.O." 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 "D.P.M." immediately following the podiatrist's name.~~

~~(F) Advertising by a registered nurse licensed under Chapter 6 (commencing with Section 2700) shall include the designation "R.N." 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 "L.V.N." 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 applicable designation or word described in Section 3098 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 "P.A." 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 "N.D." immediately following the naturopathic doctor's name. However, if the naturopathic doctor uses the term or designation "Dr." in an advertisement, he or she shall further identify himself by any of the terms listed in Section 3661.~~

~~(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, 2013, to any advertisement that is published annually and prior to July 1, 2012.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(f) 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. 3.~~

SECTION 1. 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 January 1, 2013, 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.

(d) Nothing in this section shall be construed to modify the prohibition against the unlicensed practice of medicine.

~~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 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 1204 of the Health and Safety Code is amended to read:~~

~~1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.~~

~~(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:~~

~~(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.~~

~~(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for~~

~~services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.~~

~~(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.~~

~~(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:~~

~~(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours, including a surgical clinic that is owned in whole or in part by a physician. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.~~

~~(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.~~

~~(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation~~

~~clinic does not include the offices of a private physician in individual or group practice.~~

~~(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.~~

~~SEC. 6. Section 1204.6 is added to the Health and Safety Code, to read:~~

~~1204.6. Until the department promulgates regulations for the licensing of surgical clinics, the department shall use the federal conditions of coverage, as set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, as those conditions existed on May 18, 2009, as the basis for licensure for facilities licensed pursuant to paragraph (1) of subdivision (b) of Section 1204.~~

~~SEC. 7. Section 1204.7 is added to the Health and Safety Code, to read:~~

~~1204.7. (a) An outpatient setting, as defined in subdivision (a) of Section 1248, that is accredited by an accrediting agency approved by the Medical Board of California, shall be deemed licensed by the department and shall be required to pay an annual licensing fee as established pursuant to Section 1266.~~

~~(b) The department shall have only that authority over outpatient settings specified in Chapter 3.1 (commencing with Section 1248).~~

~~(c) The department shall notify the Medical Board of California of any action taken against an outpatient setting and, if licensure of an outpatient setting is revoked or suspended by the department for any reason, then accreditation shall be void by operation of law. Notwithstanding Sections 1241 and 131071, proceedings shall not be required to void the accreditation of an outpatient setting under these circumstances.~~

~~SEC. 8. Section 1204.8 is added to the Health and Safety Code, to read:~~

~~1204.8. A clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 or an outpatient setting, as defined in Section 1248, shall be subject to the reporting requirements in Section 1279.1 and the penalties for failure to report specified in Section 1280.4.~~

~~SEC. 9.~~

SEC. 2. 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 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) (1) "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.

(2) "Outpatient setting" also means facilities that offer in vitro fertilization, as defined in subdivision (b) of Section 1374.55.

(3) "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.

(c) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the board pursuant to Sections 1248.15 and 1248.4.

~~SEC. 10. Section 1248.15 of the Health and Safety Code is amended to read:~~

~~1248.15. (a) The 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.~~

~~(D) The outpatient setting shall submit for approval by an accrediting agency 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) The outpatient setting slfall submit for approval by an accreditation agency at the time 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 or to govern emergency and urgent care situations.~~

~~(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, 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 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 board to protect the public health and safety.~~

~~(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the 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.~~

~~(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.~~

SEC. 3. 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 for approval by an accrediting agency 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.

(D) In addition to the requirements imposed in subparagraph (C), the outpatient setting shall submit for approval by an accreditation 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 that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

~~(D)~~

(E) 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 ~~Health Services~~ *Public Health*, 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.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

(h) An outpatient setting shall be subject to the reporting requirements in Section 1279.1 and the penalties for failure to report specified in Section 1280.4.

~~SEC. 11.~~

SEC. 4. 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 board under this chapter.

~~(b) The board shall submit to the State Department of Public Health the information required pursuant to paragraph (3) of subdivision (d) within 10 days of the accreditation of an outpatient setting.~~

~~(c) The 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 board, and shall 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. The board shall provide notice to the department within 10 days when an outpatient setting's accreditation has been revoked, suspended, or placed on probation. The department shall notify the board within 10 days if the license of a surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204, has been revoked.~~

~~(d) (1) The board shall, on or before February 1, 2012, provide the department with a list of all outpatient settings that are accredited as of January 1, 2012.~~

~~(2) Beginning April 1, 2012, the board shall provide the department with an updated list of outpatient settings every three months.~~

(b) The board shall obtain and maintain a list of accredited outpatient settings from the information provided by the accreditation agencies approved by the board, and shall notify the public by placing the information on its Internet Web site whether an outpatient setting is accredited or the setting's accreditation has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency.

~~(3)~~

(c) The list of outpatient settings shall include all of the following:

~~(A) Name, address, and telephone number of the owner.~~

(1) Name, address, and telephone number of any owners, and their medical license numbers.

~~(B)~~

(2) Name and address of the facility.

~~(C)~~

(3) The name and telephone number of the accreditation agency.

~~(D)~~

(4) The effective and expiration dates of the accreditation.

~~(e) The board shall provide the department with all accreditation standards approved by the board, free of charge. Accreditation standards provided to the department by the board shall not be subject to public disclosure provisions of the California Public~~

~~Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code).~~

(d) Accrediting agencies approved by the board shall notify the board and update the board on all outpatient settings that are accredited.

~~SEC. 12.~~

SEC. 5. 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 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 accreditation agency shall ~~immediately report~~ *report within three business days* to the board if the outpatient setting's certificate for accreditation has been denied.

~~SEC. 13.~~

SEC. 6. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) Every outpatient setting which is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided.

(3) 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.

(c) 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) Require correction of any identified deficiencies within a set timeframe. Failure to comply shall result in the accrediting agency issuing a reprimand or suspending or revoking the outpatient setting's accreditation.

~~(1)~~

(2) Issue a reprimand.

~~(2)~~

(3) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the board or the accreditation agency, to correct the deficiencies.

~~(3)~~

(4) Suspend or revoke the outpatient setting's certification of accreditation.

(d) *(1)* 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. Within 10 days after the~~ *outpatient setting. During the allotted time to correct the deficiencies, the plan of correction, which includes the deficiencies, shall be conspicuously posted by the outpatient setting in a location accessible to public view. Within 10 days after the* adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to both the board and the department. 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.

~~(e) The department may enter and inspect an outpatient setting upon receipt of a notice of corrective action or if it has reason to believe that there may be risk to patient safety, health, or welfare.~~

~~(f) An outpatient setting that does not comply with a corrective action may be required by the department to pay similar penalties assessed against a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204, and may have its license suspended or revoked pursuant to Article 5 (commencing with Section 1240) of Chapter 1.~~

~~(g) If the licensee disputes a determination by the department regarding the alleged deficiency, the alleged failure to correct a deficiency, the reasonableness of the proposed deadline for correction, or the amount of the penalty, the licensee may, within 10 days, request a hearing pursuant to Section 130171. Penalties shall be paid when appeals have been exhausted and the department's position has been upheld.~~

~~(h) Moneys collected by the department as a result of administrative penalties imposed under this section shall be deposited into the Internal Departmental Quality Improvement Account established pursuant to Section 1280.15. These moneys shall be tracked and available for expenditure, upon appropriation by the Legislature, to support internal departmental quality improvement activities.~~

~~(i) If, after an inspection authorized pursuant to this section, the department finds a violation of a standard of the facility's accrediting agency or any provision of this chapter or the regulations promulgated thereunder, or if the facility fails to pay a licensing fee or an administrative penalty assessed under this chapter, the department may take any action pursuant to Article 5 (commencing with Section 1240) of Chapter 1 and shall report the violation to the board and may recommend that accreditation be revoked, canceled, or not renewed.~~

~~(j) Reports on the results of any inspection conducted pursuant to subdivision (a) shall be kept on file with the board or the accreditation 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.~~

(2) If an outpatient setting does not comply with a corrective action within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation or suspend or revoke the accreditation of the outpatient setting, and shall notify the board of its action. This section shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

~~(k)~~

(e) The accreditation agency shall, within 24 hours, 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.

(f) The accreditation agency, upon receipt of a complaint from the board that an outpatient setting poses an immediate risk to public safety, shall inspect the outpatient setting and report its findings of inspection to the board within five business days. If an accreditation agency receives any other complaint from the board, it shall investigate the outpatient setting and report its findings of investigation to the board within 30 days.

(g) Reports on the results of any inspection shall be kept on file with the board and the accreditation agency along with the plan of correction and the comments of the outpatient setting. 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.

~~(l)~~

(h) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. *An outpatient setting that is denied accreditation is permitted to reapply for accreditation with the same accrediting agency. The outpatient setting also may apply for accreditation from another accrediting agency, but only if it discloses the full accreditation report of the accrediting agency that denied accreditation. Any outpatient setting that has been denied accreditation shall disclose the accreditation*

report to any other accrediting agency to which it submits an application.

(i) If an outpatient setting's certification of accreditation has been suspended or revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following:

(1) Notify the board of the action.

(2) Send a notification letter to the outpatient setting of the action. The notification letter shall state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation.

(3) Require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

(j) The board may take any appropriate action it deems necessary pursuant to Section 1248.7 if an outpatient setting's certification of accreditation has been suspended or revoked, or if accreditation has been denied.

~~SEC. 14.~~

SEC. 7. Section 1248.5 of the Health and Safety Code is amended to read:

1248.5. The 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 board.

~~SEC. 15. Section 1248.55 of the Health and Safety Code is amended to read:~~

~~1248.55. (a) If the accreditation agency is not meeting the criteria set by the board, the board may terminate approval of the agency or may issue a citation to the agency in accordance with the system established under subdivision (b).~~

~~(b) The board may establish, by regulation, a system for the issuance of a citation to an accreditation agency that is not meeting the criteria set by the board. This system shall meet the requirements of Section 125.9 of the Business and Professions Code, as applicable, except that both of the following shall apply:~~

~~(1) Failure of an agency to pay an administrative fine assessed pursuant to a citation within 30 days of the date of the assessment, unless the citation is being appealed, may result in the board's~~

~~termination of approval of the agency. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the renewal fee established under Section 1248.6. Approval of an agency shall not be renewed without payment of the renewal fee and fine.~~

~~(2) Administrative fines collected pursuant to the system shall be deposited in the Outpatient Setting Fund of the Medical Board of California established under Section 1248.6.~~

~~(e) Before terminating approval of an accreditation agency, the board shall provide the accreditation agency with notice of any deficiencies and reasonable time to supply information demonstrating compliance with the requirements of this chapter, as well as the opportunity for a hearing on the matter in compliance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(d) (1) If approval of the accreditation agency is terminated by the board, outpatient settings accredited by that agency shall be notified by the board and, except as provided in paragraph (2), shall be authorized to continue to operate for a period of 12 months in order to seek accreditation through an approved accreditation agency, unless the time is extended by the board for good cause.~~

~~(2) The board may require that an outpatient setting, that has been accredited by an accreditation agency whose approval has been terminated by the board, cease operations immediately if the board is in possession of information indicating that continued operation poses an imminent risk of harm to the health of an individual. In such cases, the board shall provide the outpatient setting with notice of its action, the reason underlying it, and a subsequent opportunity for a hearing on the matter. An outpatient setting that is ordered to cease operations under this paragraph may reapply for a certificate of accreditation after six months and shall notify the board promptly of its reapplication. The board shall notify the department of any action taken pursuant to this section for an outpatient setting. Upon cancellation, revocation, nonrenewal, or any other loss of accreditation, an outpatient setting's license shall be void by operation of law. Notwithstanding Sections 1241 and 131071, no proceedings shall be required to void the license of an outpatient setting.~~

~~SEC. 16. Section 1279 of the Health and Safety Code is amended to read:~~

~~1279. (a) Every health facility for which a license or special permit has been issued shall be periodically inspected by the department, or by another governmental entity under contract with the department. The frequency of inspections shall vary, depending upon the type and complexity of the health facility or special service to be inspected, unless otherwise specified by state or federal law or regulation. The inspection shall include participation by the California Medical Association consistent with the manner in which it participated in inspections, as provided in Section 1282 prior to September 15, 1992.~~

~~(b) Except as provided in subdivision (c), inspections shall be conducted no less than once every two years and as often as necessary to ensure the quality of care being provided.~~

~~(c) For a health facility specified in subdivision (a), (b), or (f) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to ensure the quality of care being provided.~~

~~(d) During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.~~

~~(e) For acute care hospitals of 100 beds or more, the inspection team shall include at least a physician, registered nurse, and persons experienced in hospital administration and sanitary inspections. During the inspection, the team shall offer advice and assistance to the hospital as it deems appropriate.~~

~~(f) The department shall ensure that a periodic inspection conducted pursuant to this section is not announced in advance of the date of inspection. An inspection may be conducted jointly with inspections by entities specified in Section 1282. However, if the department conducts an inspection jointly with an entity specified in Section 1282 that provides notice in advance of the periodic inspection, the department shall conduct an additional periodic inspection that is not announced or noticed to the health facility.~~

~~(g) Notwithstanding any other of law, the department shall inspect for compliance with provisions of state law and regulations during a state periodic inspection or at the same time as a federal periodic inspection, including, but not limited to, an inspection required under this section. If the department inspects for compliance with state law and regulations at the same time as a~~

~~federal periodic inspection, the inspection shall be done consistent with the guidance of the federal Centers for Medicare and Medicaid Services for the federal portion of the inspection.~~

~~(h) The department shall emphasize consistency across the state and in its district offices when conducting licensing and certification surveys and complaint investigations, including the selection of state or federal enforcement remedies in accordance with Section 1423. The department may issue federal deficiencies and recommend federal enforcement actions in those circumstances where they provide more rigorous enforcement action.~~

~~(i) It is the intent of the Legislature that the department, pursuant to its existing regulations, inspect the peer review process utilized by acute care hospitals as part of its periodic inspection of those hospitals pursuant to this section.~~

SEC. 8. Section 1248.7 of the Health and Safety Code is amended to read:

1248.7. ~~The Division of Medical Quality~~ *(a) The board shall investigate all complaints concerning a violation of this chapter. With respect to any complaints, or upon discovery that an outpatient setting is not in compliance with Section 1248.1, the board or the local district attorney shall bring an action to enjoin the outpatient setting's operation. The board* or the local district attorney may bring an action to enjoin a violation or threatened violation of this chapter in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the Division of Medical Quality shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

~~With~~

(b) With respect to any and all actions brought pursuant to this section alleging an actual or threatened violation of any requirement of this chapter, the court shall, if it finds the allegations to be true, issue an order enjoining the person or facility from continuing the violation. *For purposes of Section 1248.1, if an outpatient setting is operating without a certificate of accreditation, this shall be prima facie evidence that a violation of Section 1248.1*

has occurred and additional proof shall not be necessary to enjoin the outpatient setting's operation.

SEC. 9. Section 1248.85 of the Health and Safety Code is amended to read:

1248.85. ~~Nothing in this~~ *This* chapter shall *not* preclude an approved accreditation agency from adopting additional standards consistent with Section 1248.15, establishing procedures for the conduct of surveys, selecting surveyors to perform accreditation surveys, or establishing and collecting reasonable fees for the conduct of accreditation surveys. *A survey shall not constitute an inspection for purposes of Section 1248.35.*

~~SEC. 17.~~

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.

O

SB 103 (Lui)

State Gov't.: Meetings

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 103		
AUTHOR:	Senator Carol Liu	**SPONSOR:**	
VERSION:	Introduced 1/12/2011	**INTRODUCED:**	1/12/2011
BILL STATUS:	2/10/2011- Referred to Committee on Rules	**BILL LOCATION:**	2/10/2011- Senate Rules Committee
SUBJECT:	State government meetings: teleconferencing	**RELATED BILLS:**	

SUMMARY

Existing law, The Bagley-Keene Open Meeting Act, set forth in Government Code Sections 11120-11132, applies to all state boards and commissions and generally requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session.

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public body (Government Code Section 11123). When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. Government Code Section 11123 does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

This bill makes the following changes to the provisions of the Bagley-Keene Open Meeting Act relating to teleconference meetings:

1. Deletes language from the Act that expressly does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and instead authorizes a state body, to the extent practicable, to conduct teleconference meetings for the benefit of the public and the body.

2. Provides that, upon the request of a member of a state body, the body must hold an open or closed meeting by teleconference, unless the Chair of the body determines that it would be more costly to hold the meeting by teleconference than it would be to hold it in person.

3. Requires a state body that operates an Internet Web Site to provide a supplemental live audio or video web-broadcast of each of its meetings that are open to the public.

4. Stipulates that if a technical failure prevents the body from providing a live web-broadcast, that failure shall not constitute a violation of the Act if the body exercised reasonable diligence in providing the live broadcast.

5. Also, stipulates that failure to provide a live broadcast due to a technical failure shall not prohibit the body from meeting and taking actions as otherwise provided by law.

ANALYSIS

The Dental Board of California (Board) holds at least four meetings per year. The Board is required by statute, Business and Professions Code Section 1607, to hold one meeting in San Francisco and one meeting in Los Angeles each year. The Board currently holds teleconference meetings when legally and financially possible. The Board has also been web casting meetings and archiving the web cast on its web site.

REGISTERED SUPPORT/OPPOSITION

Support: American Federation of State, County and Municipal Employees
Opposition: None on file as of 4/8/2011.

BOARD POSITION

The Board took a "watch" position on this bill at the February 2011 meeting.

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE MARCH 1, 2011

SENATE BILL No. 103

Introduced by Senator Liu

January 12, 2011

An act to amend Section 11123 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 103, as amended, Liu. State government: meetings.

Existing law authorizes a state body to conduct teleconference meetings.

This bill would authorize a state body, to the extent practicable, to conduct teleconference meetings.

This bill would require, upon the request of a member of a state body, a state body to hold an open or closed meeting by teleconference, unless the chair of that state body determines that it would be more costly to hold the meeting by teleconference than it would be to hold it in person.

This bill would require a state body that operates an Internet Web ~~Site~~ *site* to provide a supplemental live audio or video broadcast on the Internet Web site of its board meetings that are open to the public, and would specify that a technical failure to provide a live broadcast would not prohibit the ~~board~~ *body* from meeting and taking actions.

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 the following:

(a) That teleconferencing is a green technology, allowing organizations to mitigate energy use by dramatically reducing the need to travel.

(b) By communicating over video or telephone, organizations can also substantially reduce their carbon footprint by reducing the need to travel via high-emission methods, such as flying or driving.

(c) Teleconferencing saves money by reducing the number of trips taken annually, and this monetary savings is multiplied by the cost of transportation to and from the airport, the flight, per diem expenses, salary of time lost in traveling, and other incidental expenses of travel.

(d) The amount saved by teleconferencing greatly exceeds the minimal cost of investing and implementing teleconferencing solutions, such as the cost for new equipment, services, and training.

(e) Therefore, it is the intent of the Legislature that state bodies, to the extent possible, conduct teleconference meetings in order to save the environment and save the state money.

SEC. 2. Section 11123 of the Government Code is amended to read:

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) A state body may, to the extent practicable, hold an open or closed meeting by teleconference for the benefit of the public and the state body.

(2) Upon the request of a member of a state body, the state body shall hold an open or closed meeting by teleconference, unless the chair of the state body determines that it would be more costly to hold the meeting by teleconference than it would be to hold it in person.

(3) The meeting or proceeding held by teleconference pursuant to this subdivision shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including all of the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

~~(2)~~

(4) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) (1) If a state body operates an Internet Web site, the state body shall, subject to all otherwise applicable requirements of this article, provide a supplemental live audio or video broadcast on its Internet Web site of each of its meetings that are open to the public.

(2) If a technical failure prevents the body from providing a live broadcast on its Internet Web site pursuant to this subdivision, that failure shall not constitute a violation of this section if the ~~board~~ *body* exercised reasonable diligence in providing the live broadcast.

(3) Failure to provide a live broadcast due to a technical failure shall not prohibit the body from meeting and taking actions as otherwise provided by law.

O

SB 540 (Price)

Dentistry

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 540		
AUTHOR:	Senator Curren Price	**SPONSOR:**	
VERSION:	Amended 4/25/2011	**INTRODUCED:**	2/17/2011
BILL STATUS:	5/2/11 Do pass as amended, and re-refer to the Committee on Appropriations.	**BILL LOCATION:**	5/2/11 S-APPR.
SUBJECT:	Dentistry	**RELATED BILLS:**	

SUMMARY

Existing law, until January 1, 2012, provides for the Dental Board of California within the Department of Consumer Affairs. Existing law requires the membership of the board to consist of 8 practicing dentists, a registered dental hygienist, a registered dental assistant, and 4 public members. Existing law requires the Governor to appoint all of the members of the board, except that the Senate Committee on Rules and the Speaker of the Assembly each appoint a public member. Existing law, until January 1, 2012, allows the board, with the approval of the Director of Consumer Affairs, to appoint a person exempt from civil service as the executive officer of the board. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of those provisions until January 1, 2018 , and instead specify that the board would be subject to review by the appropriate policy committees of the Legislature. The bill would change the membership of the board to include a new public member to be appointed by the Governor, and, on and after January 1, 2016, would delete the dental hygienist member and the dental assistant member and add 2 additional public members to the board, to be appointed by the Governor. The bill would make technical, conforming changes to related provisions. The bill would also create a Dental Assisting Council of the board to consider matters relating to dental assistants and make recommendations to the board, as specified. This bill contains other related provisions and other existing laws.

ANALYSIS

A complete copy of the bill and an analysis of the bill will be discussed on Friday, May 20, 2011 during Agenda Item 7.

REGISTERED SUPPORT/OPPOSITION

Support:
Dental Assisting Alliance

Opposition: None on file as of 4/27/2011.

BOARD POSITION

The Board took a "watch" position on SB 540 at the February 2011 meeting.

SB 541 (Price)

CSLB: Expert Consultants

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 541		
AUTHOR:	Senator Curren Price	**SPONSOR:**	Contractors State License Board & Medical Board of California
VERSION:	Amended 4/13/2011	**INTRODUCED:**	2/17/2011
BILL STATUS:	5/2/11 - Do pass, but re-refer to the Committee on Appropriations.	**BILL LOCATION:**	5/2/11 – Senate Appropriations Committee
SUBJECT:	Regulatory boards: expert consultants	**RELATED BILLS:**	

SUMMARY

Existing law establishes standards relating to personal services contracts in state employment and authorizes their use under specified circumstances. Existing law specifies that the services contracted are not available within civil service and cannot be performed satisfactorily by civil service employees or are of such a highly and specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the state employment system. Existing law requires, under the State Contract Act, state agencies to meet certain conditions before entering into a consulting services contract (personal services contract).

This is an urgency measure that authorizes any board, within the Department of Consumer Affairs, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to enter into an agreement with an expert consultant to do any of the following:

- Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
- Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.
- Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

The bill provides that an executed contract between a board and an expert consultant shall be exempt from the State Contract Act. The bill requires each board to establish policies and procedures for the selection and use of expert consultants.

ANALYSIS

This bill will enable the Board to continue to utilize essential subject matter experts without going through the lengthy formal contracting process for consulting services. The Board uses subject matter experts in enforcement matters, examination development, and evaluation of applicants and licensees. The utilization of these experts strengthens the Boards ability to provide better public protection. Without this bill, the formal contracting process will create a considerable backlog for both the Department of Consumer Affairs and the Board, and will significantly impact the timeframes for investigating complaints, developing examinations, and evaluating applicants and licensees. The Board may be required to promulgate regulations to establish policies and procedures for the selection and use of expert consultants. The regulatory process can take twelve to eighteen months to complete.

REGISTERED SUPPORT/OPPOSITION

Support:

Contractors State License Board (Sponsor)
Medical Board of California (Sponsor)
Court Reporters Board of California
Dental Board of California

Opposition:

None on file as of April 27, 2011.

BOARD POSITION

At the February 25, 2011 meeting, the Board voted to support proposed legislation to exempt the contracting of subject matter experts from provisions of the State Contract Act. Board staff hand-carried a letter of support for SB 541 to Senator Price on April 29, 2011.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
DENTAL BOARD OF CALIFORNIA
1550 Evergreen Street, Suite 1550, Sacramento, CA 95815
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April 28, 2011

The Honorable Curren D. Price, Jr.
Chair, Business, Professions and Economic Development Committee
California State Senate
State Capitol, Room 2053
Sacramento, CA 95814

Subject: Senate Bill 541 (Price): Letter of Support, April 13, 2011 Amended Version

Dear Senator Price:

Thank you for introducing Senate Bill 541 as amended. The Dental Board of California (Board) supports this bill. These amendments will enable the Board to continue to utilize essential subject matter experts without going through the lengthy formal contracting process for consulting services.

The Board uses subject matter experts in enforcement matters, examination development, and evaluation of applicants and licensees. The utilization of these experts strengthens the Boards ability to provide better public protection. Without this bill, the formal contracting process will create a considerable backlog for both the Department of Consumer Affairs and the Board, and will significantly impact the timeframes for investigating complaints, developing examinations, and evaluating applicants and licensees.

Thank you for the opportunity to provide comments regarding Senate Bill 541. If you have any questions or concerns, please feel free to contact me at your convenience.

Respectfully,

Richard E. DeCuir
Executive Officer

cc: Members of the Senate Business, Professions, and Economic Development Committee
G.V. Ayers, Consultant, Senate Business, Professions, and Economic Development Committee

Senate Republican Caucus
Members of the Dental Board of California
Brian Stiger, Senior Chief Deputy Director and Acting Director, Department of Consumer Affairs
Richard Woonacott, Deputy Director, Division of Legislative and Policy Review, Department of Consumer Affairs

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL No. 541

Introduced by Senator Price

February 17, 2011

An act to ~~amend Sections 7000.5 and 7011 of~~ *add Section 40 to* the Business and Professions Code, relating to ~~contractors~~ *profession and vocations, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. Contractors' State License ~~Board.~~ *Regulatory boards: expert consultants.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes within the Department of Consumer Affairs, until January 1, 2012, the Contractors' State License Board and a registrar of contractors, for purposes of the licensure and regulation of contractors. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.~~

~~This bill would extend the operation of those provisions until January 1, 2016, and would specify that the board would be subject to review by the appropriate policy committees of the Legislature.~~

Vote: ~~majority~~ $^2/_3$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 40 is added to the Business and Professions Code, to read:

40. (a) Subject to the standards described in Section 19130 of the Government Code, any board, as defined in Section 22, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California may enter into an agreement with an expert consultant to do any of the following:

(1) Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.

(2) Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.

(3) Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

(b) An executed contract between a board and an expert consultant shall be exempt from the provisions of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c) Each board shall establish policies and procedures for the selection and use of expert consultants.

SEC. 2. 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 ensure that licensees engaging in certain professions and vocations are adequately regulated at the earliest possible time

in order to protect and safeguard consumers and the public in this state, it is necessary that this act take effect immediately.

~~SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:~~

~~7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.~~

~~(b) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.~~

~~(c) This section 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. 2. Section 7011 of the Business and Professions Code is amended to read:~~

~~7011. (a) The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.~~

~~(b) The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.~~

~~(c) For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.~~

~~(d) Appointments shall be made in accordance with the provisions of civil service laws.~~

~~(e) This section 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.~~

O

SB 544 (Price)

Professions & Vocations: regulatory boards

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 544		
AUTHOR:	Senator Curren Price	**SPONSOR:**	
VERSION:	Amended 4/14/2011	**INTRODUCED:**	2/17/2011
BILL STATUS:	5/2/11 Set, first hearing. Hearing canceled at the request of author.	**BILL LOCATION:**	4/14/11 Senate Business, Professions, and Economic Development Committee
SUBJECT:	Professions and vocations: regulatory boards	**RELATED BILLS:**	

SUMMARY

Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and non-healing arts boards. The department is under the control of the Director of Consumer Affairs.

This bill would require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

ANALYSIS

A complete copy of the bill and an analysis of the bill will be discussed on Friday, May 20, 2011 during Agenda Item 8.

REGISTERED SUPPORT/OPPOSITION

Support: None on file as of April 27, 2011.
Oppose Unless Amended: California Nurses Association
Opposition: None on file as of April 27, 2011.

Analysis Prepared on May 3, 2011

SB 694 (Padilla)

Dental Care

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 694		
AUTHOR:	Senator Alex Padilla	**SPONSOR:**	
VERSION:	Amended 3/29/2011	**INTRODUCED:**	2/18/2011
BILL STATUS:	4/7/11 - Re-referred to Committee on Business, Professions and Economic Development	**BILL LOCATION:**	4/7/11 Senate Business, Professions and Economic Development Committee
SUBJECT:	Dental care	**RELATED BILLS:**	

SUMMARY

Existing law establishes within the Department of Consumer Affairs, a Dental Board of California. Existing law provides for the licensure and regulation of dentists by the Dental Board of California.

This bill would require the Director of the Department of Consumer Affairs , in collaboration with the board, to convene a working group to conduct an analysis of the dental care needs of California residents. The workgroup would be responsible for analyzing the populations of children who would be newly eligible to receive dental health services under the federal Patient Protection and Affordable Care Act. The workgroup will be responsible for determining the workforce requirements to meet the needs of these newly insured children, considering the regional needs and capabilities required. The bill authorizes the work group to engage the expertise of stakeholders to assist in the analysis.

ANALYSIS

Staff anticipates that the enactment of this bill will the hiring of an additional analyst to handle the administration of the work group, analyze the dental care needs, and develop a report to submit to the legislature. In addition to needing an additional analyst, staff anticipates that the Board will require to utilization of six (6) subject matter experts to participate in the work group and work with community health organizations, professional organizations, government agencies, and the public. The hiring of an additional analyst and contracting with six subject matter experts will cause a significant fiscal impact on the Board.

REGISTERED SUPPORT/OPPOSITION

Support: None on file as of May 3, 2011.
Opposition: None on file as of May 3, 2011.

BOARD POSITION

At the February 25, 2011 meeting, the Board voted to take a "watch" position on Senate Bill 694.

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL **No. 694**

Introduced by Senator Padilla

February 18, 2011

An act to add ~~and repeal~~ Section 1622 ~~of~~ *to* the Business and Professions Code, relating to dental care.

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Padilla. Dental care.

Existing law establishes within the Department of Consumer Affairs, a Dental Board of California. Existing law provides for the licensure and regulation of dentists by the Dental Board of California.

This bill would require the Director of Consumer Affairs ~~to report to the Legislature, by September 1, 2012, regarding access to dental care. The bill would make specified findings and declarations in that regard~~, *in collaboration with the board, to convene a working group to conduct an analysis of the dental care needs of California residents, subject to specified criteria and standards.*

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 1622 is added to the Business and Professions Code, to read:

1622. (a) The Director of Consumer Affairs, in collaboration with the board, shall convene a working group to advise the state on solutions to address the growing dental care needs of California residents.

(b) The working group shall analyze the population of children who would be newly eligible to receive dental health services under the federal Patient Protection and Affordable Care Act (Public Law 111-148). The working group shall determine the workforce requirements to meet the needs of these newly insured children, considering the regional needs and capabilities required. The working group may engage the expertise of stakeholders to assist in this analysis.

(c) The analysis completed pursuant to this section shall be made available to the Legislature and the public upon request.

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

~~(a) Many Californians do not have adequate access to dental care.~~

~~(b) Tooth decay is the single most common chronic childhood disease in the United States.~~

~~(c) Nearly one-quarter of all children under 12 years of age in California have never been to a dentist.~~

~~(d) More than 1.8 million adults have not been to a dentist in five or more years.~~

~~(e) It is the intent of the Legislature to enact legislation that would identify the best solutions to meet the current and growing dental care needs of California's residents.~~

~~SEC. 2. Section 1622 is added to the Business and Professions Code, to read:~~

~~1622. (a) The Director of Consumer Affairs shall compile information regarding access to dental care in California. The director shall submit a report of its findings to the Legislature by September 1, 2012.~~

~~(b) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(c) Pursuant to Section 10231.5 of the Government Code, this section shall become inoperative on September 1, 2016, and shall be repealed as of January 1, 2017.~~

O

SB 943 (Comm. on BPED)

Healing Arts

DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
MAY 19-20, 2011 BOARD MEETING

BILL NUMBER:	SB 943		
AUTHOR:	Senate Committee on Business, Professions and Economic Development	**SPONSOR:**	
VERSION:	Introduced 3/31/2011	**INTRODUCED:**	3/31/2011
BILL STATUS:	5/3/11 - From committee: Do pass and re-refer to Committee on Appropriations. Re-referred to Committee on Appropriations.	**BILL LOCATION:**	5/3/11 Senate Appropriations Committee
SUBJECT:	Healing arts	**RELATED BILLS:**	

SUMMARY

This bill makes several non-controversial, minor, non-substantive or technical changes to various miscellaneous provisions pertaining to regulatory boards of the Department of Consumer Affairs (DCA) and professions regulated under the Business and Professions Code (BPC).

This bill makes the following changes relating to the Dental Hygiene Committee of California (DHCC):

1. Adds provision stating "[p]rotection of the public shall be the highest priority for the committee in exercising its licensing, regulatory and disciplinary functions" (BPC § 1902.1)

2. Clarifies that references to various sections refer to those sections in "this article" (BPC §§1907, 1922(a)(1), 1960(g), 1961, 1962)

3. Specifies that the fingerprint images applicants for licensure must submit shall be "electronic" (BPC § 1916(a))

4. Changes reference to code section regarding fingerprints from BPC §1628.5 to BPC §1943 (BPC § 1916(f))

5. Deletes requirement that the committee shall submit fingerprint images to the Department of Justice for background check (BPC § 1916(b))

6. Removes corresponding reference to DOJ charging fee to cover cost of processing fingerprint request (BPC § 1916(g))

7. Makes clarifying change specifying that a person must complete an application and pay all fees required by committee in order to be licensed (BPC §§ 1918 & 1922)

8. Specifies that applicants for licensure may have a degree from an institution accredited by a regional accrediting agency recognized by the United States Department of Education. Deletes provision that institution may be recognized by council on Postsecondary Accreditation (BPC § 1922(a)(2))

9. Simplifies phrase "dental health diagnosis" to read "dental diagnosis" (BPC §1927(a))

10. Deletes provision relating to a 2009 shift of funds from the State Dental Auxiliary Fund to the State Dental Hygiene Fund (BPC § 1945)

11. Allows the committee to reprimand a licensee or order a license placed on probation in addition to other disciplinary actions (BPC § 1950(c))

12. Splits large paragraph in BPC § 1952(c) into a main section and two subsections: (i) and (ii). (BPC § 1952(c))

13. Amends reference to refer to "dental or" dental hygiene records (BPC § 1955(a)(1))

14. Allows for committee to collect "administrative penalties" in addition to civil penalties; clarifies that penalty or fine may be "up to a maximum" of $250 per day (BPC §§ 1955(a)(2) & 1955(e))

15. Corrects erroneous reference from "certificate" to "permit," removes other references to "permit" (BPC §§ 1955(c), 1957, 1962(c)-(d))

16. Clarifies grammatical ambiguity (BPC § 1959)

17. Clarifies reference to Section 651 "of the code" (BPC § 1962(b)(3))

18. Corrects syntax error by changing "prefer" to "file" (BPC § 1963)

19. Changes specified references from § 1681 to § 1950.5 (BPC §§ 1962(b)(3), 1966.1)

ANALYSIS:

This is one of three omnibus bills authored by the Senate Business, Professions, and Economic Development Committee (Committee). This bill is specific to the healing arts boards within the Department of Consumer Affairs. It is the Committee's intent to consolidate a number of non-controversial provisions related to various regulatory programs and professions governed by the Business and Professions Code.

Consolidating the provisions in one bill is designed to relieve the various licensing boards, bureaus and professions from the necessity and burden of having separate measures for a number of non-controversial revisions.

The Committee analysis states that many of the provisions of this bill are minor, technical and updating changes, while other provisions are substantive changes intended to improve the ability of various licensing programs and other entities to efficiently and effectively administer their respective laws. However, as a Committee bill, if controversy or opposition should arise regarding any provision that cannot be resolved, then that provision will be removed from the bill to eliminate the chance of placing any of the other provisions in jeopardy.

Hygienists were licensed under the Committee on Dental Auxiliaries (COMDA) which was under the jurisdiction of the Dental Board of California. Senate Bill 853 (Perata, Chapter 31, Statutes of 2008) brought the hygienists under the jurisdiction of the Dental Hygiene Committee of California. The intent of the law was to create an autonomous Dental Hygiene Committee of California responsible for promulgating its own regulations, conduct and develop examinations, licensing and enforcement. This bill makes changes to include clarifying language, address licensee's responsibilities and requirements and enhance consumer protection.

This bill only amends sections of the Dental Practice Act that relate to the Dental Hygiene Committee of California. This bill does not amend or repeal Business and Professions Code § 1901 which states "There is hereby created within the jurisdiction of the Dental Board of California a Dental Hygiene Committee of California in which the administration of this article is vested."

REGISTERED SUPPORT/OPPOSITION

Support: None on file as of 5/3/2011.
Opposition: None on file as of 5/3/2011.

BOARD POSITION

The Committee may take action to recommend a position of support, oppose, watch, or neutral to the full Board on Senate Bill 943.

SENATE BILL No. 943

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Vargas, Walters, and Wyland)

March 31, 2011

An act to amend Sections 1916, 1918, 1922, 1927, 1950, 1952, 1955, 1957, 1959, 1961, 1962, 1963, 1966.1, 2736.5, 2836.2, 2936, 4200, 4980.36, 4980.37, 4980.40.5, 4980.42, 4980.43, 4980.45, 4982.25, 4989.54, 4990.38, 4992.3, 4992.36, 4996.13, 4996.24, 4999.12, and 4999.90 of, to add Sections 1902.1, 4999.91, and 4999.455 to, and to repeal Section 1945 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 943, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

Existing law provides for the licensure and regulation of various healing arts licensees by boards within the Department of Consumer Affairs.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions by the Dental Hygiene Committee of California within the Dental Board of California.

Existing law requires applicants for licensure to provide fingerprint images for submission to governmental agencies, in order to, among other things, establish the identity of the applicant. Existing law requires the committee to submit these fingerprint images to the Department of Justice in order to obtain specified criminal offender record information.

This bill would delete that committee submittal requirement and would require applicants to submit electronic fingerprint images.

Existing law requires the committee to license as a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice a person who meets certain educational, training, and examination requirements.

This bill would additionally require these applicants to complete an application and pay required application fees.

Under existing law, a licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. Existing law authorizes the committee to order a license suspended or revoked or to decline to issue a license if certain procedural events occur.

This bill would additionally authorize the committee to reprimand a licensee or order a license placed on probation.

Under existing law, a licensee or health care facility that fails to comply with a specified request from the committee for a patient's dental hygiene records is subject to a $250 per day civil penalty for each day that the records have not been produced, as specified.

This bill would additionally require licensees and health care facilities to comply with a request for a patient's dental records and would make them subject to a civil or administrative penalty or fine up to a maximum of $250 per day for each day that the records have not been produced, as specified.

(2) Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing.

Existing law requires applicants for licensure as a registered nurse to meet certain educational requirements, to have completed specified courses of instruction, and to not be subject to denial of licensure under specified circumstances. Existing law authorizes applicants who have served on active duty in the medical corps in the United States Armed Forces to submit a record of specified training to the board for evaluation in order to satisfy the courses of instruction requirement. Under existing law, if the applicant satisfies the other general licensure requirements and if the board determines that both education and experience establish competency to practice registered nursing, the applicant shall be granted a license upon passing a certain examination.

This bill would limit that board determination to be based on education only.

(3) Under existing law, the Board of Behavioral Sciences is responsible for the licensure, registration, and regulation of, among others, marriage and family therapists, licensed clinical social workers, and licensed professional clinical counselors.

(A) Existing law, the Marriage and Family Therapist Act, provides for the licensure and regulation of marriage and family therapists and makes a violation of the act a crime. Existing law, with respect to marriage and family therapists and marriage and family therapist interns, requires an applicant to possess a doctoral or master's degree in any of various disciplines, including, but not limited to, marriage, family, and child counseling.

This bill would add couple and family therapy to that list of acceptable disciplines.

Existing law requires that degree to contain a specified number of units of instruction that includes practicum involving direct client contact of a specified number of hours of face-to-face experience counseling individuals, couples, families, or groups and authorizes a portion of those hours to be gained performing client centered advocacy, as defined.

This bill would revise and recast that requirement and would authorize that portion of hours to be gained performing either client centered advocacy or face-to-face experience counseling individuals, couples, families, or groups.

Existing law requires applicants for marriage and family therapy licensure to meet certain experience requirements prior to applying for licensure examinations.

This bill would make revisions to that experience requirement with respect to experience in direct supervisor contact and professional enrichment activities.

Existing law authorizes a licensed professional in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize such a licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list. Because the bill would change the definition of a crime, it would thereby impose a state-mandated local program.

Under existing law, a marriage and family therapy corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker

for each employee. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registrants and would include clinical counsel interns.

(B) The Clinical Social Worker Practice Act provides for the licensure and regulation of social workers and makes a violation of the act a crime. Under existing law, qualified members of other professional groups may do work of a psychosocial nature consistent with the standards and ethics of their respective professions.

This bill would specify that licensed professional clinical counselors may do such work.

Existing law authorizes a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize that licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list.

Under existing law, a licensed clinical social workers' corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee who has satisfied certain requirements. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registrants and would include clinical counsel interns.

By changing the definition of crimes, the bill would impose a state-mandated local program.

(C) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of professional clinical counselors and makes a violation of the act a crime. Existing law generally authorizes the board to take certain enforcement actions against licensees for a violation of the act.

This bill would authorize the board to deny any application, or to suspend or revoke any license or registration, for specified reasons.

The bill would also authorize a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. The bill would authorize professional clinical counselor corporation to employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee. The bill would prohibit the corporation from employing more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Because a violation of these requirements would constitute a crime, the bill would impose a state-mandated local program.

The bill would make other conforming and technical changes, including technical changes to the Psychology Licensing Law and the Pharmacy Law.

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 1902.1 is added to the Business and Professions Code, to read:

1902.1. Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. Section 1916 of the Business and Professions Code is amended to read:

1916. (a) An applicant for licensure under this article shall furnish *electronic* fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the

Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

~~(b) The committee shall submit the fingerprint images to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.~~

~~(c)~~

(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the committee.

~~(d)~~

(c) The Department of Justice shall provide a response to the committee pursuant to subdivision (p) of Section 11105 of the Penal Code.

~~(e)~~

(d) The committee shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

~~(f)~~

(e) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section ~~1628.5~~ *1943*.

~~(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.~~

SEC. 3. Section 1918 of the Business and Professions Code is amended to read:

1918. The committee shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a current license as a registered dental hygienist in California.

(b) Completes clinical training approved by the committee in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the committee.

(d) Completes an application form and pays all application fees required by the committee.

SEC. 4. Section 1922 of the Business and Professions Code is amended to read:

1922. The committee shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the committee and who *completes an application form and pays all application fees required by the committee and* meets either of the following requirements:

(a) Holds a current California license as a registered dental hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national *or regional accrediting* agency recognized by ~~the Council on Postsecondary Accreditation or~~ the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the committee by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

SEC. 5. Section 1927 of the Business and Professions Code is amended to read:

1927. A registered dental hygienist in alternative practice shall not do any of the following:

(a) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental ~~health~~ diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(b) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

SEC. 6. Section 1945 of the Business and Professions Code is repealed.

~~1945. On July 1, 2009, a percentage of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Hygiene Fund based on the number of registered dental hygienists, registered hygienists in alternative practice, and registered dental hygienists in extended functions licensed on June 30, 2009, compared to all dental auxiliaries licensed by the Committee on Dental Auxiliaries on June 30, 2009. The board's authority to expend those funds, as appropriated in the 2008 Budget Act, shall be vested in the committee to carry out the provisions of this chapter as they relate to dental hygienists for the 2008–09 fiscal year, including the payment of any encumbrances related to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions incurred by the State Dental Auxiliary Fund. The remainder of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Assistant Fund pursuant to Section 1721.5.~~

SEC. 7. Section 1950 of the Business and Professions Code is amended to read:

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction occurred shall be conclusive evidence of conviction.

(b) The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The committee may *reprimand a licensee or* order a license suspended or revoked, *or placed on probation* or may decline to issue a license, when any of the following occur:

(1) The time for appeal has elapsed.

(2) The judgment of conviction has been affirmed on appeal.

(3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a 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.

SEC. 8. Section 1952 of the Business and Professions Code is amended to read:

1952. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as

defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license. ~~The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. 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 section; the committee may order the license suspended or revoked, or may decline to issue a license, 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 imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a 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.~~

(1) The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. 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 section.

(2) The committee may order the license suspended or revoked, or may decline to issue a license, 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 imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a 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.

SEC. 9. Section 1955 of the Business and Professions Code is amended to read:

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's *dental or* dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the

request and authorization, shall pay to the committee a civil *or administrative* penalty *or fine up to a maximum* of two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars ($5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the *dental or* dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the committee together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the committee within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil *or administrative* penalty *or fine*, payable to the committee, of up to *a maximum of* two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars ($5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the committee in obtaining the patient's authorization. The committee shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee shall pay to the committee a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the

committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the committee, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the committee a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or ~~certificate~~ *permit*.

(d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil *or administrative* penalties authorized by this section shall be in accordance with the Administrative

Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a "health care facility" means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 10. Section 1957 of the Business and Professions Code is amended to read:

1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(2) At least two years for early termination, or modification of a condition, of a probation 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, or modification of a condition, of a probation of less than three years.

(b) The petition shall state any fact required by the committee.

(c) The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

(d) In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:

(1) All activities of the petitioner since the disciplinary action was taken.

(2) The offense for which the petitioner was disciplined.

(3) The petitioner's activities during the time the license~~,~~ ~~certificate,~~ or permit was in good standing.

(4) The petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(e) The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

(f) The committee or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license~~, certificate,~~ or permit or modifying a penalty.

(g) A petition shall not 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.

(h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.

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

SEC. 11. Section 1959 of the Business and Professions Code is amended to read:

1959. A person who holds a valid, unrevoked, and unsuspended ~~certificate~~ *license* as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters "R.D.H.," "R.D.H.A.P.," or ~~"R.D.H.E.F."~~ *"R.D.H.E.F.," respectively,* to his or her name.

SEC. 12. Section 1961 of the Business and Professions Code is amended to read:

1961. A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this ~~chapter~~ *article*, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 13. Section 1962 of the Business and Professions Code is amended to read:

1962. (a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice

engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder's practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: "dental hygiene group," "dental hygiene practice," or "dental hygiene office," contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (*l*) of Section ~~1680~~ *1950.5*.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of ~~certificates~~ *permits* issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an

association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

SEC. 14. Section 1963 of the Business and Professions Code is amended to read:

1963. The committee may ~~prefer~~ *file* a complaint for violation of any part of this article ~~before~~ *with* any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

SEC. 15. Section 1966.1 of the Business and Professions Code is amended to read:

1966.1. (a) The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee's disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section ~~1681~~ *1951*,

or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.

(e) Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

SEC. 16. Section 2736.5 of the Business and Professions Code is amended to read:

2736.5. (a) Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical service technician—independent duty, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his education ~~and experience~~ would give reasonable assurance of competence to practice as a registered nurse in this state, he shall be granted a license upon passing the standard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education ~~and experience~~ of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education ~~and experience~~ alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education ~~and experience~~ plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the armed forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

SEC. 17. Section 2836.2 of the Business and Professions Code is amended to read:

2836.2. Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section ~~2831.1~~ *2836.1* to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

SEC. 18. Section 2936 of the Business and Professions Code is amended to read:

2936. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical

conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affair's Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:

Board of Psychology
~~1422 Howe Avenue, Suite 22~~
~~Sacramento, California 95825-3236"~~
2005 Evergreen Street, Suite 1400
Sacramento, California 95815-3894"

SEC. 19. Section 4200 of the Business and Professions Code is amended to read:

4200. (a) The board may license as a pharmacist an applicant who meets all the following requirements:

(1) Is at least 18 years of age.

(2) (A) Has graduated from a college of pharmacy or department of pharmacy of a university recognized by the board; or

(B) If the applicant graduated from a foreign pharmacy school, the foreign-educated applicant has been certified by the Foreign Pharmacy Graduate Examination Committee.

(3) Has completed at least 150 semester units of collegiate study in the United States, or the equivalent thereof in a foreign country. No less than 90 of those semester units shall have been completed while in resident attendance at a school or college of pharmacy.

(4) Has earned at least a baccalaureate degree in a course of study devoted to the practice of pharmacy.

(5) Has completed 1,500 hours of pharmacy practice experience or the equivalent in accordance with Section 4209.

(6) Has ~~passed a written and practical examination given by the board prior to December 31, 2003, or has~~ passed the North American Pharmacist Licensure Examination and the California Practice Standards and Jurisprudence Examination for Pharmacists on or after January 1, 2004.

(b) Proof of the qualifications of an applicant for licensure as a pharmacist shall be made to the satisfaction of the board and shall be substantiated by affidavits or other evidence as may be required by the board.

(c) Each person, upon application for licensure as a pharmacist under this chapter, shall pay to the executive officer of the board the fees provided by this chapter. The fees shall be compensation to the board for investigation or examination of the applicant.

SEC. 20. Section 4980.36 of the Business and Professions Code is amended to read:

4980.36. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, *couple and family therapy,* psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary ~~and Vocational~~ Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements,

including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of ~~225~~ *150* hours of face-to-face experience counseling individuals, couples, families, or groups. ~~Up to 75 of those hours may be gained performing client centered advocacy, as defined in Section 4980.03.~~

(iii) A student must be enrolled in a practicum course while counseling clients.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 21. Section 4980.37 of the Business and Professions Code is amended to read:

4980.37. (a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marriage and family therapy, *couple and family therapy,* psychology, clinical psychology, counseling psychology,

or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary ~~and Vocational~~ Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

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

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

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

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

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

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of

premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

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

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

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

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low-income and multicultural mental health settings.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 22. Section 4980.40.5 of the Business and Professions Code is amended to read:

4980.40.5. (a) A doctoral or master's degree in marriage, family, and child counseling, marital and family therapy, *couple and family therapy,* psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary ~~and Vocational~~ Education as of June 30, 2007, shall be considered by the board to meet the requirements necessary for licensure as a marriage and family therapist and for registration as a marriage and family therapist intern provided that the degree is conferred on or before July 1, 2010.

(b) As an alternative to meeting the qualifications specified in subdivision (a) of Section 4980.40, the board shall accept as equivalent degrees those doctoral or master's degrees that otherwise meet the requirements of this chapter and are conferred by educational institutions accredited by any of the following associations:

(1) Northwest Commission on Colleges and Universities.

(2) Middle States Association of Colleges and Secondary Schools.

(3) New England Association of Schools and Colleges.

(4) North Central Association of Colleges and Secondary Schools.

(5) Southern Association of Colleges and Schools.

SEC. 23. Section 4980.42 of the Business and Professions Code is amended to read:

4980.42. (a) Trainees performing services in any work setting specified in subdivision ~~(c)~~ *(d)* of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee." Trainees may gain hours of experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(b) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party's responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student's performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

SEC. 24. 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 doctoral degree.

(4) Not more than 1,300 hours of supervised experience obtained prior to completing a master's or doctoral degree.

The applicant shall not be credited with more than 750 hours of counseling and direct supervisor contact prior to completing the master's or doctoral degree.

(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 may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(7) Not more than a combined total of ~~1,250~~ *1,000* hours of experience in the following:

(A) Direct supervisor contact.

(B) Professional enrichment activities. For purposes of this chapter, "professional enrichment activities" include the following:

(i) 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. An applicant shall have no more than 250 hours of verified attendance at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

~~(C) Client centered advocacy.~~

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

(9) For all hours gained on or after January 1, 2012, not more than 500 hours of experience in the following:

~~(9)~~

(A) Not more than 250 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.

(B) Client centered advocacy.

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For up to 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided.

(11) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telemedicine in accordance with Section 2290.5.

(12) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(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.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(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) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than five hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(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 doctoral 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.

SEC. 25. Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or employ, at any one time, no more than a total of ~~two~~ *three* individuals registered as ~~either~~ a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than a total of ~~two~~ *three* individuals registered as ~~either~~ a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In no event shall any *marriage and family therapy* corporation employ, at any one time, more than a total of ~~10~~ *15* individuals registered as ~~either~~ a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of ~~two~~ *three* individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker. Persons who

supervise individuals registered as either a marriage and family therapist intern or associate clinical social worker shall be employed full time by the ~~professional~~ *marriage and family therapy* corporation and shall be actively engaged in performing professional services at and for the ~~professional~~ *marriage and family therapy* corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 26. Section 4982.25 of the Business and Professions Code is amended to read:

4982.25. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice marriage and family therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a *marriage and family therapist,* clinical social worker, professional clinical counselor, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

SEC. 27. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline

or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

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

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.

(d) Failure to comply with the consent provisions in Section 2290.5.

(e) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

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

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as ~~a~~ *an educational psychologist, a* clinical social worker, professional clinical counselor, or marriage and family therapist.

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

(k) Gross negligence or incompetence in the practice of educational psychology.

(*l*) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

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

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

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

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment

and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally

important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

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

(ab) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.

SEC. 28. Section 4990.38 of the Business and Professions Code is amended to read:

4990.38. The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by *this state or* another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology, professional clinical counseling, or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

SEC. 29. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the

conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

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

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

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

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

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

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

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

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

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

(m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of ~~the license authorized by this chapter.~~ *one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.*

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment

and all information about the client that is obtained from tests or other means.

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

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

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

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

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

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

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

(w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(x) Failure to comply with Section 2290.5.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in

Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

SEC. 30. Section 4992.36 of the Business and Professions Code is amended to read:

4992.36. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice *clinical social work,* marriage and family therapy, professional clinical counseling, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 31. Section 4996.13 of the Business and Professions Code is amended to read:

4996.13. Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial

nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

(a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).

(b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).

(c) Members of the State Bar of California.

(d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).

(e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).

~~(e)~~

(f) A priest, rabbi, or minister of the gospel of any religious denomination.

SEC. 32. Section 4996.24 of the Business and Professions Code is amended to read:

4996.24. (a) A licensee in private practice who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations may supervise or employ, at any one time, no more than a total of ~~two~~ *three* individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker in that private practice.

(b) A licensed clinical social workers' corporation may employ, at any one time, no more than a total of ~~two~~ *three* individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker for each employee or shareholder who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations.

(c) In no event shall any *licensed clinical social workers'* corporation employ, at any one time, more than a total of ~~10~~ *15* individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of ~~two~~ *three* individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate

clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, *clinical counselor intern,* or associate clinical social worker shall be employed full time by the ~~professional~~ *licensed clinical social workers'* corporation and shall be actively engaged in performing professional services at and for the ~~professional~~ *licensed clinical social workers'* corporation. Employment and supervision within the licensed clinical social workers' corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 33. Section 4999.12 of the Business and Professions Code is amended to read:

4999.12. For purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the Board of Behavioral Sciences.

(b) "Accredited" means a school, college, or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association.

(c) "Approved" means a school, college, or university that possessed unconditional approval by the Bureau for Private Postsecondary ~~and Vocational~~ Education at the time of the applicant's graduation from the school, college, or university.

(d) "Applicant" means an unlicensed person who has completed a master's or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, and whose application for registration as an intern is pending or who has applied for examination eligibility, or an unlicensed person who has completed the requirements for licensure specified in this chapter and is no longer registered with the board as an intern.

(e) "Licensed professional clinical counselor" or "LPCC" means a person licensed under this chapter to practice professional clinical counseling, as defined in Section 4999.20.

(f) "Intern" means an unlicensed person who meets the requirements of Section 4999.42 and is registered with the board.

(g) "Clinical counselor trainee" means an unlicensed person who is currently enrolled in a master's or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(h) "Approved supervisor" means an individual who meets the following requirements:

(1) Has documented two years of clinical experience as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has received professional training in supervision.

(3) Has not provided therapeutic services to the clinical counselor trainee or intern.

(4) Has a current and valid license that is not under suspension or probation.

(i) "Client centered advocacy" includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

(j) "Advertising" or "advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(k) "Referral" means evaluating and identifying the needs of a client to determine whether it is advisable to refer the client to other specialists, informing the client of that judgment, and communicating that determination as requested or deemed appropriate to referral sources.

(*l*) "Research" means a systematic effort to collect, analyze, and interpret quantitative and qualitative data that describes how social characteristics, behavior, emotion, cognitions, disabilities, mental disorders, and interpersonal transactions among individuals and organizations interact.

(m) "Supervision" includes the following:

(1) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised.

(2) Reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the clinical counselor trainee.

(3) Monitoring and evaluating the ability of the intern or clinical counselor trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.

(4) Ensuring compliance with laws and regulations governing the practice of licensed professional clinical counseling.

(5) That amount of direct observation, or review of audio or videotapes of counseling or therapy, as deemed appropriate by the supervisor.

SEC. 34. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

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

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

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

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

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

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

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

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

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

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

(*l*) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee or intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

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

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

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

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

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

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

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

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

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

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor

occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a *professional clinical counselor,* clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telemedicine.

SEC. 35. Section 4999.91 is added to the Business and Professions Code, to read:

4999.91. The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by this state or another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice professional clinical counseling or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice clinical counseling, clinical social work, professional clinical counseling, marriage and family therapy, or educational psychology shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 36. Section 4999.455 is added to the Business and Professions Code, to read:

4999.455. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A professional clinical counselor corporation may employ, at any one time, no more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12. In no event shall any professional clinical counselor corporation employ, at any one time, more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation. Employment and supervision within a professional clinical counselor corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 37. 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.

O

LEG 4

Update on Pending Regulatory Packages

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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MEMORANDUM

DATE	May 3, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item LEG 4:** Update on Pending Regulatory Packages:

A. Retroactive Fingerprinting *(California Code of Regulations, Title 16, Sections 1007,1008 and 1017.2)*:

The rulemaking file was submitted to the Office of Administrative Law on January 28, 2011 and was approved on March 9, 2011. The regulatory language will become effective on July 1, 2011 and will be applicable to licensees during the July 2011 renewal cycle. The implementation of this new requirement will be discussed during the meeting of the Licensing, Certification, and Permits Committee.

B. Dental Assisting Educational Programs and Courses *(California Code of Regulations Title 16, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8 and 1071)*:

Assembly Bill 2637 was passed by the Legislature and signed into law on September 28, 2008. The provisions of this bill relate to the allowable duties and settings for dental assistants, Registered Dental Assistants (RDA), Registered Dental Assistants in Extended Functions (RDAEF) and the two new permit categories for Orthodontic Assistant (OA) and Dental Sedation Assistant (DSA) become effective on January 1, 2010. AB 2637 included an expiration date on the Sections of law pertaining to educational program and course approvals, with the understanding that regulations would be pursued to clarify specific standards and criteria that these programs and course must meet to obtain Board approval to teach newly allowed duties and conform to the statutory changes.

The Board approved proposed regulatory language at its November 2009 meeting. The proposed regulatory language regarding Dental Assisting Educational Programs and Courses was noticed on the Board's website and mailed on June 4, 2010 for the 45-day public comment period. The comment period began on June 4, 2010 and ended on July 19, 2010. The regulatory hearing was held on July 19, 2010.

During the September 16, 2010 meeting, the Board reviewed the comments received during the 45-day comment period. The Board voted to accept modified text and

directed staff to notice the modified text for 15-day public comment. The comment period began on September 28, 2010 and ended on October 12, 2010. Comments were received from the Butte Sierra District Dental Society, the California Association of Dental Assisting Teachers, the California Dental Association, and the Dental Assisting Alliance.

During the November 4, 2010 meeting, the Board reviewed the comments received during the first 15-day comment period. The Board voted to accept a second modified text and directed staff to notice the second modified text for 15-day public comment. The comment period began on November 18, 2010 and ended on December 3, 2010. Comments were received from the Dental Assisting Alliance, the California Association of Dental Assisting Teachers, Michael W. Champeau, M.D., and Bill Barnaby Sr. & Jr. on behalf of the California Society of Anesthesiologists.

During the December 14, 2010 meeting, the Board reviewed comments received during the second 15-day comment period. The Board voted to accept a third modified text and directed staff to notice the third modified text for 15-day public comment. The comment period began on December 27, 2010 and ended on January 11, 2011. A comment was received from the Dental Assisting Alliance. The Dental Assisting Alliance requested to withdraw their comment after the close of the comment period.

During the February 25, 2011 meeting, the Board rejected the Dental Assisting Alliance's comment based on their request for withdrawal and adopted the final regulatory language as noticed in the third modified text and directed staff to complete the rulemaking process and file with the Office of Administrative Law. Staff is finalizing the rulemaking file, including writing the Final Statement of Reasons, and will be submitting the file to the Department of Consumer Affairs for approval by the end of May. The one-year deadline to submit the final rulemaking to the Office of Administrative Law is June 3, 2011.

C. Minimum Standards for Infection Control *(California Code of regulations, Title 16, Section 1005)*:

At its July 26, 2010 meeting, the Board directed staff to initiate the formal rulemaking process for the Minimum Standards for Infection Control. The proposed action was published on August 27, 2010 and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on August 27, 2010 and ended on October 11, 2010. The regulatory hearing was held on October 11, 2010. Comments were received from the Dental Hygiene Committee of California, the California Dental Association, the California Association of Dental Assisting Teachers, the Dental Assisting Alliance, OSHA Review Incorporated, and Dr. Earl Johnson.

During the November 4, 2010 meeting, the Board reviewed the comments received during the 45-day comment period. The Board voted to accept modified text and directed staff to notice the modified text for 15-day public comment. The comment period began on November 16, 2010 and ended on December 1, 2010. Comments were received from Dr. Earl Johnson and the Dental Assisting Alliance.

During the December 14, 2010 meeting, the Board voted to reject the comments received during the 15-day public comment period and adopted the final regulatory

language as noticed in the modified text. The Board directed staff to complete the rulemaking process and file the package with the Office of Administrative Law. Staff is in the process of writing the final statement of reasons.

Staff submitted the final rulemaking package to the Department of Consumer Affairs on April 4, 2011. The rulemaking is required to be approved by the Director of the Department of Consumer Affairs, the Secretary of the State and Consumer Services Agency, and the Director of the Department of Finance. Staff anticipates this process to take 30 to 90 days. Once the approval signatures are obtained, the rulemaking will be submitted to the Office of Administrative Law. The Office of Administrative Law will have 30 working days to review the file. Once approved, the rulemaking will be filed with the Secretary of State and will become effective 30 days later. The one-year deadline to submit the final rulemaking to the Office of Administrative Law is August 26, 2011.

D. Consumer Protection Enforcement Initiative *(California Code of Regulations Title 16, Sections 1018.05 and 1020)*:
During its November 5, 2010 meeting, the Board reviewed proposed regulatory amendments that would improve the Board's enforcement process in an effort to address public concern. The Board directed staff to initiate a rulemaking to further define unprofessional conduct and to permit the Board to require the examination of an applicant who may be impaired by a physical or mental illness affecting competency.

The initial rulemaking file was submitted to the Office of Administrative Law on February 7, 2011. The proposed action was published on February 18, 2011 and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on February 18, 2011 and ended on April 4, 2011. The regulatory hearing was held on April 4, 2011. The Board received a comment from the California Dental Association. The Board will review the comment and discuss their recommendations during the Full Board Session on Friday, May 20, 2011.

E. Uniform Standards Relating to Substance Abusing Licensees and Disciplinary Guidelines *(California Code of Regulations, Title 16, Sections 1018 and 1020.5)*:
At its February 25, 2011 meeting, the Board discussed and approved proposed regulatory language relative to the uniform standards relating to substance abusing licensees and Disciplinary Guidelines. The Board directed staff to initiate a rulemaking.

The initial rulemaking file was submitted to the Office of Administrative Law on March 11, 2011. The proposed action was published on March 25, 2011 and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on March 25, 2011 and will end on May 9, 2011. The regulatory hearing is scheduled for May 10, 2011 at 10 a.m. in the Hearing Room located at 2005 Evergreen Street, Sacramento, California 95815.

F. Sponsored Free Health Care Events *(California Code of Regulations, Title 16, Sections 1023.15, 1023.16, 1023.17, and 1023.18)*
At its February 25, 2011 meeting, the Board discussed and approved proposed regulatory language relative to sponsored free health care events. The Board directed

staff to initiate a rulemaking. Staff is currently drafting the initial rulemaking documents and will be filing the proposed regulation with the Office of Administrative Law in the near future.

Action Requested:
No action necessary.

LEG 5

Prospective Legislative Proposals

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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MEMORANDUM

DATE	May 3, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item LEG 5:** Prospective Legislative Proposals

Background

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future meeting.