AMENDED IN ASSEMBLY JUNE 20, 2007

AMENDED IN SENATE MAY 21, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 16, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL No. 472

Introduced by Senator Corbett

February 21, 2007

An act to add Section 4076.5 to the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as amended, Corbett. Prescription drugs: labeling ~~requirements and panel.~~ *requirements.*

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy in the Department of Consumer Affairs. Existing law prohibits a pharmacist from dispensing a prescription, except in a container that meets certain labeling requirements.

This bill would require the board to ~~convene a prescription drug label panel, with specified membership, for purposes of reviewing and making recommendations on a standard format for the labeling of prescription drug containers dispensed in the state that is affordable for pharmacies. The bill would require the panel to make a recommendation for a standardized prescription drug container label to the board on or before October 31, 2008, would require the board to promulgate regulations establishing requirements for a mandatory standardized label for~~

~~prescription drug containers within 90 days of receiving the panel's recommendation, and would require specified pharmacies in the state to begin using the standardized labels within 90 days of the effective date of the regulations. The bill would require that pharmacy consultations by a telephonic translation service be available to patients with limited English language proficiency, and that pharmacies be authorized to issue translated prescription drug labels, as specified~~ *promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medication dispensed to patients in California. The bill would require the board to hold special public meetings statewide in order to seek information from certain groups, and would require the board to consider specified factors in developing the label requirements. The bill would require the board to report to the Legislature on or before January 1, 2010, on its progress at the time of the report, and to report to the Legislature on or before January 1, 2013, on the status of implementation of the requirements.*

Because a knowing violation of the Pharmacy Law constitutes a crime, and because the above-described provisions would impose additional duties under that law, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 California Patient Medication Safety Act.
3 SEC. 2. The Legislature hereby finds and declares all of the
4 following:
5 (a) Health care costs and spending in California are rising
6 dramatically and are expected to continue to increase.
7 (b) In California, prescription drug spending totaled over $188
8 billion in 2004, a $14 billion dollar per year spending increase
9 from 1984.

(c) Prescription drug cost continues to be among the most significant cost factors in California's overall spending on health care.

(d) According to the Institution of Medicine of the National Academies, medication errors are among the most common medical errors, harming at least 1.5 million people every year.

(e) Up to one-half of all medications are taken incorrectly or mixed with other medications that cause dangerous reactions that can lead to injury and death.

(f) Approximately 46 percent of American adults cannot understand the label on their prescription medications.

(g) Ninety percent of Medicare patients take medications for chronic conditions and nearly one-half of them take five or more different medications.

(h) Nearly six out of 10 adults in the United States have taken prescription medications incorrectly.

(i) The people of California recognize the importance of reducing medication-related errors and increasing health care literacy regarding prescription drugs and prescription container labeling, which can increase consumer protection and improve the health, safety, and well-being of consumers.

(j) The Legislature affirms the importance of identifying deficiencies in, and opportunities for improving, patient medication safety systems in order to identify and encourage the adoption of structural safeguards related to prescription drug container labels.

(k) It is the intent of the Legislature to adopt a standardized prescription drug label that will be designed by ~~a panel appointed to work with the California State Board of Pharmacy and that will be implemented in all California outpatient community and mail service pharmacies providing prescriptions to patients.~~ *the California State Board of Pharmacy for use on any prescription drug dispensed to a patient in California.*

SEC. 3. Section 4076.5 is added to the Business and Professions Code, to read:

~~4076.5. (a) The board, in consultation with professionals in the field, shall convene a prescription drug label panel to review and make recommendations regarding the standardization of prescription drug labels. The panel shall work with the board.~~

~~(b) The board shall delegate board members to work with the panel as it sees fit, and shall staff the panel. Members of the panel~~

~~shall include equal membership among groups representing consumers, such as seniors, and groups representing those with special issues regarding language and cultural competency in the use of prescription drugs, as well as pharmacy and medical professionals. The panel may include, but is not limited to, representatives of all of the following:~~

~~(1) Health plans or their representative association.~~

~~(2) Pharmacy representatives.~~

~~(3) Health care providers or their representative association.~~

~~(4) Faculty representatives from a school of pharmacy.~~

~~(5) Associations related to research, manufacturers, or distributors of pharmaceutical drugs.~~

~~(6) Medical associations.~~

~~(7) Consumer groups, such as senior citizens groups.~~

~~(8) Health advocacy groups.~~

~~(9) The board.~~

~~(10) Language accessibility experts.~~

~~(c) The panel may secure private contributions to fund its responsibilities pursuant to this section.~~

~~(d) The panel's review shall include a study and recommendations of best practices for prescription drug labels, including all of the following topics:~~

~~(1) Medical literacy research that points to increased understandability of labels.~~

~~(2) Improved directions for use.~~

~~(3) Improved font types and sizes.~~

~~(4) Placement of information that is patient centered.~~

~~(5) Standards for implementation by pharmacies, including both of the following:~~

~~(A) Technology requirements to implement the standards.~~

~~(B) Affordability to pharmacies of implementing the standards. The panel shall ensure that its recommendation for implementation of a standardized label is affordable for pharmacies.~~

~~(e) On the recommendation of the panel, the board shall, by regulation, adopt a standardized label for prescription drug containers. The label shall be developed so that it meets all of the following requirements:~~

~~(1) It is understandable for prescription drug users.~~

~~(2) It describes the contents of the container so that prescription drug users with low medical literacy levels can understand it.~~

~~(3) It displays necessary information about properly taking the container's contents so that prescription drug users with low medical literacy levels can understand it.~~

~~(4) It displays mandated warnings about the container's contents so that prescription drug users with low medical literacy levels can understand it.~~

~~(5) Implementation of the standardized label is affordable for pharmacies.~~

~~(f) Pharmacy consultations by a telephonic translation service shall be available to patients with limited English language proficiency. A pharmacy shall be permitted to issue translated labels for prescriptions, provided that those labels are found to be safe and reliable.~~

~~(g) (1) The panel shall be established and begin meeting as soon as possible after January 1, 2008.~~

~~(2) The panel shall make a recommendation for a standardized label to the board on or before October 31, 2008.~~

~~(3) Within 90 days of receiving the panel's recommendation, the board shall promulgate regulations to establish requirements for a standardized label for prescription drug containers, pursuant to subdivision (e), which shall be required to be used by all California outpatient community and mail service pharmacies providing prescriptions to patients.~~

~~(4) Within 90 days of the effective date of the adopted regulations, each pharmacy described in paragraph (3) shall begin using the standardized labels for prescription drug containers.~~

4076.5. (a) The board shall promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California.

(b) To ensure maximum public comment, the board shall hold public meetings statewide that are separate from its normally scheduled hearings in order to seek information from groups representing consumers, seniors, pharmacists or the practice of pharmacy, other health care professionals, and other interested parties.

(c) When developing the requirements for prescription drug labels, the board shall consider all of the following factors:

(1) Medical literacy research that points to increased understandability of labels.

1 *(2) Improved directions for use.*
2 *(3) Improved font types and sizes.*
3 *(4) Placement of information that is patient-centered.*
4 *(5) The needs of those patients with limited English proficiency.*
5 *(6) The needs of seniors.*
6 *(7) Technology requirements necessary to implement the*
7 *standards.*
8 *(d) (1) On or before January 1, 2010, the board shall report*
9 *to the Legislature on its progress under this section as of the time*
10 *of the report.*
11 *(2) On or before January 1, 2013, the board shall report to the*
12 *Legislature the status of implementation of the prescription drug*
13 *label requirements adopted pursuant to this section.*
14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

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AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 15, 2007

SENATE BILL No. 606

Introduced by Senator Scott
(Coauthor: Senator Kuehl)
(Coauthors: Assembly Members Brownley and Ruskin)

February 22, 2007

An act to add Division 112.6 (commencing with Section 130650) to the Health and Safety Code, relating to pharmaceutical information.

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, Scott. Pharmaceutical information: clinical trial data.

Existing law, the Sherman Food, Drug, and Cosmetic Law, regulates the packaging, labeling, and advertising of food, drugs, and cosmetics, under the administration of the State Department of *Public* Health ~~Services. Effective July 1, 2007, these duties are transferred to the State Department of Public Health~~.

This bill would require a pharmaceutical company that sells, delivers, offers for sale, or gives away pharmaceutical drugs within the state to make publicly available the results of every completed clinical trial, except a phase I trial *or bioequivalence study*, for that drug and an explanation of noncompletion for any clinical trial, except a phase I trial, that the company initiates or sponsors the initiation of, but does not complete.

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. Division 112.6 (commencing with Section 130650) is added to the Health and Safety Code, to read:

DIVISION 112.6. PHARMACEUTICAL DRUG INFORMATION AND SAFETY ACT

130650. This division shall be known, and may be cited as the "Pharmaceutical Drug Information and Safety Act."

130651. For purposes of this division, the following definitions shall apply:

(a) "Clinical trial" means a hypothesis testing clinical investigation that involves any experiment to test *a specific clinical hypothesis as well as* the safety or efficacy of a drug or biological product with one or more human subjects.

(b) ~~"Pharmaceutical company"~~ *(1) "Pharmaceutical manufacturer"* means ~~a manufacturer of pharmaceutical drugs or biological products. "Pharmaceutical company" also means an entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of pharmaceutical drugs. "Pharmaceutical company" also includes a person who engages in pharmaceutical detailing, promotional activities, or other marketing of a pharmaceutical drug in this state on behalf of a pharmaceutical company.~~ *any entity that is engaged in either of the following:*

(A) The production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

(B) The packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

(2) "Pharmaceutical manufacturer" does not include a corporation that meets the definition in paragraph (1) solely because it is in the business of repackaging or compounding prescriptions, if that corporation is not in the business of developing FDA-approved drug products for sale to the general public.

(c) "Pharmaceutical drug" means any drug which is approved by the federal Food and Drug Administration and commercially available in the state.

(d) "Phase I trial" means the initial studies designed exclusively to determine the metabolic and pharmacologic actions of drugs in humans, and the side effects associated with increasing doses, and to gain early evidence of effectiveness.

(e) "Serious adverse events" means any untoward medical occurrence, in a patient or clinical investigation subject who has been administered a pharmaceutical product, which does not necessarily have to have a causal relationship with this treatment.

(f) "Scientific work product" means a writing that reflects a scientist, clinician, or researcher's impressions, conclusions, opinions, research, statistical calculations, or theories.

130652. Any pharmaceutical company that sells, delivers, offers for sale, or gives away any pharmaceutical drug within this state shall make publicly available, in accordance with Section 130654, the results of every completed clinical trial, except for a phase I trial *or bioequivalence study*, that the company conducts or sponsors on and after October 15, 2002, for every pharmaceutical drug that the company sells, delivers, offers for sale, or gives away in this state. The information required to be provided with the results shall include, but not be limited to, all of the following:

(a) The name of the trial.

(b) Commercial and chemical name of all pharmaceutical drugs tested, including comparator drugs, if any.

(c) Initiation and completion dates of the trial.

(d) Purposes of the trial, including the medical condition or conditions studied.

(e) Outcomes of the trial including ~~all~~ *any* time points at which outcome data were measured *and used either subsequently for marketing purposes or other actions taken to publicly promote the outcomes of a trial, including, but not limited to, a news release.*

(f) Trial funding sources.

(g) Number of patients initially enrolled in the trial.

(h) Number of patients completing the trial.

(i) A list of all specific characteristics used to include and exclude people as trial participants, such as gender, race, age,

preexisting health conditions, and an explanation of the suitability of the trial participant population for the purposes of the study.

(j) Names and contact information for principal sponsors of the trial. Contact information shall include at least a telephone number and mailing address for public inquiry.

(k) Names and contact information for principal researchers of the trial.

(*l*) Frequency, severity, and nature of all *serious* adverse events experienced by trial participants, including participants that did not complete the trial, for each drug.

(m) If the study involved a comparison of two or more pharmaceutical drugs, all information regarding the relative efficacy of each drug and the relative frequency, severity, and nature of all *serious* adverse events experienced by trial participants, including participants that did not complete the trial.

(n) If any of the data from the study were published by a clinical trial investigator in a peer-reviewed medical journal that summarizes the safety or efficacy results of the clinical trial, a complete citation and, if available, a hyperlink for each of these publications.

(o) ~~The information contained within~~ *A hyperlink to* the package insert approved by the federal Food and Drug Administration for the drug.

130653. Any pharmaceutical company that sells, delivers, offers for sale, or gives away any pharmaceutical drug within this state shall make publicly available, in accordance with Section 130654, an explanation of noncompletion for any clinical trial, except a phase I trial, that the pharmaceutical company initiates, or sponsors the initiation of, on and after October 15, 2002, but does not complete for every pharmaceutical drug that the company sells, delivers, offers for sale, or gives away in this state. The explanation shall state why the clinical trial was terminated and shall include all available information described in Section 130652.

130654. (a) The information required pursuant to Sections 130652 and 130653 shall be submitted for inclusion on the Web site administered by the National Institutes of Health or on another publicly accessible Web site, or shall be posted on a publicly accessible Web site directly linked to the pharmaceutical company's primary corporate Web site. For purposes of this section, a Web site is publicly accessible only if it provides free,

nonsubscription access to its contents and clearly indicates the location and instructions for downloading the files or information submitted pursuant to this division.

(b) If a drug is sold, delivered, offered for sale, or given away within the state prior to January 1, 2008, and has a trial completion or termination date on or before January 2008, the pharmaceutical company shall submit or post the information pursuant to subdivision (a) by January 1, 2009. If a drug is sold, delivered, offered for sale, or given away within the state prior to January 1, 2008, and has a trial completion or termination date after January 2008, the pharmaceutical company shall submit or post the information pursuant to subdivision (a) within ~~six months~~ *one year* of the completion or termination date of the trial.

(c) If a drug is sold, delivered, offered for sale, or given away within the state on or after January 1, 2008, the pharmaceutical company shall submit or post the information pursuant to subdivision (a) within ~~six months~~ *one year* of the date that the drug is first sold, delivered, offered for sale, or given away within the state or within ~~six months~~ *one year* of the completion or termination date of the trial, whichever is later.

(d) Notwithstanding subdivisions (b) and (c), a pharmaceutical company may extend the deadline requirements of these subdivisions by not more than six months if both of the following occur:

(1) The compilation and analysis of the data in the clinical trial have not been substantially completed by the appropriate deadline described in subdivision (b) or (c).

(2) The pharmaceutical company submits for inclusion on the Web site administered by the National Institutes of Health or on another publicly accessible Web site, or ~~ports~~ *posts* on a publicly accessible Web site directly linked to the pharmaceutical company's primary corporate Web site, a statement that the availability of the information required by this section has been delayed, a statement that provides the reasons for the delay, and a statement that provides a date when the information is anticipated to be made available.

(e) Notwithstanding subdivisions (b), (c), and (d), a pharmaceutical company may extend the deadline requirements of these subdivisions if the company submits the results of the clinical trial in a peer-reviewed journal for publication. However,

the extension of these deadline requirements may not extend beyond one year from the applicable deadline described in those subdivisions or 30 days from the date of publication, whichever is earlier.

130655. (a) A pharmaceutical company subject to the requirements of this division that complies with a federal law or regulation that requires public disclosure on a Web site of information that is substantially similar to the information required pursuant to this division shall be deemed to be in compliance with this division.

(b) No provision of this division shall be construed to require the public disclosure of a trade secret, as defined in Section 3426.1 of the Civil Code, *or scientific work product.*

(c) If some factors, conclusions, results, or points of data from a clinical trial are deemed a trade secret, as defined in Section 3426.1 of the Civil Code, or scientific work product, only those sections shall be withheld from disclosure.

(d) If parts or all of a clinical trial are withheld from disclosure because this information constitutes a trade secret, as defined in Section 3426.1 of the Civil Code, or scientific work product, a pharmaceutical company shall disclose the fact that information was withheld because it constitutes a trade secret.

(e) Nothing in this division shall be construed to permit public disclosure of information currently protected from public disclosure under the federal Health Insurance Portability and Accountability Act (HIPAA) (Public Law 104-191).

(f) This division shall apply only to the regulatory sponsors of clinical trials.

(g) Nothing in this division shall either hinder or enhance the disclosure of any scientific work product during the discovery period of litigation.

130658. Nothing in this division shall constitute a duty by the State Department of Public Health to enforce the implementation of this division.

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AMENDED IN SENATE APRIL 16, 2007

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL No. 615

Introduced by Senator Oropeza

February 22, 2007

An act to add Section 4410 to the Business and Professions Code, and to amend Section 128345 of, and to add Article 6 (commencing with Section 128560) to Chapter 5 of Part 3 of Division 107 of, the Health and Safety Code, relating to pharmacy technicians.

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as amended, Oropeza. Pharmacy technicians: scholarship and loan repayment program.

(1) Existing law provides for the licensure and regulation of pharmacy technicians by the California State Board of Pharmacy. Existing law authorizes the imposition of an annual license renewal fee upon pharmacies and a biennial license renewal fee upon pharmacy technicians.

This bill would require the board to collect an additional fee of $10 at the time a pharmacy license or pharmacy technician license is renewed to be deposited in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund.

(2) Existing law authorizes the Health Professions Education Foundation to implement specified loan repayment programs for nurses, mental health service providers, and physicians.

Existing law establishes in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy students and to repay qualifying educational

loans of pharmacists who agree to serve in areas of the state where unmet priority needs exist, as specified. Existing law requires the office to administer the program utilizing the same general guidelines applicable to specified federal programs, with the exception that no matching funds shall be required from any entity in the practice site area.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy technician students and to repay qualifying educational loans of pharmacy technicians who agree to serve in areas of the state where unmet priority needs exist, as specified. The bill would require the Health Professions Education Foundation to administer this program in the same manner as the program for pharmacists, including that no matching funds shall be required from any entity in the practice site area.

(3) Existing law establishes the California Pharmacist Scholarship and Loan Repayment Program Fund in the State Treasury, and requires that the moneys in the fund be available for expenditure, upon appropriation by the Legislature, for purposes of implementing the program. Existing law provides that the program shall be implemented only to the extent that sufficient moneys are available in the fund.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program Fund, under the same terms and conditions, for purposes of implementing the program established by the bill.

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

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

1 SECTION 1. Section 4410 is added to the Business and
2 Professions Code, to read:
3 4410. At the time a pharmacy license is renewed pursuant to
4 subdivision (a) of Section 4110 or a pharmacy technician license
5 is renewed pursuant to subdivision (r) of Section 4400, the board
6 shall collect an additional fee of ten dollars ($10) at the time of
7 renewal for the sole purpose of funding the California Pharmacy
8 Technician Scholarship and Loan Repayment Program established
9 pursuant to Article ~~3~~ *6* (commencing with Section ~~128199)~~ *128560)*
10 of Chapter ~~3~~ *5* of Part 3 of Division 107 of the Health and Safety

Code. The fee submitted pursuant to this section shall be paid into the State Treasury and credited to the California Pharmacy Technician Scholarship and Loan Repayment Program Fund established pursuant to Section 128199.5 of the Health and Safety Code.

SEC. 2. Section 128345 of the Health and Safety Code is amended to read:

128345. The Health Professions Education Foundation may do any of the following:

(a) Solicit and receive funds from business, industry, foundations, and other private or public sources for the purpose of providing financial assistance in the form of scholarships or loans to African-American students, Native American students, Hispanic-American students, and other students from underrepresented groups. These funds shall be expended by the office after transfer to the Health Professions Education Fund, created pursuant to Section 128355.

(b) Recommend to the director the disbursement of private sector moneys deposited in the Health Professions Education Fund to students from underrepresented groups accepted to or enrolled in schools of medicine, dentistry, nursing, or other health professions in the form of loans or scholarships.

(c) Recommend to the director a standard contractual agreement to be signed by the director and any participating student, that would require a period of obligated professional service in the areas in California designated by the commission as deficient in primary care services. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(d) Develop criteria for evaluating the likelihood that applicants for scholarships or loans would remain to practice their profession in designated areas deficient in primary care services.

(e) Develop application forms, which shall be disseminated to students from underrepresented groups interested in applying for scholarships or loans.

(f) Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented

groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

(g) Prepare and submit an annual report to the office documenting the amount of money solicited from the private sector, the number of scholarships and loans awarded, the enrollment levels of students from underrepresented groups in schools of medicine, dentistry, nursing, and other health professions, and the projected need for scholarships and loans in the future.

(h) Recommend to the director that a portion of the funds solicited from the private sector be used for the administrative requirements of the foundation.

(i) Implement the Steven M. Thompson Physician Corps Loan Repayment Program and the Volunteer Physician Program, as provided under Article 5 (commencing with Section 128550).

(j) Administer the California Pharmacy Technician Scholarship and Loan Repayment Program, as provided under Article 6 (commencing with Section 128560).

SEC. 3. Article 6 (commencing with Section 128560) is added to Chapter 5 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 6. California Pharmacy Technician Scholarship and Loan Repayment Program

128560. (a) (1) There is hereby established within the Health Professions ~~and~~ Education Foundation the California Pharmacy Technician Scholarship and Loan Repayment Program.

(2) The program shall provide scholarships to pay for the educational expenses of pharmacy technician school students and to repay qualifying educational loans of pharmacy technicians who agree to participate in designated medically underserved areas as provided in this section.

(b) The Health Professions Education Foundation shall administer the California Pharmacy Technician Scholarship and Loan Repayment Program utilizing the same general guidelines applicable to the federal National Health Service Corps Scholarship Program established pursuant to Section 254 *l* of Title 42 of the United States Code and the National Health Service Corps Loan Repayment Program established pursuant to Section 254 *l*-1 of Title 42 of the United States Code, except as follows:

(1) A pharmacy technician or pharmacy technician student shall be eligible to participate in the program if he or she agrees to provide pharmacy technician services in a practice site located in areas of the state where unmet priority needs for primary care family physicians exist as determined by the Health Workforce Policy Commission.

(2) No matching funds shall be required from any entity in the practice site area.

(c) This section shall be implemented only to the extent that sufficient moneys are available in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund to administer the program.

128561. The California Pharmacy Technician Scholarship and Loan Repayment Program Fund is hereby established in the State Treasury. Revenues from the ~~payments made~~ *fees collected* pursuant to Section 4410 of the Business and Professions Code, as well as any other private or public funds made available for purposes of the California Pharmacy Technician Scholarship and Loan Repayment Program, shall be deposited into the fund. Upon appropriation by the Legislature, moneys in the fund shall be available for expenditure by the Health Professions Education Foundation for purposes of implementing the California Pharmacy Technician Scholarship and Loan Repayment Program pursuant to this article. The Health Professions Education Foundation shall be under no obligation to administer a program under this article until sufficient moneys have been accumulated in the fund and appropriated to the foundation by the Legislature.

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AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE APRIL 16, 2007

SENATE BILL No. 963

Introduced by Senator Ridley-Thomas

February 23, 2007

~~An act to amend Sections 4001 and 4003 of, and to repeal and add Section 101.1 of, the Business and Professions Code, relating to regulatory boards.~~ *An act to amend Sections 22, 102.3, 107, 108, 312, 313.1, 321, 1601.1, 1632.5, 1634.2, 1638.1, 1638.7, 1742, 1751, 2001, 2460, 2531, 2570.19, 2602, 2701, 2841, 2920, 3010.5, 3502.1, 3504, 3685, 3710, 4001, 4003, 4200.1, 4200.3, 4501, 4800, 4928, 4990, 5000, 5510, 5621, 5810, 5811, 6510, 6511, 6710, 7000.5, 7200, 7303, 7810, 8000, 8520, 8710, 9882, 18602, 18602.5, 18824, and 18882 of, to add Sections 27.5, 36, 37, 38, 101.5, 117, 117.5, 127.5, 156.7, and 450.1 to, to add Chapter 4.5 (commencing with Section 360) to Division 1 of, to add Division 1.3 (commencing with Section 474.20) to, to repeal Sections 2569, 4989, 4990.24, 7304, and 22259 of, to repeal Division 1.2 (commencing with Section 473) of, and to repeal and add Section 101.1 of, the Business and Professions Code, and to amend Sections 9148.8 and 9148.51 of, and to repeal Section 9148.52 of, the Government Code, relating to regulatory entities, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as amended, Ridley-Thomas. Regulatory boards: ~~termination~~ *operations.*

Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs and makes their funds separate accounts within the Professions and Vocations Fund. Under existing

law, the revenue in certain of these accounts is continuously appropriated to the board, other than fine and penalty revenues.

Existing law generally makes the regulatory boards inoperative on a specified date, unless that date is deleted or extended by subsequent legislation, and subjects these boards as well as other boards in state government, as specified, to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Under existing law, that committee, following a specified procedure, recommends whether the board should be continued or its functions modified.

This bill would delete those provisions making the boards inoperative on a specified date and subjecting boards to review by the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would instead make each of those boards subject to review by a standing policy committee of the Legislature upon request by a Member of the Legislature or the chief of the Office of the Consumer Advocate, which the bill would create in the Department of Consumer Affairs. The bill would, upon the committee's determination that a board is deficient, as specified, provide for the removal of all incumbent board members without a hearing and the appointment of a successor board, as specified. The bill would require the Office of the Consumer Advocate to serve as an independent monitor for a board that is found deficient. The bill would authorize the office to appear at meetings and to participate in disciplinary proceedings by a board within the department if required to promote or protect the interests of consumers, as defined, and would require the office to perform other specified duties. The bill would require the office to charge each board a fee to support the office's functions and would thereby make an appropriation by expanding the expenditure purposes of a continuously appropriated fund. The bill would create the Consumer Advocate Fund where these fees would be deposited and would be available to the office upon appropriation by the Legislature. The bill would require the director to report annually to the Governor and the Legislature, as specified, on the office's operations.

The bill would require boards within the department to enter into an agreement with the department for the performance of administrative and ministerial functions and would require the Director of Consumer Affairs, prior to January 1, 2010, to replace the existing technology system serving the department and its component boards and to charge each board its pro rata share of the cost to replace the system.

The bill would also require each board within the department to adopt performance measures, as specified, and report quarterly to the director and the chief of the Office of Consumer Advocate relating to those measures. The bill would also require boards to post the information on their Internet Web site and to report the information to the Legislative Analyst's Office, the Legislature, and the Department of Finance. The bill would require the Office of the Consumer Advocate to report to the Legislature if a board failed to meet its performance measures. The bill would also require those boards to post annually on their Internet Web sites the number of reports in specified categories that it received that year for its licensees.

The bill would allow a person to serve as the public member of more than one of these boards and would require all members of these boards, as well as bureau chiefs, to report annually to their appointing authority on their goals and objectives and success in achieving them, which would be posted on the board's Internet Web site. The bill would require the department to report to the Legislature and Governor if a board was unable to meet because of a lack of a quorum or vacancy. The bill would require members of these boards and other state boards to report ex parte communications, as defined, in the board's minutes. The bill would require boards within the department, the State Bar, the Office of Real Estate Appraisers, and other state boards that license professions or businesses to adopt regulations to provide incentives to licensees to provide services on a pro bono basis and to adopt regulations prior to June 30, 2009, establishing regulatory board staffing requirements.

~~Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.~~

~~This bill would instead, when a board becomes inoperative, create a successor board in the Department of Consumer Affairs that succeeds to and is vested with all of the duties, powers, purposes, responsibilities, and jurisdiction of the board that are not otherwise repealed or made inoperative. The bill would provide for the successor board to have the~~

~~same number of members and composition as the prior board, would provide that its members be appointed by the same appointing authorities, for the same term, and with the same requirements as the prior board members, and would give the successor board the same authority to appoint an executive officer as the prior board had.~~

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

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

1 *SECTION 1. Section 22 of the Business and Professions Code*
2 *is amended to read:*
3 22. ~~(a)~~ "Board," as used in any provision of this code, refers
4 to the board in which the administration of the provision is vested,
5 and unless otherwise expressly provided, shall include "bureau,"
6 "commission," "committee," "department," "division," "examining
7 committee," "program," and "agency."
8 ~~(b) Whenever the regulatory program of a board that is subject~~
9 ~~to review by the Joint Committee on Boards, Commissions, and~~
10 ~~Consumer Protection, as provided for in Division 1.2 (commencing~~
11 ~~with Section 473), is taken over by the department, that program~~
12 ~~shall be designated as a "bureau."~~
13 *SEC. 2. Section 27.5 is added to the Business and Professions*
14 *Code, to read:*
15 *27.5. A board within the department shall annually post on its*
16 *Internet Web site the number of reports it received that year for*
17 *its licensees in each of the following categories:*
18 *(a) Criminal convictions.*
19 *(b) Judgments, settlements, or arbitration awards.*
20 *(c) Claims paid by a professional liability insurer caused by*
21 *the licensee's negligence, error, or omission.*
22 *SEC. 3. Section 36 is added to the Business and Professions*
23 *Code, to read:*
24 *36. A board within the department, the State Bar, the Office*
25 *of Real Estate Appraisers, and any other state board that issues*
26 *a license, certificate, or registration authorizing a person to engage*
27 *in a business or profession may adopt regulations that provide an*
28 *incentive to the holder to provide services within the scope of his*
29 *or her license, certificate, or registration on a pro bono basis. The*
30 *regulations may reduce the amount of the renewal fee for a*

licensee, certificate holder, or registrant who demonstrates compliance with the pro bono requirements set forth in the regulations.

SEC. 4. Section 37 is added to the Business and Professions Code, to read:

37. A board within the department and any other state board that issues a license, certificate, or registration authorizing a person to engage in a business or profession shall adopt regulations prior to June 30, 2009, that establish requirements for the number of staff required to adequately investigate and, if appropriate, bring a disciplinary action against a licensee, certificate holder, or registrant regulated by the board. The staff level requirements shall, at a minimum, be the number of staff required per 1,000 persons regulated by the board and include the appropriate number of staff to complete all investigatory and disciplinary functions.

SEC. 5. Section 38 is added to the Business and Professions Code, to read:

38. A member of a board within the department and a member of a state board, as defined in Section 9148.2 of the Government Code, shall disclose all of his or her ex parte communications at the board's next public meeting, and the ex parte communications shall be recorded in the board's minutes. "Ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote by the board that occurred between the member and a person, other than another board member or an employee of the board or the department of which the board is a part, who intends to influence the decision of the member.

SEC. 6. Section 101.1 of the Business and Professions Code is repealed.

~~101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).~~

~~(b) (1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.~~

~~(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.~~

~~(3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.~~

~~(c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.~~

SEC. 7. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to ongoing and continuous review as well as a periodic thorough review when issues arise requiring that level of review and such a review is requested by a Member of the Legislature or the chief of the Office of the Consumer Advocate as provided in Division 1.3 (commencing with Section 474.20). The review of a board shall evaluate and determine whether its operations are effectively protecting the public and that protection of the public is the highest priority of the board.

(b) Notwithstanding any other provision of law, if a board is deemed deficient and its members removed, as described in Section 474.21, a successor board shall be appointed that shall succeed to, and be vested with, all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made

inoperative of the board that it is succeeding. The successor board shall have the same number of members and composition as the board that it is succeeding, and those members shall be appointed by the same appointing authorities, for the same term, and with the same membership requirements as the members of the board it is succeeding. The successor board shall have the same authority to appoint an executive officer as the board that it is succeeding as of the date that board was found deficient. The successor board members shall be appointed within 10 business days of receipt by the Joint Committee on Rules of the deficiency report, as described in Section 474.21.

SEC. 8. Section 101.5 is added to the Business and Professions Code, to read:

101.5. (a) Each board within the department shall enter into an agreement with the department for the department to provide administrative and ministerial functions and services, including, but not limited to, personnel services, information technology, the administration of call centers, and the administration of examinations. The Legislature intends that these agreements shall achieve cost savings resulting from economies of scale and a more consistent delivery of services to California consumers and licensees.

(b) A board shall not enter into an agreement described in subdivision (a) if it would reduce the board's ability to comply with its duties prescribed by law.

SEC. 9. Section 102.3 of the Business and Professions Code is amended to read:

102.3. (a) The director may enter into an interagency agreement with an appropriate entity within the Department of Consumer Affairs as provided for in Section 101 to delegate the duties, powers, purposes, responsibilities, and jurisdiction that have been succeeded and vested with the department, of a board~~,~~ ~~as defined in Section 477, which~~ *that* became inoperative and was repealed in accordance with Chapter 908 of the Statutes of 1994.

(b) (1) ~~Where~~ *If*, pursuant to subdivision (a), an interagency agreement is entered into between the director and that entity, the entity receiving the delegation of authority may establish a technical committee to regulate, as directed by the entity, the profession subject to the authority that has been delegated. The entity may delegate to the technical committee only those powers

that it received pursuant to the interagency agreement with the director. The technical committee shall have only those powers that have been delegated to it by the entity.

(2) ~~Where~~ *If* the entity delegates its authority to adopt, amend, or repeal regulations to the technical committee, all regulations adopted, amended, or repealed by the technical committee shall be subject to the review and approval of the entity.

(3) The entity shall not delegate to a technical committee its authority to discipline a licentiate who has violated the provisions of the applicable chapter of the Business and Professions Code that is subject to the director's delegation of authority to the entity.

(c) An interagency agreement entered into, pursuant to subdivision (a), shall continue until ~~such time as~~ the licensing program administered by the technical committee has undergone a review by the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Office of the Consumer Advocate* to evaluate and determine whether the *highest priority of the* licensing program ~~has demonstrated a public need for its continued existence~~ *is the protection of the public*. Thereafter, at the ~~director's~~ discretion *of the chief of that office*, the interagency agreement may be renewed.

SEC. 10. Section 107 of the Business and Professions Code is amended to read:

107. *(a)* Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service and may fix his or her salary, with the approval of the Department of Personnel Administration pursuant to Section 19825 of the Government Code, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar. *A person may be appointed as an executive officer or registrar for more than one board if approved by each of those boards and may serve in those capacities at the same time if practical and consistent with law and the respective board functions and duties.*

(b) Notwithstanding any other provision of law, all appointments of an executive officer or registrar shall be subject to the approval of the director and confirmation by the Senate.

SEC. 11. Section 108 of the Business and Professions Code is amended to read:

108. *(a)* Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards,

holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following ~~such~~ *those* hearings, in so far as these powers are given by statute to each respective board.

(b) The department shall develop a common method of maintaining, posting, and making available to the public minutes of the meetings of the boards comprising the department. Each of those boards shall use that method and shall post the minutes of its meetings on its Internet Web site within 10 days of the date of the meeting.

SEC. 12. Section 117 is added to the Business and Professions Code, to read:

117. (a) Each board within the department shall adopt meaningful, measurable, and manageable performance measures. Performance measures include, but are not limited to, the following information:

(1) A comprehensive statement of the board's mission, goals, objectives, and legal jurisdiction in protecting the health, safety, and welfare of the public.

(2) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.

(3) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

(4) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, relevancy and validity of the licensing examination, and passage rate and areas of examination.

(5) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

(b) Each board within the department shall report to the director and the chief of the Office of the Consumer Advocate its performance measures and data relating to those measures on a quarterly basis. Each board shall post quarterly on its Internet

Web site the information it reported pursuant to this subdivision and provide the information annually to the Department of Finance, the Legislative Analyst's Office, and the Legislature.

(c) The chief of the Office of the Consumer Advocate, in consultation with the Legislative Analyst's Office, shall annually review the information reported by boards pursuant to subdivision (b) and report to the Legislature if it determines that a board has failed to meet its performance measures.

(d) The department may adopt regulations pertaining to the requirements described in subdivision (a).

SEC. 13. Section 117.5 is added to the Business and Professions Code, to read:

117.5. (a) Each member of a board within the department and the chief of any bureau within the board shall annually report, on or before December 31 of each year, to the authority that appointed him or her the extent to which the member or chief achieved his or her goals and objectives that year and shall also report the goals and objectives he or she expects to achieve during the following calendar year.

(b) The board or bureau shall post the reports described in subdivision (a) submitted by its members chief on its Internet Web site within 30 days of their submission date.

SEC. 14. Section 127.5 is added to the Business and Professions Code, to read:

127.5. The department shall report to the Legislature and the Governor when a board within the department has been unable to schedule or convene a meeting of the board because of a lack of a quorum caused by the absence of its members or by a vacancy in its membership.

SEC. 15. Section 156.7 is added to the Business and Professions Code, to read:

156.7. (a) Prior to January 1, 2010, the director, in consultation with the State Chief Information Officer, shall replace the department's existing information technology system with a system that meets the requirements of the department and of the boards within the department.

(b) The director shall charge each of the boards on a pro rata share basis for the costs of replacing the information technology system. The charge shall be an administrative expense that may

be levied in advance against the funds of any of the boards pursuant to Section 201.

(c) Notwithstanding any other provision of this section, the procurement of the information technology system shall be made in accordance with Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code.

SEC. 16. Section 312 of the Business and Professions Code is amended to read:

312. *(a)* The director shall submit to the Governor and the Legislature on or before January 1, 2003, and annually thereafter, a report of programmatic and statistical information regarding the activities of the department and its constituent entities. The report shall include information concerning the director's activities pursuant to Section 326, including the number and general patterns of consumer complaints and the action taken on those complaints.

(b) On or before January 1 of each year, beginning in 2009, the director shall submit to the chairperson of the fiscal committee of each house of the Legislature and to the Joint Legislative Budget Committee all of the following information:

(1) The number of personnel years assigned to the Office of the Consumer Advocate.

(2) The total dollars expended by the Office of the Consumer Advocate in the prior year, the estimated total dollars expended in the current year, and the total dollars proposed for appropriation in the following budget year.

(3) Workload standards and measures for the Office of the Consumer Advocate.

SEC. 17. Section 313.1 of the Business and Professions Code is amended to read:

313.1. (a) Notwithstanding any other provision of law to the contrary, no rule or regulation, except those relating to examinations and qualifications for licensure, and no fee change proposed or promulgated by any of the boards, commissions, or committees within the department, shall take effect pending compliance with this section.

(b) The director *and the chief of the Office of the Consumer Advocate* shall be formally notified of and shall be provided a full opportunity to review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part

1 of Division 3 of Title 2 of the Government Code, and this section, all of the following:

(1) All notices of proposed action, any modifications and supplements thereto, and the text of proposed regulations.

(2) Any notices of sufficiently related changes to regulations previously noticed to the public, and the text of proposed regulations showing modifications to the text.

(3) Final rulemaking records.

(c) The submission of all notices and final rulemaking records to the director *and the chief of the Office of the Consumer Advocate* and the completion of ~~the director's~~ *their* review, as authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the completion of the director's review and only then if the director ~~has~~ *and the chief of the Office of the Consumer Advocate have* not disapproved it. The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.

(d) Following the receipt of any final rulemaking record subject to subdivision (a), the director *and the chief of the Consumer Advocate* shall have the authority for a period of 30 days to disapprove a proposed rule or regulation on the ground that it is injurious to the public health, safety, or welfare.

(e) Final rulemaking records shall be filed with the director *and the chief of the Office of the Consumer Advocate* within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.

(1) ~~In the event that~~ *If* the one-year notice period lapses during the ~~director's~~ 30-day review period, or within 60 days following the notice of ~~the director's~~ disapproval, it may be extended for a maximum of 90 days.

(2) If the director ~~approves~~ *and the chief approve* the final rulemaking record or declines to take action on it within 30 days, the board, commission, or committee shall have five days from the receipt of the record from the director *and the chief* within which to file it with the Office of Administrative Law.

(3) If the director *or the chief* disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Nothing in this section shall be construed to prohibit the director *or the chief of the Office of the Consumer Advocate* from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 18. Section 321 of the Business and Professions Code is amended to read:

321. Whenever it appears to the director *or the chief of the Office of Consumer Advocate* that the interests of the consumers of this state are being damaged, or may be damaged, by any person who engaged in, or intends to engage in, any acts or practices in violation of any law of this state, or any federal law, the director or any officer or employee designated by the director, or the Attorney General, may commence legal proceedings in the appropriate forum to enjoin ~~such~~ *those* acts or practices and may seek other appropriate relief on behalf of ~~such~~ *those* consumers.

SEC. 19. Chapter 4.5 (commencing with Section 360) is added to Division 1 of the Business and Professions Code, to read:

CHAPTER 4.5. OFFICE OF THE CONSUMER ADVOCATE

Article 1. General Provisions

360. This chapter shall be known and may be cited as the Office of the Consumer Advocate Act.

361. It is the intent of the Legislature and the purpose of this chapter to promote the efficiency of each of the boards that comprise the department by ensuring that each board properly

discharges its regulatory and disciplinary functions to protect the interests of consumers.

362. The following definitions apply for purposes of this chapter:

(a) "Board" means any entity listed in Section 101.

(b) "Chief" means the chief of the Office of the Consumer Advocate.

(c) "Interests of consumers" means the protection of the health, welfare, and safety of consumers by a board.

(d) "Office" means the Office of the Consumer Advocate.

Article 2. Administration

370. The Office of the Consumer Advocate is hereby established in the department.

371. The office is under the supervision and control of a chief. The chief shall be appointed by the Governor, subject to confirmation by the Senate pursuant to Section 1322 of the Government Code. The chief shall be appointed for a term of four years. Upon expiration of the chief's term, the chief shall continue to serve in the position until a new chief is appointed by the Governor. The director shall fix the amount of the chief's compensation in accordance with law. The Governor may remove the chief for any cause specified in Section 106.

372. The chief shall administer and enforce the provisions of this chapter. Every power granted or duty imposed upon the chief under this chapter may be exercised or performed in the name of the chief by an employee of the office, subject to any conditions and limitations the chief may prescribe.

373. (a) The chief, in accordance with the State Civil Service Act, shall appoint a chief counsel of the office and an adequate number of attorneys, as determined by the chief counsel, to carry out the provisions of this chapter.

(b) The chief, in accordance with the State Civil Service Act, may appoint and fix the compensation of clerical or other personnel as may be necessary to carry out the provisions of this chapter.

(c) All personnel appointed under this section shall perform their duties under the supervision and direction of the chief.

374. The chief may contract for the services of experts and consultants if necessary to carry out the provisions of this chapter

and may provide compensation and reimbursement of expenses for those experts and consultants in accordance with state law.

Article 3. Powers and Duties

380. (a) The office shall serve as an independent monitor pursuant to Section 474.22.

(b) The office shall review interagency agreements pursuant to Section 102.3.

381. The chief may establish through regulations a Consumer Participation Program to allow the office to award reasonable advocacy and witness fees to any person or organization that has made a substantial contribution on behalf of the interests of consumers either through the adoption of a regulation by a board or through an order or decision issued by a board in a disciplinary proceeding.

382. The office may appear at a meeting of a board and shall be permitted to participate as an amicus curiae in disciplinary proceedings by the board whenever the chief determines that the appearance or participation is required to promote or protect the interests of consumers. The office shall conform with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) in discharging these duties.

383. The chief shall have the following powers and it shall be his or her duty to take the following actions:

(a) Recommend and propose the enactment of legislation that is necessary to protect and promote the interests of consumers.

(b) Represent the interests of consumers before federal and state legislative and regulatory hearings.

(c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.

(d) Study, investigate, research, and analyze matters affecting the interests of consumers.

(e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon state agencies for information.

(f) Propose and assist in the creation and development of consumer education programs.

(g) Promote ethical standards of conduct for business, professions, and consumers related to the interest of consumers.

(h) Advise the Governor and Legislature on all matters affecting the interests of consumers.

(i) Exercise and perform other functions, powers, and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.

(j) Maintain contact and liaison with consumer groups in California and nationally.

384. The chief shall report annually to the Governor and appear annually before the appropriate policy committees of the Legislature to report on the office's activities.

Article 4. Revenue

390. The office shall annually charge each board on a pro rata share basis an amount that is sufficient, as determined by the chief, to carry out the provisions of this chapter. The total amount of charges made pursuant to this section shall not exceed ____ million dollars ($____) annually.

391. All moneys collected pursuant to this article shall be deposited into the Consumer Advocate Fund, which is hereby created in the State Treasury. The revenue in this fund shall be expended solely for purposes of this chapter upon appropriation by the Legislature in the annual Budget Act.

SEC. 20. Section 450.1 is added to the Business and Professions Code, to read:

450.1. A person may serve as a public member of more than one board at the same time if not prohibited by any other law.

SEC. 21. Division 1.2 (commencing with Section 473) of the Business and Professions Code is repealed.

SEC. 22. Division 1.3 (commencing with Section 474.20) is added to the Business and Professions Code, to read:

DIVISION 1.3. LEGISLATIVE REVIEW OF STATE BOARDS AND BOARDS WITHIN THE DEPARTMENT OF CONSUMER AFFAIRS

474.20. (a) A Member of the Legislature or the chief of the Office of the Consumer Advocate may submit a written request to

the appropriate standing policy committee of the Legislature to conduct an analysis to evaluate any of the following entities:

(1) A board, as defined in Section 22.

(2) A state board, as defined in Section 9148.2 of the Government Code.

(b) The request made pursuant to subdivision (a) shall describe any perceived deficiencies in the operation of the board and the detailed reasons an analysis of its operation is requested that may include, but not be limited to, the issues subject to investigation under subdivision (c) of Section 474.21.

474.21. (a) (1) The appropriate standing policy committee of the Legislature shall, through its oversight function, investigate the perceived deficiencies described in the request submitted pursuant to Section 474.20 and hold public hearings on the matter. The committee may request the Office of the Consumer Advocate to assist in the investigation. The committee shall complete these functions within a 60-day period during the regular legislative session, with the period commencing on the date of the committee's receipt of the request.

(2) Notwithstanding paragraph (1), if, in the two-year period prior to the committee's receipt of the request, public hearings relating to the same board named in the request were held by a standing policy committee of the Legislature that determined no deficiencies exist, the committee may refuse to conduct additional hearings and investigation of the board.

(b) The committee may find, on the basis of the information it obtained during its investigation, whether a question exists as to the highest priority of the operations of the board being the protection of the public when exercising its licensing, regulatory, and disciplinary functions, and whether the board is effectively protecting the public.

(c) In determining whether a question exists under subdivision (b), the committee shall review the information and allegations made in the request submitted pursuant to Section 474.20 and any related information and allegations. The committee may review issues such as the following:

(1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.

(2) Whether the initial reasons for licensing or regulating a practice or profession have changed.

(3) Whether other conditions have occurred that would warrant increased, decreased, or the same amount of regulation by the board.

(4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board's rules promote the public interest and are within the scope of legislative intent.

(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resources, and personnel matters.

(6) Whether an analysis of the board's operations indicates that the entity performs its statutory duties efficiently and effectively.

(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the profession or vocation and the individuals it regulates.

(8) Whether the board and its laws or regulations stimulate or restrict competition and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.

(9) Whether complaint investigation, intervention, and disciplinary procedures adequately protect the public and whether the final disposition of complaints, investigations, restraining orders, and disciplinary actions are in the public interest or these procedures are, instead, self-serving to the profession, vocation, or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or vocation contributes to the highest utilization of personnel and whether the entry requirements for the profession or vocation encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve the board's operations to promote the public interest.

(d) The standing policy committee shall determine if a board is deficient. The committee shall report its deficiency determination to the Joint Committee on Rules. Notwithstanding any other

provision of law, if a board is found deficient, each incumbent member of the board shall be removed from office without a hearing within 10 business days of receipt of the committee's deficiency report by the Joint Committee on Rules, and successor board members shall be appointed within that timeframe pursuant to Section 101.1.

474.22. (a) Within 10 business days of the date the Joint Committee on Rules receives the deficiency report described in Section 474.21, the Office of the Consumer Advocate shall assume the duties of an independent monitor for the board.

(b) Within one year of the date it assumes the duties of an independent monitor, the Office of the Consumer Advocate shall report its findings to the Governor, and the Legislature may make recommendations for required reforms of the board.

SEC. 23. Section 1601.1 of the Business and Professions Code is amended to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

~~(d) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 24. Section 1632.5 of the Business and Professions Code is amended to read:

1632.5. (a) Prior to implementation of paragraph (2) of subdivision (c) of Section 1632, the department's Office of Examination Resources shall review the Western Regional Examining Board examination to assure compliance with the requirements of Section 139 and to certify that the examination process meets those standards. If the department determines that the examination process fails to meet those standards, paragraph (2) of subdivision (c) of Section 1632 shall not be implemented. The review of the Western Regional Examining Board examination shall be conducted during or after the Dental Board of California's occupational analysis scheduled for the 2004–05 fiscal year, but not later than September 30, 2005. However, an applicant who successfully completes the Western Regional Examining Board examination on or after January 1, 2005, shall be deemed to have met the requirements of subdivision (c) of Section 1632 if the department certifies that the Western Regional Examining Board examination meets the standards set forth in this subdivision.

(b) The Western Regional Examining Board examination process shall be regularly reviewed by the department pursuant to Section 139.

(c) The Western Regional Examining Board examination shall meet the mandates of subdivision (a) of Section 12944 of the Government Code.

(d) ~~As part of its next scheduled review by the Joint Committee on Boards, Commissions, and Consumer Protection, the~~ *The* Dental Board of California shall report *on or before July 1, 2008,* to ~~that committee and~~ the department *and the Office of the Consumer Advocate* on the pass rates of applicants who sat for the Western Regional Examining Board examination, compared with the pass rates of applicants who sat for the state clinical and written examination administered by the Dental Board of California. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 25. Section 1634.2 of the Business and Professions Code is amended to read:

1634.2. (a) An advanced education program's compliance with subdivision (c) of Section 1634.1 shall be regularly reviewed by the department pursuant to Section 139.

(b) An advanced education program described in subdivision (c) of Section 1634.1 shall meet the requirements of subdivision (a) of Section 12944 of the Government Code.

(c) The clinical residency program completion certification required by subdivision (c) of Section 1634.1 shall include a list of core competencies commensurate to those found in the board's examinations. The board, together with the department's Office of Examination Resources, shall ensure the alignment of the competencies stated in the clinical residency program completion certification with the board's current occupational analysis. The board shall implement use of the clinical residency program completion certification form and use of the core competency list through the adoption of emergency regulations by January 1, 2008.

(d) ~~As part of its next scheduled review after January 1, 2007, by the Joint Committee on Boards, Commissions and Consumer Protection, the~~ *The* board shall report to ~~that committee and to~~ the department *and the Office of the Consumer Advocate on or before January 1, 2010,* the number of complaints received for those dentists who have obtained licensure by passing the state clinical examination and for those dentists who have obtained licensure through an advanced education program. The report shall also contain tracking information on these complaints and their disposition. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 26. Section 1638.1 of the Business and Professions Code is amended to read:

1638.1. (a) (1) A person licensed pursuant to Section 1634 who wishes to perform elective facial cosmetic surgery shall first apply for and receive a permit to perform elective facial cosmetic surgery from the board.

(2) A permit issued pursuant to this section shall be valid for a period of two years and must be renewed by the permitholder at the time his or her license is renewed. Every six years, prior to renewal of the permitholder's license and permit, the permitholder shall submit evidence acceptable to the credentialing committee

that he or she has maintained continued competence to perform the procedures authorized by the permit. The credentialing committee may limit a permit consistent with paragraph (1) of subdivision (e) if it is not satisfied that the permitholder has established continued competence.

(b) The board may adopt regulations for the issuance of the permit that it deems necessary to protect the health, safety, and welfare of the public.

(c) A licensee may obtain a permit to perform elective facial cosmetic surgery by furnishing all of the following information on an application form approved by the board:

(1) Proof of successful completion of an oral and maxillofacial surgery residency program accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) Proof that the applicant has satisfied the criteria specified in either subparagraph (A) or (B):

(A) (i) Is certified, or is a candidate for certification, by the American Board of Oral and Maxillofacial Surgery.

(ii) Submits to the board a letter from the program director of the accredited residency program, or from the director of a postresidency fellowship program accredited by the Commission on Dental Accreditation of the American Dental Association, stating that the licensee has the education, training, and competence necessary to perform the surgical procedures that the licensee has notified the board he or she intends to perform.

(iii) Submits documentation to the board of at least 10 operative reports from residency training or proctored procedures that are representative of procedures that the licensee intends to perform from both of the following categories:

(I) Cosmetic contouring of the osteocartilaginous facial structure, which may include, but is not limited to, rhinoplasty and otoplasty.

(II) Cosmetic soft tissue contouring or rejuvenation, which may include, but is not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation.

(iv) Submits documentation to the board showing the surgical privileges the applicant possesses at any licensed general acute care hospital and any licensed outpatient surgical facility in this state.

(B) (i) Has been granted privileges by the medical staff at a licensed general acute care hospital to perform the surgical procedures set forth in paragraph (A) at that hospital.

(ii) Submits to the board the documentation described in clause (iii) of subparagraph (A).

(3) Proof that the applicant is on active status on the staff of a general acute care hospital and maintains the necessary privileges based on the bylaws of the hospital to maintain that status.

(d) The application shall be accompanied by an application fee of five hundred dollars ($500) for an initial permit. The fee to renew a permit shall be two hundred dollars ($200).

(e) (1) The board shall appoint a credentialing committee to review the qualifications of each applicant for a permit. Upon completion of the review of an applicant, the committee shall make a recommendation to the board on whether to issue or not issue a permit to the applicant. The permit may be unqualified, entitling the permitholder to perform any facial cosmetic surgical procedure authorized by this section, or it may contain limitations if the credentialing committee is not satisfied that the applicant has the training or competence to perform certain classes of procedures, or if the applicant has not requested to be permitted for all procedures authorized by this section.

(2) The credentialing committee shall be comprised of five members, as follows:

(A) A physician and surgeon with a specialty in plastic and reconstructive surgery who maintains active status on the staff of a licensed general acute care hospital in this state.

(B) A physician and surgeon with a specialty in otolaryngology who maintains active status on the staff of a licensed general acute care hospital in this state.

(C) Three oral and maxillofacial surgeons licensed by the board who are board certified by the American Board of Oral and Maxillofacial Surgeons, and who maintain active status on the staff of a licensed general acute care hospital in this state, at least one of whom shall be licensed as a physician and surgeon in this state. Two years after the effective date of this section, any oral and maxillofacial surgeon appointed to the committee who is not licensed as a physician and surgeon shall hold a permit pursuant to this section.

(3) The board shall solicit from the following organizations input and recommendations regarding members to be appointed to the credentialing committee:

(A) The Medical Board of California.

(B) The California Dental Association.

(C) The California Association of Oral and Maxillofacial Surgeons.

(D) The California Medical Association.

(E) The California Society of Plastic Surgeons.

(F) Any other source that the board deems appropriate.

(4) The credentialing committee shall meet at a time and place directed by the board to evaluate applicants for permits. A quorum of three members shall be required for the committee to consider applicants and make recommendations to the board.

(f) A licensee may not perform any elective, facial cosmetic surgical procedure except at a general acute care hospital, a licensed outpatient surgical facility, or an outpatient surgical facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Association for Ambulatory Health Care (AAAHC), the Medicare program, or an accreditation agency approved by the Medical Board of California pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(g) For purposes of this section, the following terms shall have the following meanings:

(1) "Elective cosmetic surgery" means any procedure defined as cosmetic surgery in subdivision (d) of Section 1367.63 of the Health and Safety Code, and excludes any procedure that constitutes reconstructive surgery, as defined in subdivision (c) of Section 1367.63 of the Health and Safety Code.

(2) "Facial" means those regions of the human body described in Section 1625 and in any regulations adopted pursuant to that section by the board.

(h) A holder of a permit issued pursuant to this section shall not perform elective facial cosmetic surgical procedures unless he or she has malpractice insurance or other financial security protection that would satisfy the requirements of Section 2216.2 and any regulations adopted thereunder.

(i) A holder of a permit shall comply with the requirements of subparagraph (D) of paragraph (2) of subdivision (a) of Section 1248.15 of the Health and Safety Code, and the reporting

requirements specified in Section 2240, with respect to any surgical procedure authorized by this section, in the same manner as a physician and surgeon.

(j) Any violation of this section constitutes unprofessional conduct and is grounds for the revocation or suspension of the person's permit, license, or both, or the person may be reprimanded or placed on probation. Proceedings initiated by the board under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(k) On or before January 1, 2009, and every four years thereafter, the board shall report to the ~~Joint Committee on Boards, Commissions and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate* on all of the following:

(1) The number of persons licensed pursuant to Section 1634 who apply to receive a permit to perform elective facial cosmetic surgery from the board pursuant to subdivision (a).

(2) The recommendations of the credentialing committee to the board.

(3) The board's action on recommendations received by the credentialing committee.

(4) The number of persons receiving a permit from the board to perform elective facial cosmetic surgery.

(5) The number of complaints filed by or on behalf of patients who have received elective facial cosmetic surgery by persons who have received a permit from the board to perform elective facial cosmetic surgery.

(6) Action taken by the board resulting from complaints filed by or on behalf of patients who have received elective facial cosmetic surgery by persons who have received a permit from the board to perform elective facial cosmetic surgery.

SEC. 27. Section 1638.7 of the Business and Professions Code is amended to read:

1638.7. The next occupational analysis of dental licensees and oral and maxillofacial facial surgeons pursuant to Section 139 shall include a survey of the training and practices of oral and maxillofacial surgeons and, upon completion of that analysis, a report shall be made to the ~~Joint Committee on Boards,~~

~~Commissions, and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate* regarding the findings.

SEC. 28. Section 1742 of the Business and Professions Code is amended to read:

1742. (a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

(b) The Committee on Dental Auxiliaries shall have the following areas of responsibility and duties:

(1) The committee shall have the following duties and authority related to education programs and curriculum:

(A) Shall evaluate all dental auxiliary programs applying for board approval in accordance with board rules governing the programs.

(B) May appoint board members to any evaluation committee. Board members so appointed shall not make a final decision on the issue of program or course approval.

(C) Shall report and make recommendations to the board as to whether a program or course qualifies for approval. The board retains the final authority to grant or deny approval to a program or course.

(D) Shall review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at the request of the board.

(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.

(2) The committee shall have the following duties and authority related to applications:

(A) Shall review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.

(B) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(C) May delegate any or all of the functions in this paragraph to its staff.

(D) Shall issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The board retains final authority to interpret any licensing requirement. If a question arises

in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.

(3) The committee shall have the following duties and authority regarding examinations:

(A) Shall advise the board as to the type of license examination it deems appropriate for the various dental auxiliary license categories.

(B) Shall, at the direction of the board, develop or cause to be developed, administer, or both, examinations in accordance with the board's instructions and periodically report to the board on the progress of those examinations. The following shall apply to the examination procedure:

(i) The examination shall be submitted to the board for its approval prior to its initial administration.

(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.

(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.

(iv) The board shall set pass points for all dental auxiliary licensing examinations.

(C) May appoint board members to any examination committee established pursuant to subparagraph (B).

(4) The committee shall periodically report and make recommendations to the board concerning the level of fees for dental auxiliaries and the need for any legislative fee increase. However, the board retains final authority to set all fees.

(5) The committee shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The committee may delegate any or all of its functions under this paragraph to its staff.

(6) The committee shall have no authority with respect to the approval of continuing education providers and the board retains all of this authority.

(7) The committee shall advise the board as to appropriate standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters that the board may, in the future, delegate to the committee. The board shall retain all authority with respect to the enforcement

actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries.

(8) The committee shall have the following duties regarding regulations:

(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.

(C) To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes and the reasons for and facts supporting the need for the change. The board has the final rulemaking authority.

~~(c) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 29. Section 1751 of the Business and Professions Code, as amended by Section 8 of Chapter 621 of the Statutes of 2005, is amended to read:

1751. (a) The board, upon recommendation of the committee, shall adopt regulations governing the procedures that dental assistants, registered orthodontic assistants, registered surgery assistants, registered restorative assistants, registered dental assistants, registered restorative assistants in extended functions, and registered dental assistants in extended functions are authorized to perform consistent with and necessary to implement the provisions of this article, and the settings within which each may practice.

(b) The board shall conduct an initial review of the procedures, supervision level, settings under which they may be performed, and utilization of extended functions dental auxiliaries by January 1, 2012. The board shall submit the results of its review to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate*. After the initial review, a review shall be conducted at least once every five to seven years thereafter, and the board shall update regulations as necessary to keep them current with the state of dental practice.

(c) This section shall become operative on January 1, 2008.

SEC. 30. Section 2001 of the Business and Professions Code is amended to read:

2001. There is in the Department of Consumer Affairs a Medical Board of California that consists of 21 members, nine of whom shall be public members.

The Governor shall appoint 19 members to the board, subject to confirmation by the Senate, seven of whom shall be public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occur on or after January 1, 1983.

~~This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 31. Section 2460 of the Business and Professions Code is amended to read:

2460. There is created within the jurisdiction of the Medical Board of California and its divisions the California Board of Podiatric Medicine. ~~This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the California Board of Podiatric Medicine subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 32. Section 2531 of the Business and Professions Code is amended to read:

2531. There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology Board in which the enforcement and administration of this chapter is vested. The Speech-Language Pathology and Audiology Board shall consist of nine members, three of whom shall be public members.

~~This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2009, deletes or extends the inoperative and repeal dates. The repeal of this section renders~~

~~the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 33. Section 2569 of the Business and Professions Code is repealed.

~~2569. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473). The review shall be performed as if this chapter were scheduled to become inoperative on July 1, 2003, and would be repealed as of January 1, 2004, as described in Section 473.1.~~

SEC. 34. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two

years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars ($1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars ($610,000) of this loan amount is hereby appropriated to the board to use in the 2000–01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act.

The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.

~~(*l*) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 35. Section 2602 of the Business and Professions Code is amended to read:

2602. The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter. ~~This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 36. Section 2701 of the Business and Professions Code is amended to read:

2701. There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

Within the meaning of this chapter, board, or the board, refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

~~This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 37. Section 2841 of the Business and Professions Code is amended to read:

2841. There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, consisting of 11 members.

Within the meaning of this chapter, board, or the board, refers to the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

~~This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 38. Section 2920 of the Business and Professions Code is amended to read:

2920. The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 39. Section 3010.5 of the Business and Professions Code is amended to read:

3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

~~(c) This section shall remain in effect only until July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.~~

SEC. 40. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. The drugs listed shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order" for purposes of this section means an order for medication which is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be

approved by the supervising physician before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide or issue a drug order for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for the particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and phone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant. The requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the supervising physician and surgeon's Schedule II drug order has been issued or carried out shall be

reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The committee shall consult with the Medical Board of California and report ~~during its sunset review required by Division 1.2 (commencing with Section 473)~~ *to the Legislature and the Office of the Consumer Advocate periodically, as necessary, on* the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 41. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Committee of the Medical Board of California. The committee consists of nine members. ~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).~~

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

3685. ~~(a)~~ The provisions of Article 8 (commencing with Section 3680) shall become operative on January 1, 2004, but the remaining provisions of this chapter shall become operative on July 1, 2004. It is the intent of the Legislature that the initial implementation of this chapter be administered by fees collected in advance from applicants. Therefore, the bureau shall have the power and authority to establish fees and receive applications for licensure or intents to file application statements on and after January 1, 2004. The department shall certify that sufficient funds are available prior to implementing this chapter. Funds from the General Fund may not be used for the purpose of implementing this chapter.

~~(b) This chapter shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute~~

~~that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this chapter renders the bureau subject to the review required by Division 1.2 (commencing with Section 473).~~

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

SEC. 43. Section 3710 of the Business and Professions Code is amended to read:

3710. The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

~~This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 44. Section 4001 of the Business and Professions Code is amended to read:

4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.

(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent

community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

~~(f) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 45. Section 4003 of the Business and Professions Code is amended to read:

4003. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer may or may not be a member of the board as the board may determine.

(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.

~~(e) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 46. Section 4200.1 of the Business and Professions Code is amended to read:

4200.1. (a) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination four times, and may take the Multi-State Pharmacy Jurisprudence Examination for California four times.

(b) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination and the Multi-State Pharmacy Jurisprudence Examination for California four additional times each if he or she successfully completes, at minimum, 16 additional semester units of education in pharmacy as approved by the board.

(c) The applicant shall comply with the requirements of Section 4200 for each application for reexamination made pursuant to subdivision (b).

(d) An applicant may use the same coursework to satisfy the additional educational requirement for each examination under subdivision (b), if the coursework was completed within 12 months of the date of his or her application for reexamination.

(e) For purposes of this section, the board shall treat each failing score on the pharmacist licensure examination administered by the board prior to January 1, 2004, as a failing score on both the North American Pharmacist Licensure Examination and the Multi-State Pharmacy Jurisprudence Examination for California.

(f) From January 1, 2004, to July 1, 2008, inclusive, the board shall collect data on the applicants who are admitted to, and take, the licensure examinations required by Section 4200. The board shall report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate* before September 1, 2008, regarding the impact on those applicants of the examination limitations imposed by this section. The report shall include, but not be limited to, the following information:

(1) The number of applicants taking the examination and the number who fail the examination for the fourth time.

(2) The number of applicants who, after failing the examination for the fourth time, complete a pharmacy studies program in California or another state to satisfy the requirements of this section and who apply to take the licensure examination required by Section 4200.

(3) To the extent possible, the school from which the applicant graduated and the school's location and the pass/fail rates on the examination for each school.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 47. Section 4200.3 of the Business and Professions Code is amended to read:

4200.3. (a) The examination process shall be regularly reviewed pursuant to Section 139.

(b) The examination process shall meet the standards and guidelines set forth in the Standards for Educational and Psychological Testing and the Federal Uniform Guidelines for Employee Selection Procedures. The board shall work with the Office of Examination Resources of the department or with an equivalent organization who shall certify at minimum once every five years that the examination process meets these national testing standards. If the department determines that the examination process fails to meet these standards, the board shall terminate its use of the North American Pharmacy Licensure Examination and shall use only the written and practical examination developed by the board.

(c) The examination shall meet the mandates of subdivision (a) of Section 12944 of the Government Code.

(d) The board shall work with the Office of Examination Resources or with an equivalent organization to develop the state jurisprudence examination to ensure that applicants for licensure are evaluated on their knowledge of applicable state laws and regulations.

(e) The board shall annually publish the pass and fail rates for the pharmacist's licensure examination administered pursuant to Section 4200, including a comparison of historical pass and fail rates before utilization of the North American Pharmacist Licensure Examination.

(f) The board shall *annually* report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature, the Office of the Consumer Advocate,* and the department ~~as part of its next scheduled review~~, the pass rates of applicants who sat for the national examination compared with the pass rates of applicants who sat for the prior state examination. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 48. Section 4501 of the Business and Professions Code is amended to read:

4501. ~~(a)~~ "Board," as used in this chapter, means the Board of Vocational Nursing and Psychiatric Technicians.

~~(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 49. Section 4800 of the Business and Professions Code is amended to read:

4800. There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of seven members, three of whom shall be public members.

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review provided for by Division 1.2 (commencing with Section 473).~~

SEC. 50. Section 4928 of the Business and Professions Code is amended to read:

4928. The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter. The appointing powers, as described in Section 4929, may appoint to the board a person who was a member of the prior board prior to the repeal of that board on January 1, 2006.

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 51. Section 4989 of the Business and Professions Code is repealed.

~~4989. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473). The review shall be performed as if this chapter were scheduled to become inoperative on July 1, 2005, and would be repealed as of January 1, 2006, as described in Section 473.1.~~

SEC. 52. Section 4990 of the Business and Professions Code is amended to read:

4990. (a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of 11 members composed as follows:

(1) Two state licensed clinical social workers.

(2) One state licensed educational psychologist.

(3) Two state licensed marriage and family therapists.

(4) Six public members.

(b) Each member, except the six public members, shall have at least two years of experience in his or her profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint four of the public members and the five licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever first occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

~~(i) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 53. Section 4990.24 of the Business and Professions Code is repealed.

~~4990.24. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 54. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, seven of whom shall be licensees, and eight of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate ~~Rules Committee~~ *Committee on Rules* and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint members representing a cross section of the accounting profession with at least two members representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

~~This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

~~However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection and the board regarding the implementation of new licensing requirements.~~

SEC. 55. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California Architects Board which consists of 10 members.

Any reference in law to the California Board of Architectural Examiners shall mean the California Architects Board.

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 56. Section 5621 of the Business and Professions Code is amended to read:

5621. (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.

(b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.

(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall have elapsed whichever first occurs. Vacancies shall be filled for the unexpired term.

(d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.

~~(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 57. Section 5810 of the Business and Professions Code is amended to read:

5810. ~~(a)~~ This chapter shall be subject to the ~~review required by Division 1.2 (commencing with Section 473)~~ *process described in Division 1.3 (commencing with Section 474.20).*

~~(b) This chapter shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 58. Section 5811 of the Business and Professions Code is amended to read:

5811. An interior design organization issuing stamps under Section 5801 shall provide to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate* by September 1, 2008, a report that reviews and assesses the costs and benefits associated with the California Code and Regulations Examination and explores feasible alternatives to that examination.

SEC. 59. Section 6510 of the Business and Professions Code is amended to read:

6510. (a) There is within the jurisdiction of the department the Professional Fiduciaries Bureau. The bureau is under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief of the bureau, who is responsible to the director. Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to conditions and limitations as the director may prescribe.

(b) The Governor shall appoint, subject to confirmation by the Senate, the chief of the bureau, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

~~(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the bureau subject to the review required by Division 1.2 (commencing with Section 473).~~

~~Notwithstanding any other provision of law, upon the repeal of this section, the responsibilities and jurisdiction of the bureau shall be transferred to the Professional Fiduciaries Advisory Committee, as provided by Section 6511.~~

SEC. 60. Section 6511 of the Business and Professions Code is amended to read:

6511. (a) There is within the bureau a Professional Fiduciaries Advisory Committee. The committee shall consist of seven members; three of whom shall be licensees actively engaged as professional fiduciaries in this state, and four of whom shall be public members. One of the public members shall be a member of a nonprofit organization advocating on behalf of the elderly, and one of the public members shall be a probate court investigator.

(b) Each member of the committee shall be appointed for a term of four years, and shall hold office until the appointment of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

(c) Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the committee for more than two consecutive terms.

(d) The Governor shall appoint the member from a nonprofit organization advocating on behalf of the elderly, the probate court investigator, and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Every member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(f) The committee shall do all of the following:

(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.

(2) Consider and make appropriate recommendations to the bureau in any matter relating to professional fiduciaries in this state.

(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.

(4) Meet at least once each quarter. All meetings of the committee shall be public meetings.

(g) The bureau shall meet and consult with the committee regarding general policy issues related to professional fiduciaries.

~~(h) Notwithstanding any other provision of law, if the bureau becomes inoperative or is repealed in accordance with Section 6510, or by subsequent acts, the committee shall succeed to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction, not otherwise repealed or made inoperative, of the bureau and its chief. The succession of the committee to the functions of the bureau as provided in this subdivision shall establish the committee as the Professional Fiduciaries Committee in the department within the meaning of Section 22, and all references to the bureau in this code shall be considered as references to the committee.~~

SEC. 61. Section 6710 of the Business and Professions Code is amended to read:

6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.

(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.

~~(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 62. 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) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be~~

~~limited to only those unresolved issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection.~~

~~(c) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 63. Section 7200 of the Business and Professions Code is amended to read:

7200. ~~(a)~~ There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.

~~(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 64. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board shall appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

~~(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 65. Section 7304 of the Business and Professions Code is repealed.

~~7304. The board shall be subject to review pursuant to Division 1.2 (commencing with Section 473).~~

SEC. 66. Section 7810 of the Business and Professions Code is amended to read:

7810. The Board for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

Each member shall hold office until the appointment and qualification of the member's successor or until one year has elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each

appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.

At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 67. Section 8000 of the Business and Professions Code is amended to read:

8000. There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 68. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

~~(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute,~~

~~which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 69. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The Board for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

~~(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 70. Section 9882 of the Business and Professions Code is amended to read:

9882. ~~(a)~~ There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

~~(b) In 2003 and every four years thereafter, the Joint Committee on Boards, Commissions, and Consumer Protection shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the bureau. In those hearings, the bureau shall have~~

~~the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare. The committee shall evaluate and review the effectiveness and efficiency of the bureau based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.~~

SEC. 71. Section 18602 of the Business and Professions Code is amended to read:

18602. (a) Except as provided in this section, there is in the Department of Consumer Affairs the State Athletic Commission, which consists of seven members. Five members shall be appointed by the Governor, one member shall be appointed by the Senate ~~Rules~~ Committee *on Rules*, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

No person who is currently licensed, or who was licensed within the last two years, under this chapter may be appointed or reappointed to, or serve on, the commission.

(b) In appointing commissioners under this section, the Governor, the Senate ~~Rules~~ Committee *on Rules*, and the Speaker of the Assembly shall make every effort to ensure that at least four of the members of the commission shall have experience and demonstrate expertise in one of the following areas:

(1) A licensed physician or surgeon having expertise or specializing in neurology, neurosurgery, head trauma, or sports medicine. Sports medicine includes, but is not limited to, physiology, kinesiology, or other aspects of sports medicine.

(2) Financial management.

(3) Public safety.

(4) Past experience in the activity regulated by this chapter, either as a contestant, a referee or official, a promoter, or a venue operator.

(c) Each member of the commission shall be appointed for a term of four years. All terms shall end on January 1. Vacancies

occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. No commission member may serve more than two consecutive terms.

(d) Notwithstanding any other provision of this chapter, members first appointed shall be subject to the following terms:

(1) The Governor shall appoint two members for two years, two members for three years, and one member for four years.

(2) The Senate Committee on Rules shall appoint one member for four years.

(3) The Speaker of the Assembly shall appoint one member for four years.

(4) The appointing powers, as described in subdivision (a), may appoint to the commission a person who was a member of the prior commission prior to the repeal of that commission on July 1, 2006.

~~(e) This section shall become inoperative on July 1, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute, which becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the commission subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 72. Section 18602.5 of the Business and Professions Code is amended to read:

18602.5. (a) The commission shall adopt and submit a strategic plan to the Governor and the Legislature on or before September 30, 2008. The commission shall also submit a report to the Governor and the Legislature on the status of the adoption of the strategic plan ~~during the commission's next regularly scheduled sunset review after January 1, 2007~~ *on or before March 1, 2008.* The strategic plan shall include, but shall not be limited to, efforts to resolve prior State Athletic Commission deficiencies in the following areas:

(1) Regulation of the profession, what fees should be paid for this regulation, and the structure and equity of the fees charged.

(2) The effect and appropriateness of contracts made pursuant to Section 18828.

(3) Costs to train ringside physicians, referees, timekeepers, and judges.

(4) Steps that need to be taken to ensure sufficient sources of revenue and funding.

(5) Necessity for review and modification of organizational procedures, the licensing process, and the complaint process.

(6) Outdated information technology.

(7) Unorganized and improper accounting.

(8) Miscalculations at events, a lack of technology to record proper calculations, and funding issues.

(9) The health and safety of the participants and the public in attendance at events regulated under this chapter, including costs of examinations under Section 18711.

(b) The commission shall solicit input from the public, the State Auditor, the Little Hoover Commission, the Center for Public Interest Law, and others as necessary in preparing and adopting the strategic plan.

(c) The commission shall report on progress in implementing the strategic plan to the Director of Consumer Affairs, the Governor, and the Legislature on or before September 30, 2009.

SEC. 73. Section 18824 of the Business and Professions Code is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within five working days after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission the following:

(1) A written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts, not to exceed two million dollars ($2,000,000), and the gross price for the contest or wrestling exhibition charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission.

(2) A fee of 5 percent, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, except that for any one contest, the fee shall not exceed the amount of one hundred thousand dollars ($100,000). The commission shall report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature and the Office*

of the Consumer Advocate on the fiscal impact of the one hundred thousand dollar ($100,000) limit on fees collected by the commission for admissions revenues.

(A) The amount of the gross receipts upon which the fee provided for in paragraph (2) is calculated shall not include any assessments levied by the commission under Section 18711.

(B) (i) If the fee for any one boxing contest exceeds seventy thousand dollars ($70,000), the amount in excess of seventy thousand dollars ($70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund.

(ii) If the report required by subdivision (b) of Section 18618 recommends that the Boxers' Pension Fund shall be expanded to include all athletes licensed under this chapter, the commission, by regulation, shall require, for all contests where the fee exceeds seventy thousand dollars ($70,000), the amount in excess of seventy thousand dollars ($70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund only if all athletes licensed under this chapter are made eligible for the Boxers' Pension Fund.

(C) The fee shall apply to the amount actually paid for admission and not to the regular established price.

(D) No fee is due in the case of a person admitted free of charge. However, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest, or wrestling exhibition exceeds 33 percent of the total number of spectators, then a fee of one dollar ($1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 33 percent of the total number of spectators.

(E) The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars ($500).

(3) A fee of up to 5 percent, to be established by the commission through regulations to become operative on or before July 1, 2008, and updated periodically as needed, of the gross price, exclusive of any federal taxes paid thereon, for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars ($1,000) or more than twenty-five thousand dollars ($25,000).

(b) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other

organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

SEC. 74. Section 18882 of the Business and Professions Code is amended to read:

18882. (a) At the time of payment of the fee required by Section 18824, a promoter shall pay to the commission all amounts scheduled for contribution to the pension plan. If the commission, in its discretion, requires pursuant to Section 18881, that contributions to the pension plan be made by the boxer and his or her manager, those contributions shall be made at the time and in the manner prescribed by the commission.

(b) All contributions to finance the pension plan shall be deposited in the State Treasury and credited to the Boxers' Pension Fund, which is hereby created. Notwithstanding the provisions of Section 13340 of the Government Code, all moneys in the Boxers' Pension Fund are hereby continuously appropriated to be used exclusively for the purposes and administration of the pension plan.

(c) The Boxers' Pension Fund is a retirement fund, and no moneys within it shall be deposited or transferred to the General Fund.

(d) The commission has exclusive control of all funds in the Boxers' Pension Fund. No transfer or disbursement in any amount from this fund shall be made except upon the authorization of the commission and for the purpose and administration of the pension plan.

(e) Except as otherwise provided in this subdivision, the commission or its designee shall invest the money contained in the Boxers' Pension Fund according to the same standard of care as provided in Section 16040 of the Probate Code. The commission has exclusive control over the investment of all moneys in the Boxers' Pension Fund. Except as otherwise prohibited or restricted by law, the commission may invest the moneys in the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction that the commission in its informed opinion determines is prudent.

(f) The administrative costs associated with investing, managing, and distributing the Boxers' Pension Fund shall be limited to no more than 20 percent of the average annual contribution made to the fund in the previous two years, not including any investment income derived from the corpus of the fund. Diligence shall be exercised by administrators in order to lower the fund's expense ratio as far below 20 percent as feasible and appropriate. The commission shall report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Legislature and the Office of the Consumer Advocate* on the impact of this provision ~~during the next regularly scheduled sunset review after January 1, 2007~~ *on or before March 1, 2008.*

SEC. 75. Section 22259 of the Business and Professions Code is repealed.

~~22259. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).~~

~~This chapter shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends that date on which it becomes inoperative and is repealed.~~

SEC. 76. Section 9148.8 of the Government Code is amended to read:

9148.8. (a) The ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Office of the Consumer Advocate*, acting pursuant to a request from the chairperson of the appropriate policy committee, shall evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.

(b) Evaluations prepared by the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Office of the Consumer Advocate* pursuant to this section shall be provided to the respective policy and fiscal committees of the Legislature pursuant to rules adopted by each committee for this purpose.

SEC. 77. Section 9148.51 of the Government Code is amended to read:

9148.51. (a) It is the intent of the Legislature that all existing and proposed state boards be subject to review ~~every four years~~ *upon request by a Member of the Legislature or the chief of the Office of the Consumer Advocate, as provided in Division 1.3 (commencing with Section 474.20) of the Business and Professions Code,* to evaluate and determine whether ~~each has demonstrated~~

~~a public need for its continued existence in accordance with enumerated factors and standards as set forth in Chapter 2 (commencing with Section 474) of Division 1.2 of the Business and Professions Code~~ *the highest priority of each board is the protection of the public.*

(b) ~~In the event that~~ *If* any state board ~~becomes inoperative or is repealed in accordance with the act that added this section, any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that state board is inoperative or repealed~~ *is determined to be deficient pursuant to Section 474.21 of the Business and Professions Code, the incumbent members of the board shall be removed from office without a hearing as described in Section 474.21 of the Business and Professions Code, and a successor board shall be appointed pursuant to Section 101.1 of the Business and Professions Code.*

~~(c) Any provision of law authorizing the appointment of an executive officer by a state board subject to the review described in Chapter 2 (commencing with Section 474) of Division 1.2 of the Business and Professions Code, or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable state board is inoperative or repealed.~~

~~(d) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any state board shall be a separate bill for that purpose.~~

SEC. 78. Section 9148.52 of the Government Code is repealed.

~~9148.52. (a) The Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473 of the Business and Professions Code shall review all state boards, as defined in Section 9148.2, other than a board subject to review pursuant to Chapter 1 (commencing with Section 473) of Division 1.2 of the Business and Professions Code, every four years.~~

~~(b) The committee shall evaluate and make determinations pursuant to Chapter 2 (commencing with Section 474) of Division 1.2 of the Business and Professions Code.~~

~~SECTION 1. Section 101.1 of the Business and Professions Code is repealed.~~

~~SEC. 2. Section 101.1 is added to the Business and Professions Code, to read:~~

~~101.1. In the event that any board, as defined in Section 477, becomes inoperative or is repealed, a successor board shall be created in the Department of Consumer Affairs that shall succeed to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made inoperative of the board that it is succeeding. The successor board shall have the same number of members and composition as the board that it is succeeding, and those members shall be appointed by the same appointing authorities, for the same term, and with the same membership requirements as the members of that board. The successor board shall also have the same authority to appoint an executive officer as was possessed by the board that it is succeeding on the date upon which that board became inoperative.~~

~~SEC. 3. Section 4001 of the Business and Professions Code is amended to read:~~

~~4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.~~

~~(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.~~

~~(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.~~

~~(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~(f) In accordance with Section 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

~~SEC. 4. Section 4003 of the Business and Professions Code is amended to read:~~

~~4003. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer may or may not be a member of the board as the board may determine.~~

~~(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.~~

~~(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.~~

~~(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.~~

~~(e) In accordance with Section 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,~~

1 ~~unless a later enacted statute, that becomes effective on or before~~
2 ~~January 1, 2011, deletes or extends the dates on which it becomes~~
3 ~~inoperative and is repealed.~~

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AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL No. 966

Introduced by Senators Simitian and Kuehl

February 23, 2007

An act to add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as amended, Simitian. Pharmaceutical drug disposal.

Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would ~~require~~ *authorize* every retailer of a drug, as defined, ~~on and after July 1, 2008, to have in place a system~~ *to conduct projects* for the ~~acceptance and~~ collection of drugs for proper disposal that includes specified elements. ~~The~~

This bill would require the department to coordinate state agencies to compile and make available on their Web sites information and resources about models of existing programs. The bill would require the department, after July 1, 2010, but not later than September 30, 2010, to identify the number of collection opportunities that are

consistent with this bill, and to adopt emergency regulations to implement this bill.

The bill would provide that its provisions shall not apply to a controlled substance, as defined.

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

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

SECTION 1. Chapter 6.9.2 (commencing with Section 25400.50) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9.2. DRUG DISPOSAL

25400.50. *(a)* The Legislature finds and declares all of the following:

~~(a)~~

(1) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

~~(b)~~

(2) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

~~(c)~~

(3) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this chapter to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers and cost effective for retailers.

(b) It is the intent of the Legislature in enacting this chapter:

(1) To encourage a cooperative relationship between manufacturers, retailers, and local, state, and federal government agencies to devise a safe, efficient, convenient, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not

limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

(3) To develop a system that recognizes the business practices of retailers and manufacturers and is consistent with and complements their drug management programs.

25400.51. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Consumer" means an individual purchaser or owner of a drug. "Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) "Department" means the Department of Toxic Substances Control.

~~(b)~~

(c) "Drug" means any of the following:

(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeia.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Articles, excluding food, intended to affect the structure or any function of the body of humans or other animals.

(4) Articles intended for use as a component of any article specified in paragraph (1), (2), or (3).

~~(c)~~

(d) (1) "Retailer" means an entity that makes a retail sale of a drug to a consumer in this state and that meets either of the following requirements:

(A) Meets the definition of a "supermarket," as defined in Section 14526.5 of the Public Resources Code.

(B) Has over 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(2) "Retailer" does not include a veterinarian who disposes of drugs that he or she did not personally manufacture or sell.

~~(d)~~

(e) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

~~25400.52. (a) On and after July 1, 2008, every retailer shall have in place a system for the acceptance and collection of drugs for proper disposal.~~

~~(b) A system for the acceptance and collection of drugs for proper disposal shall, at a minimum, include all of the following elements:~~

~~(1) The take-back, at no cost to the consumer, of a drug, the type or brand of which the retailer sold or previously sold.~~

~~(2) A notice to consumers that shall include informational materials, including, but not limited to, Internet Web site links or a telephone number, placed on the invoice or purchase order, or packaged with the drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost drug disposal.~~

~~(3) Information made available to consumers about drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:~~

~~(A) Signage that is prominently displayed and easily visible to the consumer.~~

~~(B) Written materials provided to the consumer at the time of purchase or delivery, or both.~~

~~(C) Reference to the drug take-back opportunity in retailer advertising or other promotional materials, or both.~~

~~(D) Direct communications with the consumer at the time of purchase.~~

~~(c) If a retailer is participating in an existing pharmaceutical drug take-back system and the system otherwise complies with the requirements of this Chapter, the retailer may continue to participate in that existing program.~~

25400.52. (a) Notwithstanding any provision of law to the contrary, commencing January 1, 2008, California retailers may conduct projects to collect and properly dispose of drugs rendered

by consumers for disposal. The purpose of these projects is to develop, test, evaluate, and implement program models for the proper collection and disposal of waste drugs.

(b) Participating programs shall at a minimum do all of the following:

(1) Ensure proper disposal pursuant to all applicable laws, rules, and regulations.

(2) Ensure the protection of public health and safety, the environment, and the health and safety of retail employees pursuant to applicable laws, rules, and regulations.

(3) Provide educational materials to consumers informing them of the availability of this program and what constitutes proper and improper disposal of drugs.

(4) Evaluate the program or components of the program for efficiency, effectiveness, and funding sustainability.

(c) Pharmacies may partner with local governments to apply for appropriate household hazardous waste grants pursuant to the Public Resources Code.

(d) The department shall coordinate with the applicable state agencies to compile and make available on their Web sites information and resources about models of existing programs and information regarding the proper disposal of drug waste, including applicable state and federal laws.

25400.53. (a) After July 1, 2010, but not later than September 30, 2010, the department shall identify the number of collection opportunities that are consistent with the intent of this chapter. If the department finds that less than 80 percent of the state's population has access to a collection opportunity that is within one mile of a retailer, as defined in this chapter, the department shall by January 1, 2011, require every retailer to have in place a system for the acceptance and collection of drugs for proper disposal.

(b) A system for the acceptance and collection of drugs for proper disposal shall, at a minimum, include all of the following elements:

(1) The take-back, at no cost to the consumer, of a drug, the type or brand of which the retailer sold or previously sold.

(2) A notice to consumers that shall include informational materials, including, but not limited to, Internet Web site links or a telephone number placed on the invoice or purchase order, or

packaged with the drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost drug disposal.

(3) Information made available to consumers about drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials provided to the consumer at the time of purchase or delivery, or both.

(C) Reference to the drug take-back opportunity in retailer advertising or other promotional materials, or both.

(D) Direct communications with the consumer at the time of purchase.

(c) If a retailer is participating in an existing pharmaceutical drug take-back system, and the system otherwise complies with the requirements of this chapter, the department shall authorize the retailer to continue to participate in that existing program in lieu of complying with the mandatory program.

(d) (1) The department may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that the department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.

(2) The department may adopt regulations to implement this chapter as emergency regulations. The emergency regulations adopted pursuant to this chapter shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office

1 *of Administrative Law and shall remain in effect for a period of*
2 *two years or until revised by the department, whichever occurs*
3 *sooner.*
4 ~~25400.53.~~
5 *25400.54.* This chapter shall not apply to a controlled
6 substance, as defined in Section 11007.

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Date of Hearing: June 26, 2007

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Jared Huffman, Chair
SB 966 (Simitan) - As Amended: April 30, 2007

SENATE VOTE : 21-13

SUBJECT : Pharmaceutical drug disposal.

SUMMARY : Requires every retailer of a drug to have in place, on and after July 1, 2008, a system for the acceptance and collection of drugs for proper disposal, as specified. Specifically, this bill :

1) Defines specified terms and definitions for purposes of the bill.

2) Requires every retailer of a drug, on and after July 1, 2008, to have in place a system for the acceptance and collection of drugs for proper disposal.

3) Specifies that a system for the acceptance and collection of drugs for proper disposal shall, at a minimum, include:
   a) The take-back, at no cost to the consumer, of a drug, the type or brand of which the retailer sold or previously sold.
   b) A notice to consumers that shall include informational materials, including, but not limited to, Internet Website links or a telephone number, placed on the invoice or purchase order, or packaged with the drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost drug disposal.

4) Requires information be made available to consumers about drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:
   a) Signage that is prominently displayed and easily visible to the consumer.
   b) Written materials provided to the consumer at the time of purchase or delivery, or both.
   c) Reference to the drug take-back opportunity in retailer advertising or other promotional materials, or both.
   d) Direct communications with the consumer at the time of

purchase.

5) States the provisions of the bill do not apply to a controlled substance, as defined.

6) Makes Legislative findings and declarations regarding the harmful effects of improper drug disposal.

EXISTING LAW :

1) Under the United States Federal Food, Drug, and Cosmetic Act authorizes the Food and Drug Administration (FDA) to oversee the safety of food, drugs, and cosmetics.

2) Under the Resource Conservation and Recovery Act (RCRA) of 1976, provides for the management of solid and hazardous waste.

3) Under the California Hazardous Substances Act, authorizes the Department of Toxic Substances Control to regulate hazardous materials and wastes to ensure that the state is delegated authority in accordance with RCRA.

4) Under the California Integrated Waste Management Act, requires the California Integrated Waste Management Board to implement a statewide household hazardous substance information and collection program.

5) Under the Medical Waste Management Act the State Department of Health Services regulates the management and handling of medical waste. Certain items, such as household waste, are specifically excluded from the definition of medical waste.

6) Provides for the regulation of prescription drugs and medical devices dispensed by pharmacies by the California State Board of Pharmacy within the Department of Consumer Affairs.

FISCAL EFFECT : None.

COMMENTS :

Need for the bill : The author's office states that under existing law, hazardous waste and medical waste are regulated

under state law to prevent unsafe disposal that may pose a risk

to human health and the environment. However, because the law considers drugs a household hazardous waste, there is no prohibition against throwing unused drugs in the trash or flushing them down the toilet.

Without a safe and effective method for disposal, prescription drugs may be left indefinitely in medicine cabinets where they pose a threat of potential prescription drug misuse or abuse. The author's office believes that this bill provides a safe and environmentally sound method for the disposal of unused prescription drugs. Currently, when an individual needs to dispose of expired or left over medications, the only safe way to do so is to take it to a household hazardous waste collection site. Most often drugs are either flushed down the toilet or thrown in the garbage where they can pose a threat to the environment and contaminate our waterways.

The author's office states that the United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones. Exposure, even to low levels of pharmaceuticals, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

Emerging Issue : According to the Department of Toxic Substances Control (DTSC), pharmaceuticals and personal care products (PPCPs) comprise a diverse group of chemicals including, but not limited to, prescription and over-the-counter human drugs, veterinary drugs, diagnostic agents, nutritional supplements, and other consumer products such as fragrances, cosmetics, and sun-screen agents. The term PPCPs refers to the products we use for personal health or cosmetic reasons. PPCPs can be introduced into the environment through routes. Treated and untreated domestic sewage containing excreted PPCPs and their metabolites following human use represents an important source of these compounds in the environment. Other sources which can potentially introduce PPCPs into the environment include: leaching from landfills following disposal of expired and unused products; disposal of expired and unused PPCPs in the toilet; release of unabsorbed externally applied PPCPs (e.g. lotions) to surface waters from activities such as swimming; excreta from animals including pets and other domestic animals; use of sewage

solids and manure for soil amendment and fertilization; and industrial manufacturing waste streams.

Ongoing Efforts : In California, several local governments, water districts, law enforcement agencies and non-profit

organizations have organized singular prescription drug take back event days. The State of Washington is currently implementing a pharmacy-based take-back program pilot project. Maine has adopted legislation to implement a mail-back program to the Maine Drug Enforcement Agency.

These efforts provide a good basis of different approaches and efforts to draw from to begin to organize programs in California. State agencies, including DTSC, the California Integrated Waste Management Board (CIWMB), State Water Resources Control Board (SWRCB), Department of Health Services (DHS) all have vested interest in this issue and have devoted some resources to investigate possible solutions to ensure that Californian's understand the hazards posed by improper management of pharmaceuticals and have access to locations to properly dispose of them.

Extended Producer Responsibility (EPR): EPR is a policy approach that refers to shifting responsibility away from general taxpayers to the manufacturers. There are many different levels of responsibility that manufacturers can assume for their products on the path to taking full responsibility for their products. Any movement on the path to manufacturers taking full responsibility is in keeping with EPR. This bill represents a strong EPR approach.

What type of program would work best in California? Efforts to provide creative, sustainable, efficient and effective collection and management programs for a variety of consumer products have been legislated over the past years. They range from fees on products to fund collection and disposal (e.g., televisions, computer monitors, used lubricating oil) to retailer take-back (e.g., cell phones, rechargeable batteries, plastic grocery sacks). They all represent attempts to work with effected stakeholders to come up with programs that work for participants, reduce the dependence on local government to foot the bill for management, and include manufacturers and distributors of products as part of the solution. These efforts, and the efforts undertaken by local governments (through ordinances), other states (through voluntary and

statutory efforts) and internationally (through multi-national directives) has given the administration a wide selection of models and examples that it could begin to base policies and programs that will work for California.

Next steps? If the Committee believes an immediate mandatory take back program is inappropriate at this time, consideration could be given to a voluntary approach with oversight by the appropriate state agency. For example, given the wide variety

of programs and policies that could be applied to solving the management and collection issue for waste drugs and the expressed interest by stakeholders to find a solution, the consideration to authorizing, beginning with a voluntary program, retailers and manufacturers to take back pharmaceuticals might be considered. This could be accompanied by direction to state agencies to provide technical assistance and guidance to retailers and manufacturers and other participants to encourage the development and implementation of voluntary programs. Consideration should also be given to developing a statutory structure, similar to the management of sharps waste (e.g., hypodermic needles, lancets) generated by homeowners that will allow retailers and manufacturers to be active partners in this effort. Also, to ensure that there is progress toward solving the problem, consideration should be given to granting authority to the appropriate state agency to adopt a program for the state if it is determined that a voluntary program is not adequate.

The author may wish to consider the amendments below to work to the issues listed above. Also, the author should continue to work to include in this bill standards to compliment the current business practices concerning non-dispensed and/or expired drugs and mirror existing laws regarding household generated waste including the management of sharp waste.

SB 966 (Simitian)
As proposed to be amended in Asm Health Cmt
April 30, 2007 Version

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.9.2 (commencing with Section 25400.50) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9.2. DRUG DISPOSAL

25400.50. The Legislature finds and declares all of the following:

(a) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

(b) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have

negative effects on human health.
(c) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this ~~article~~ chapter to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers and cost effective for retailers.

25400.50.1 It is the intent of the Legislature in enacting this chapter:
(a) To encourage a cooperative relationship between manufacturers, retailers, and local, state and federal government agencies to devise a safe, efficient, convenient, sustainable and environmentally sound solution for the disposal of drugs.
(b) For the programs and systems developed in other local, state and national jurisdictions to be used as models for the development of pilot programs in California, including but not limited the efforts in Los Angeles, Marin, San Mateo and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia and Australia,
(c) To develop a system that recognizes the business practices of retailers and manufacturers and is consistent with and complements their drug management programs.

25400.51 For the purposes of this ~~article~~ chapter , the following terms have the following meanings, unless the context clearly requires otherwise:
(a) "Consumer" means an individual purchaser or owner of a drug.

"Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.
(b) "Department" means the Department of Toxic Substances Control
~~(b)~~ (c) "Drug" means any of the following:
(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeia.
(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.
(3) Articles, excluding food, intended to affect the structure or

any function of the body of humans or other animals.
(4) Articles intended for use as a component of any article specified in paragraph (1), (2), or (3).
~~(c) "Retailer" means a person or entity who makes a retail sale of a drug to a consumer in this state. "Retailer" does not include a veterinarian that disposes of drugs that he or she did not personally manufacture or sell.~~
~~(c)~~ (d) (1) "Retailer" means an entity that makes a retail sale of a drug to a consumer in this state and that meets either of the following requirements:
(A) Meets the definition of a "supermarket," as defined in Section 14526.5 of the Public Resources Code.
(B) Has over 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.
(2) "Retailer" does not include a veterinarian who disposes

of drugs that he or she did not personally manufacture or sell.
~~(d)~~ (e)" Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

Delete the text in section 25400.52 in its entirety and replace with:

25400.52. (a)Upon enactment of this chapter California retailers are permitted to conduct projects to collect and properly dispose of drugs rendered by consumers for disposal. The purpose of these projects is to develop, test, evaluate and implement program models for the proper collection and disposal of waste drugs..
(b) Participating programs should at a minimum do the following:
1. Ensure proper disposal pursuant to all applicable laws, rules and regulations.
2. Ensure the protection of public health and safety and the

environment the health and safety of retail employees pursuant to applicable laws, rules and regulations
3. Provide educational materials to consumers informing them of the availability of this program and what constitutes proper and improper disposal of drugs
4. Evaluate the program or components of the program for efficiency, effectiveness and funding sustainability
(c) Pharmacies may partner with local governments to apply for appropriate household hazardous waste grants pursuant to Public Resources Code.
(d) The Department shall coordinate with the applicable state agencies to compile and make available on their website information and resources about models of existing programs and information regarding the proper disposal of drug waste including applicable state and federal laws.

25400.53 ~~This chapter shall not apply to a controlled substance, as defined in Section 11007~~ .(a) After July 1, 2010 but before September 30, 2010, the department shall identify the number of collection opportunities that are consistent with the intent of this chapter,. If the Department finds that less than 80 percent of the state's population has access to a collection opportunity that is within one mile of a retailer as defined in this chapter

the Department shall by January 1, 2011 require every retailer ~~shall~~ have in place a system for the acceptance and collection of drugs for proper disposal.
(b) A system for the acceptance and collection of drugs for proper disposal shall, at a minimum, include all of the following elements:

(1) The take-back, at no cost to the consumer, of a drug, the type or brand of which the retailer sold or previously sold.
(2) A notice to consumers that shall include informational materials, including, but not limited to, Internet Web site links or a telephone number, placed on the invoice or purchase order, or
packaged with the drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost drug disposal .
(3) Information made available to consumers about drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:
(A) Signage that is prominently displayed and easily visible to the consumer.
(B) Written materials provided to the consumer at the time of purchase or delivery, or both.
(C) Reference to the drug take-back opportunity in retailer

advertising or other promotional materials, or both.
(D) Direct communications with the consumer at the time of purchase.

(c) If a retailer is participating in an existing pharmaceutical drug take-back system and the system otherwise complies with the requirements of this chapter, the retailer may continue to participate in that existing program.

(d) The department may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that the department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.
(1) The department may adopt regulations to implement this chapter as emergency regulations. The emergency regulations adopted pursuant to this chapter shall be adopted by the department in accordance with Chapter 3.5 (commencing with

Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

25400.54. This chapter shall not apply to a controlled substance, as defined in Section 11007.

Arguments in Support: Supporters contend that currently there are few safe and convenient ways for consumers to dispose of unused prescription drugs. They also point to the fact that existing law already requires many pharmacies to provide consumers with a take-back and recycling obligation for other problem products, including plastic bags, rechargeable batteries and cell phones. Extending this take-back responsibility to pharmaceuticals is a logical step. They also state that this bill provides a safe and environmentally sound method for the disposal of unused prescription drugs and agrees that pharmacies

provide a convenient location for consumers to return unused drugs. Without a safe and effective method for disposal, prescription drugs maybe left indefinitely in medicine cabinets where they pose a threat of potential prescription drug misuse.

Arguments in Opposition : The opponents to this bill state that although most agree with the goal of appropriate and safe disposal of prescription drugs, there remain substantial concerns regarding the burdens that would be imposed on pharmacies by such an unfunded mandate. They fear that they would be unable to support the adminis and cost demands that would be imposed by this bill. Other states that some pharmacies have established drug disposal programs have made them voluntary and have allowed pharmacies to charge a nominal fee to cover the cost associated with the

program. In addition, some states have established voluntary take-back days in which pharmacies collect unused drugs on certain days. State agencies then collect the returned drugs from each store and properly dispose of them. Some believe that other programs represent well thought-out approaches to establishing a drug take-back program.

REGISTERED SUPPORT / OPPOSITION :

Support

American Federation of State, County and Municipal Employees
Breast Cancer Fund
Californians Against Waste
California Association of Sanitation Agencies
California Nurses Association
California Product Stewardship Council
California Veterinary Medical Association
Central Contra Costa Sanitary District
City of Benicia
City of Elk Grove
City of Livermore (Water Resources Division)
City of Millbrae
City of Palo Alto
City of Petaluma
City of Rohnert Park
City of Roseville
City of Santa Cruz
City and County of San Francisco
City of Sunnyvale
Clean Water Action

_ County Sanitation Districts of Los Angeles County
East Bay Municipal Utility District
EXP Pharmaceutical Services Corp.
Laguna de Santa Rosa Foundation
League of California Cities
Marin Co. Hazardous & Solid Waste Management Joint Powers Authority
Maine Benzodiazepine Study Group
Mt. View Sanitary District
Orange County Sanitation District
Planning and Conservation League
Regional Council of Rural Counties

Sacramento Regional County Sanitation District
San Francisco Public Utilities Commission
San Luis Obispo County Integrated Waste Management Authority
Sanitation Districts of Los Angeles County
Santa Clara Valley Water District
Save the Bay
Sierra Club California
Solid Waste Association of North America
Sonoma County Water Agency
StopWaste.Org, Alameda County Waste Management Authority
Teleosis Institute
TODOS UNIDOS
Forest Batz, PharmD, Assistant Clinical Professor, School of Pharmacy, University of California, San Francisco
One individual

Opposition

California Grocers Association
California Manufacturers and Technology Association
California Retailers Association
National Association of Chain Drug Stores
Rite Aid

Analysis Prepared by : Caroll Mortensen / E.S. & T.M. / (916) 319-3965

Item B 3

Other Legislation Introduced

California State Board of Pharmacy
1625 N. Market Blvd, Suite N 219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

STATE AND CONSUMERS AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

To: Legislation and Regulation Committee

From: Staff

Subject: Other Legislation Introduced: For Information Only

Following are additional legislative proposals that may be of interest to the board and/or the profession. These proposals were introduced this legislative cycle, however no board position was taken. Copies of the exact language can be obtained at www.leginfo.ca.gov.

A. Active Bills

1. AB 14 (Laird) Discrimination: Civil Rights Act of 2007
2. AB 64 (Berg) Uniform Emergency Volunteer Health Practitioners Act
3. AB 106 (Berg) Immunizations
4. AB 329 (Nakanishi) Chronic Diseases: Telemedicine
5. AB 1302 (Hornton) Health Insurance Portability and Accountability Act

B. Inactive Bills

1. AB 374 (Berg) California Compassionate Choices Act
2. AB 436 (Salas) Health Insurance Portability and Accountability Act of 2001
3. AB 555 (Nakanishi) Health Arts: Medical Records
4. Ab 703 (Ruckin) Social Security Numbers
5. ACR 9 (Dymally) Legislative Task Force on Substance Abuse
6. SB 254 (Aanestad) Health Facilities: Licensure
7. SB 907 (Calderon) Physicians and Surgeons: Referrals