



**California State Board of Pharmacy**

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STATE AND CONSUMER SERVICES AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
ARNOLD SCHWARZENEGGER, GOVERNOR

June 22, 2007

The Honorable Ellen Corbett  
California State Senate  
State Capitol, Room 3092  
Sacramento, CA 95814

SB 472: Support (As amended June 20, 2007)

Dear Senator Corbett:

I am pleased to inform you that the Board of Pharmacy supports your Senate Bill 472 as amended June 20, 2007. This bill would require the Board of Pharmacy to standardize prescription labels for California consumers.

The board has worked with staff from your office as well as the bill's sponsors to refine these amendments, which would make the Board of Pharmacy responsible for developing the standardized prescription label through a series of public meetings that would be held throughout California. At the conclusion of these hearings the board would adopt the regulations.

The board commends your office as well as the sponsors for driving this initiative that will make prescription labels patient centered.

Sincerely,

A handwritten signature in black ink that reads "Virginia Herold".

Virginia Herold  
Executive Officer

cc: The Honorable Mervyn Dymally,  
Chair, Assembly Health Committee  
Kevin Hanley, Consultant  
Assembly Republican Policy Unit

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 606**

**VERSION: As Amended July 17, 2007**

**AUTHOR: Scott**

**SPONSOR: California Public Interest  
Research Group**

**BOARD POSITION: Support**

**SUBJECT: Pharmaceutical information: clinical trial data**

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**EXISTING LAW:**

Regulates the packaging, labeling and advertising of food, drugs and cosmetics.

**THIS BILL WOULD:**

1. Create the Pharmaceutical Drug Information and Safety Act
2. Define a clinical trial as a clinical investigation as defined by the federal FDA
3. Define "pharmaceutical manufacturer" as any entity that is:
  - Engaged in the production, preparation, propagation, compounding, conversion or processing of pharmaceutical drugs, either directly or indirectly, by means of chemical synthesis or by a combination of extraction and chemical synthesis
  - Engaged in the packaging, repackaging, labeling, relabeling or distribution of pharmaceutical drugs
4. Exempt the following from the definition of a pharmaceutical manufacturer:
  - A corporation that 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
  - A wholesale distributor of drugs, mail order pharmacy or retail pharmacy
5. Define pharmaceutical drug as any drug which is approved by the federal FDA and commercially available in this state
6. Define a Phase I Trial as 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.
7. Define "serious adverse event" as any adverse drug experience occurring at any dose the results in any of the following:
  - Death
  - Life-threatening adverse drug experience

- Inpatient hospitalization or prolongation of existing hospitalization
  - Persistent or significant disability to incapacity
  - Congenital anomaly or birth defect
  - Can include important medical events when based upon appropriate medical judgment, the events may jeopardize the patient or subject and may require medical or surgical intervention.
8. Define "scientific work product" as a writing that reflects a scientist, clinician or researcher's impressions, conclusions, opinions, research, statistical calculations or theories.
  9. Define "sponsor" as an individual or pharmaceutical manufacturer, government agency, academic institution, private organization, or other organization that takes responsibility for or initiates a clinical investigation.
  10. Require any pharmaceutical manufacturer to make publicly available the results of every completed clinical trial, except for a phase I trial or study used to establish bioequivalence, that the manufacturer conducts on or after October 15, 2002, for every drug that the manufacturer sells, delivers, offers for sale, or gives away in this state
  11. Detail the information required to include:
    - a. The name of the trial
    - b. Commercial and chemical name of all pharmaceutical drugs tested, including comparator drugs
    - c. Dosages tested for each drug, including comparator drugs
    - d. Initiation and completion dates of the trial
    - e. Purposes of the trial, including the medical condition or conditions studied
    - f. Outcomes of the trial including any time points at which outcome data were measured and used to either subsequently for either marketing purposes or other action taken to publicly promote the outcomes of a trial including, but not limited to a news release.
    - g. Trial funding sources
    - h. Number of patients initially enrolled in the trial
    - i. Number of patients completing the trial
    - j. 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 why each characteristic was used to include or exclude patients
    - k. Names and contact information for principal sponsors of the trial to include at least the phone number, mailing address and e-mail address for public inquiries
    - l. Names and contact information for principal researchers of the trial
    - m. Frequency, severity and nature of all serious adverse events experienced by trial participants, including participants that did not complete the trial for each drug
    - n. All information regarding the relative efficacy of each drug and the relative frequency, severity and nature of all adverse events experienced by trial participants if the study involved a comparison of two or more pharmaceutical drugs

- o. A complete citation and, if available a hyperlink for any publications of the data from the study
  - p. A hyperlink to the package insert for the drug that includes any adverse events to the drug
10. Require any pharmaceutical manufacturer to make publicly available an explanation of noncompletion for any clinical trial that the pharmaceutical manufacturer initiates or sponsors initiate, but does not complete, for every pharmaceutical drug that the manufacturer sells, delivers, offers for sale or gives away. The explanation shall include the reason why the trial was terminated.
  11. Require that the trial information shall be submitted for inclusion on the Web site administered by the National Institutes of Health or on another publicly accessible Web site directly linked to the pharmaceutical manufacturer's primary corporate Web site. A publicly accessible Web site must provide free, nonsubscription access to its contents and clearly indicate the location and instructions for downloading the files or information submitted.
  12. Establish timelines for compliance with this section
  13. State that provisions of this chapter shall not be construed to require the public disclosure of a trade secret as defined or scientific work product.
  14. Specify that only factors, conclusion, results or points of state from a clinical trial that are deemed a trade secret shall be withheld from disclosure.
  15. State that if parts or all of a clinical trial are withheld from disclosure, a pharmaceutical manufacturer shall disclose the fact that information was withheld because it constitutes a trade secret.
  16. State that nothing in this division shall require the State Department of Public Health to enforce implementation of this requirement.

#### **AUTHOR'S INTENT:**

According to the author's office, this bill addresses the concern that consumers do not have enough access to information regarding pharmaceutical drugs and their testing history.

#### **FISCAL IMPACT:**

The board does not anticipate any fiscal impact. Any minor fiscal impact could be absorbed within existing resources.

#### **SUPPORT and OPPOSITION**

##### SUPPORT

California Public Interest Research Group (sponsor)  
AIDS Health Care Foundation  
Breast Cancer Action  
California Academy of Family Physicians  
California Alliance for Retired Americans

California Labor Federation, AFL-CIO  
California Nurses Association  
Citizens Commission on Human Rights  
Congress of California Seniors  
Consumer Federation of California  
Consumers Union  
Greenlining Institute  
Health Access California

#### OPPOSITION

Abbott  
BayBio  
Civil Justice Association of California  
GlaxoSmithKline  
Pfizer  
Pharmaceutical Research and Manufacturers of America

During the hearing before the ASM Health committee hearing on July 2, 2007 at least two of the above manufacturers withdrew their opposition.

#### **HISTORY:**

<b>Dates</b>	<b>Actions</b>
07/12/07	July 12 From committee: Do pass as amended. (Ayes 16. Noes 0.)
06/27/07	June 27 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on HEALTH.
06/21/07	June 21 To Com. on HEALTH.
06/07/07	June 7 In Assembly. Read first time. Held at Desk.
06/07/07	June 7 Read third time. Passed. (Ayes 25. Noes 15. Page 1330.) To Assembly.
06/05/07	June 5 Read second time. To third reading.
06/04/07	June 4 Read third time. Amended. To second reading. (Corrected June 14.) (Corrected June 15.)
05/15/07	May 15 Read second time. Amended. To third reading.
05/14/07	May 14 From committee: Do pass as amended. (Ayes 6. Noes 3. Page 932.)
04/17/07	Apr. 17 Set for hearing May 9.
03/08/07	Mar. 8 To Com. on HEALTH.
02/23/07	Feb. 23 From print. May be acted upon on or after March 25.
02/22/07	Feb. 22 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Revised July 17, 2007

AMENDED IN ASSEMBLY JULY 16, 2007

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 15, 2007

**SENATE BILL**

**No. 606**

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**Introduced by Senator Scott**

**(Coauthor: Senator Kuehl)**

(Coauthors: Assembly Members Brownley and Ruskin)

February 22, 2007

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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.

This bill would require a pharmaceutical ~~company~~ *manufacturer* 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~~ *study used to establish bioequivalence*, for that drug and an explanation of noncompletion for any clinical trial, except a phase I trial, that the ~~company~~ *manufacturer* 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:*

1 SECTION 1. Division 112.6 (commencing with Section  
2 130650) is added to the Health and Safety Code, to read:

3  
4 DIVISION 112.6. PHARMACEUTICAL DRUG  
5 INFORMATION AND SAFETY ACT  
6

7 130650. This division shall be known, and may be cited as the  
8 “Pharmaceutical Drug Information and Safety Act.”

9 130651. For purposes of this division, the following definitions  
10 shall apply:

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

15 (b) (1) “Pharmaceutical manufacturer” means any entity that  
16 is engaged in ~~either~~ *any* of the following:

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

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

24 (2) “Pharmaceutical manufacturer” does not include ~~a~~ *any of the*  
25 *following*:

26 (A) A corporation that meets the definition in paragraph (1)  
27 solely because it is in the business of repackaging or compounding  
28 prescriptions, if that corporation is not in the business of developing  
29 FDA-approved drug products for sale to the general public.

30 (B) *A wholesale distributor of drugs, mail order pharmacy, or*  
31 *retail pharmacy licensed under state law.*

32 (c) “Pharmaceutical drug” means any drug which is approved  
33 by the federal Food and Drug Administration and commercially  
34 available in the state.

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

1 ~~(c) “Serious adverse events” means any untoward medical~~  
2 ~~occurrence, in a patient or clinical investigation subject who has~~  
3 ~~been administered a pharmaceutical product, which does not~~  
4 ~~necessarily have to have a causal relationship with this treatment.~~

5 *(e) (1) “Serious adverse events” means any adverse drug*  
6 *experience occurring at any dose that results in any of the*  
7 *following outcomes:*

8 *(A) Death.*

9 *(B) A life-threatening adverse drug experience.*

10 *(C) Inpatient hospitalization or prolongation of existing*  
11 *hospitalization.*

12 *(D) A persistent or significant disability or incapacity.*

13 *(E) A congenital anomaly or birth defect.*

14 *(2) “Serious adverse events,” as used in this subdivision, may*  
15 *include important medical events that may not result in death, be*  
16 *life-threatening, or require hospitalization when, based upon*  
17 *appropriate medical judgment, these events may jeopardize the*  
18 *patient or subject and may require medical or surgical intervention*  
19 *to prevent one of the outcomes listed in paragraph (1).*

20 *(f) “Scientific work product” means a writing that reflects a*  
21 *scientist, clinician, or researcher’s impressions, conclusions,*  
22 *opinions, research, statistical calculations, or theories.*

23 *(g) “Sponsor” means an individual or pharmaceutical*  
24 *manufacturer, governmental agency, academic institution, private*  
25 *organization, or other organization that takes responsibility for*  
26 *or initiates a clinical investigation.*

27 130652. Any pharmaceutical ~~company~~ *manufacturer* that sells,  
28 delivers, offers for sale, or gives away any pharmaceutical drug  
29 within this state shall make publicly available, in accordance with  
30 Section 130654, the results of every completed clinical trial, except  
31 for a phase I trial or ~~bioequivalence study~~ *study used to establish*  
32 *bioequivalence*, that the ~~company~~ *manufacturer* conducts or  
33 sponsors on and after October 15, 2002, for every pharmaceutical  
34 drug that the ~~company~~ *manufacturer* sells, delivers, offers for sale,  
35 or gives away in this state. The information required to be provided  
36 with the results shall include, but not be limited to, all of the  
37 following:

38 (a) The name of the trial.

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

- 1 (c) Initiation and completion dates of the trial.
- 2 (d) Purposes of the trial, including the medical condition or  
3 conditions studied.
- 4 (e) Outcomes of the trial including any time points at which  
5 outcome data were measured and used either subsequently for  
6 marketing purposes or other actions taken to publicly promote the  
7 outcomes of a trial, including, but not limited to, a news release.
- 8 (f) Trial funding sources.
- 9 (g) Number of patients initially enrolled in the trial.
- 10 (h) Number of patients completing the trial.
- 11 (i) A list of all specific characteristics used to include and  
12 exclude people as trial participants, such as gender, race, age,  
13 preexisting health conditions, and an explanation of the suitability  
14 of the trial participant population for the purposes of the study.
- 15 (j) Names and contact information for principal sponsors of the  
16 trial. Contact information shall include at least a telephone number  
17 and mailing address for public inquiry.
- 18 (k) Names and contact information for principal researchers of  
19 the trial.
- 20 (l) Frequency, severity, and nature of all serious adverse events  
21 experienced by trial participants, including participants that did  
22 not complete the trial, for each drug.
- 23 (m) If the study involved a comparison of two or more  
24 pharmaceutical drugs, all information regarding the relative  
25 efficacy of each drug and the relative frequency, severity, and  
26 nature of all serious adverse events experienced by trial  
27 participants, including participants that did not complete the trial.
- 28 (n) If any of the data from the study were published by a clinical  
29 trial investigator in a peer-reviewed medical journal that  
30 summarizes the safety or efficacy results of the clinical trial, a  
31 complete citation and, if available, a hyperlink for each of these  
32 publications.
- 33 (o) A hyperlink to the package insert approved by the federal  
34 Food and Drug Administration for the drug.
- 35 130653. Any pharmaceutical ~~company~~ *manufacturer* that sells,  
36 delivers, offers for sale, or gives away any pharmaceutical drug  
37 within this state shall make publicly available, in accordance with  
38 Section 130654, an explanation of noncompletion for any clinical  
39 trial, except a phase I trial, that the pharmaceutical ~~company~~  
40 *manufacturer* initiates, or sponsors the initiation of, on and after

1 October 15, 2002, but does not complete for every pharmaceutical  
2 drug that the ~~company~~ *manufacturer* sells, delivers, offers for sale,  
3 or gives away in this state. The explanation shall state why the  
4 clinical trial was terminated and shall include all available  
5 information described in Section 130652.

6 130654. (a) The information required pursuant to Sections  
7 130652 and 130653 shall be submitted for inclusion on the Web  
8 site administered by the National Institutes of Health or on another  
9 publicly accessible Web site, or shall be posted on a publicly  
10 accessible Web site directly linked to the pharmaceutical  
11 ~~company's~~ *manufacturer's* primary corporate Web site. For  
12 purposes of this section, a Web site is publicly accessible only if  
13 it provides free, nonsubscription access to its contents and clearly  
14 indicates the location and instructions for downloading the files  
15 or information submitted pursuant to this division.

16 (b) If a drug is sold, delivered, offered for sale, or given away  
17 within the state prior to January 1, 2008, and has a trial completion  
18 or termination date on or before January 2008, the pharmaceutical  
19 ~~company~~ *manufacturer* shall submit or post the information  
20 pursuant to subdivision (a) by January 1, 2009. If a drug is sold,  
21 delivered, offered for sale, or given away within the state prior to  
22 January 1, 2008, and has a trial completion or termination date  
23 after January 2008, the pharmaceutical ~~company~~ *manufacturer*  
24 shall submit or post the information pursuant to subdivision (a)  
25 within one year of the completion or termination date of the trial.

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

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

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

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

10 (e) Notwithstanding subdivisions (b), (c), and (d), a  
11 pharmaceutical-~~company~~ *manufacturer* may extend the deadline  
12 requirements of these subdivisions if the ~~company~~ *manufacturer*  
13 submits the results of the clinical trial in a peer-reviewed journal  
14 for publication. However, the extension of these deadline  
15 requirements may not extend beyond one year from the applicable  
16 deadline described in those subdivisions or 30 days from the date  
17 of publication, whichever is earlier.

18 130655. (a) A pharmaceutical-~~company~~ *manufacturer* subject  
19 to the requirements of this division that complies with a federal  
20 law or regulation that requires public disclosure on a Web site of  
21 information that is substantially similar to the information required  
22 pursuant to this division shall be deemed to be in compliance with  
23 this division.

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

27 (c) If some factors, conclusions, results, or points of data from  
28 a clinical trial are deemed a trade secret, as defined in Section  
29 3426.1 of the Civil Code, or scientific work product, only those  
30 sections shall be withheld from disclosure.

31 (d) If parts or all of a clinical trial are withheld from disclosure  
32 because this information constitutes a trade secret, as defined in  
33 Section 3426.1 of the Civil Code, or scientific work product, a  
34 pharmaceutical-~~company~~ *manufacturer* shall disclose the fact that  
35 information-~~was~~ *is being* withheld because it constitutes a trade  
36 secret *or scientific work product*.

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

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

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

6 130658. Nothing in this division shall constitute a duty by the  
7 State Department of Public Health to enforce the implementation  
8 of this division.

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California State Board of Pharmacy

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STATE AND CONSUMER SERVICES AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
ARNOLD SCHWARZENEGGER, GOVERNOR

April 24, 2007

The Honorable Jack Scott  
California State Senate  
State Capitol, Room 2082  
Sacramento, CA 95814

SB 606: Support

Dear Senator Scott:

I am pleased to inform you that the Board of Pharmacy supports your Senate Bill 606 (as introduced on February 22, 2007) relating to clinical trial data for pharmaceutical drugs.

This bill will ensure that California consumers have ready access to clinical trial data for the medicines they take. This information will help consumers become more educated their medications and allow them to make better informed decisions about treatment options.

The board is pleased to support SB 606.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia Herold".

Virginia Herold  
Executive Officer

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 615**

**VERSION: As Amended April 16, 2007**

**AUTHOR: Oropeza**

**SPONSOR: The Latino Coalition for a  
Health California**

**Board Position: Support**

**SUBJECT: Pharmacy technicians: scholarship and loan repayment  
program.**

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**EXISTING LAW:**

1. Defines the requirements for licensure as a pharmacy technician.

**THIS BILL WOULD:**

1. Establish a scholarship and loan repayment program for pharmacy technicians.
2. Requires all licensed pharmacy technicians and pharmacies to pay an additional \$10.00 to this account at the time of renewal.

**AUTHOR'S INTENT**

This bill is intended to provide a financial incentive to recruit more individuals to become pharmacy technicians to assist in medically underserved areas. US Bureau of Labor statistics detail a shortage of technicians from different cultural backgrounds.

**FISCAL IMPACT:**

The cost associated with the development and implementation of this fund could include modifications to existing cashiering programs, forms and procedures for deposits into separate funds. The estimated costs for these changes at approximately \$24,000.

**SUPPORT AND OPPOSITION:**

Latino Coalition for a Healthy California (source)

American Federation of State, County and Municipal Employees  
Applied Research Center  
Association of California Healthcare Districts  
California Primary Care Association  
California Rural Health Policy Council  
California Society of Health-System Pharmacists  
California State Rural Health Association  
Northern Sierra Rural Health Network  
The Greenlining Institute  
Welcome Back Initiative

### **COMMENTS:**

As amended this legislation will require all pharmacy technicians and pharmacies to contribute \$10.00 to the Pharmacy Technician Scholarship and Loan Repayment Program Fund at renewal. The language, as introduced created the scholarship fund, but did not include a mandatory contribution to the fund, rather made the contribution voluntary.

This proposal is similar to one passed in 2002, which established a scholarship and loan repayment fund for pharmacists. To date, no funds have been distributed from this fund, as the minimum account balance of \$200,000 annually has not yet been obtained. The board was coincidentally doing a newsletter article updating licensees about the status of this law and learned that to date, pharmacies and pharmacists have contributed approximately \$38,000.

Current statutes detail the licensing requirements for technicians to include:

- Completion of a technician training program
- AA degree in pharmacy technology
- Satisfy requirements for RPH exam
- Certification by the Pharmacy Technician Certification Boards.

At the April 2007 Board Meeting, board members were concerned about the number of applicants that would benefit from this scholarship fund and requested information. Information provided by the sponsor detailed that approximately 36 pharmacist technicians could be awarded a scholarship annually. After providing this information to the board, the president changed the board's position to support.

### **SUPPORT AND OPPOSITION:**

## SUPPORT

Latino Coalition for a Healthy California (source)  
American Federation of State, County and Municipal Employees  
Applied Research Center  
Association of California Healthcare Districts  
California Primary Care Association  
California Rural Health Policy Council  
California Society of Health-System Pharmacists  
California State Rural Health Association  
Northern Sierra Rural Health Network  
The Greenlining Institute  
Welcome Back Initiative

## **HISTORY:**

<b>Dates</b>	<b>Actions</b>
07/05/07	July 5 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 7. Noes 3.) Re-referred to Com. on APPR.
06/07/07	June 7 To Com. on B. & P.
05/24/07	May 24 In Assembly. Read first time. Held at Desk.
05/24/07	May 24 Read third time. Passed. (Ayes 22. Noes 13. Page 1057.) To Assembly.
05/10/07	May 10 Read second time. To third reading.
05/09/07	May 9 From committee: Do pass. (Ayes 10. Noes 7. Page 887.)
04/25/07	Apr. 25 Set for hearing May 7.
04/24/07	Apr. 24 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 6. Noes 2. Page 705.) Re-referred to Com. on APPR.
04/16/07	Apr. 16 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B., P. & E.D.
04/12/07	Apr. 12 From committee: Do pass, but first be re-referred to Com. on B., P. & E.D. (Ayes 7. Noes 2. Page 542.) Re-referred to Com. on B., P. & E.D.
04/10/07	Apr. 10 Set for hearing April 23.
03/27/07	Mar. 27 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on HEALTH.
03/15/07	Mar. 15 Set for hearing April 11.
03/13/07	Mar. 13 Withdrawn from committee. Re-referred to Coms. on HEALTH and B., P. & E.D.
03/08/07	Mar. 8 To Coms. on B., P. & E.D. and HEALTH.
02/23/07	Feb. 23 From print. May be acted upon on or after March 25.
02/22/07	Feb. 22 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 16, 2007  
AMENDED IN SENATE MARCH 27, 2007

**SENATE BILL**

**No. 615**

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**Introduced by Senator Oropeza**

February 22, 2007

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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

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

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

8 128345. The Health Professions Education Foundation may  
9 do any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

21

22 Article 6. California Pharmacy Technician Scholarship and  
23 Loan Repayment Program  
24

25 128560. (a) (1) There is hereby established within the Health  
26 Professions ~~and~~ Education Foundation the California Pharmacy  
27 Technician Scholarship and Loan Repayment Program.

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

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

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

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

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

13 128561. The California Pharmacy Technician Scholarship and  
14 Loan Repayment Program Fund is hereby established in the State  
15 Treasury. Revenues from the ~~payments made~~ *fees collected*  
16 pursuant to Section 4410 of the Business and Professions Code,  
17 as well as any other private or public funds made available for  
18 purposes of the California Pharmacy Technician Scholarship and  
19 Loan Repayment Program, shall be deposited into the fund. Upon  
20 appropriation by the Legislature, moneys in the fund shall be  
21 available for expenditure by the Health Professions Education  
22 Foundation for purposes of implementing the California Pharmacy  
23 Technician Scholarship and Loan Repayment Program pursuant  
24 to this article. The Health Professions Education Foundation shall  
25 be under no obligation to administer a program under this article  
26 until sufficient moneys have been accumulated in the fund and  
27 appropriated to the foundation by the Legislature.



**California State Board of Pharmacy**

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STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

ARNOLD SCHWARZENEGGER, GOVERNOR

June 1, 2007

The Honorable Jenny Oropeza  
California State Senate  
State Capitol, Room 4074  
Sacramento, CA 95814

SB 615: Support

Dear Senator Oropeza:

I am pleased to inform you that the Board of Pharmacy supports your Senate Bill 615 (as amended on April 16, 2007) relating to the creation of a Pharmacy Technician Scholarship and Loan Repayment Program.

This legislation would require all pharmacy technicians and pharmacies to contribute \$10.00 to this program at the time of license renewal.

As you may be aware, in 2002, the California Pharmacist Scholarship and Loan Repayment Fund was established in AB 2935 (Strom-Martin) by allowing pharmacists to voluntarily contribute \$25.00 at the time of renewal. Unfortunately, because of insufficient contributions to this fund yet, no money has been distributed from this fund.

The board is pleased to support SB 615.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia Herold".

Virginia Herold  
Executive Officer

cc: Linda Nguy, Policy Associate  
Latino Coalition for a Healthy California

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 963**                      **VERSION: As Amended on June 25, 2007**

**AUTHOR: Ridley-Thomas**                **SPONSOR: BP& ED Committee**

**RECOMMENDED POSITION: None**

**SUBJECT: Regulatory boards: Operations**

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**EXISTING LAW:**

1. States that all existing and proposed consumer-related boards or categories of licensed professionals shall be subject to review every four years to evaluate whether each board has demonstrated a public need for continued existence.
2. Provides that in the event the board becomes inoperative and is repealed, the Department of Consumer Affairs (DCA) shall succeed the board with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed.
3. Establishes the appointment of board members.
4. Establishes the authorization to appoint an executive officer.

**THIS BILL WOULD:**

1. Require the board to post annually on our Web site the number of reports received that year for criminal convictions, judgments, settlements, or arbitration as well as claims paid by a professional liability insurer caused by a licensee's negligence, error or omission.
2. Provide the board with the authority to adopt regulations that provide an incentive to licensees to provide services within the scope of licensure, on a pro bono basis. The regulations could reduce the amount of renewal fee required for a licensee who demonstrates compliance with the pro bono requirements.
3. Require the board to adopt regulations for the number of staff required to adequately investigate and if necessary bring a disciplinary action against a licensee and specifies that the staff level shall at minimum be the number of staff per 1,000 persons regulated by the board and shall include the appropriate number of staff to complete all investigatory and disciplinary functions.

4. Require board members to disclose all ex parte communication at the board's next public meeting and that such communication will be recorded in the board's minutes. Defines "ex parte" communication.
5. State that it is the intent of the Legislature to be subject to ongoing and continuous review as well as a periodic thorough review when issues arise requiring that level of review and when such a review is requested by a Member of the Legislature or the Chief of the Office of the Consumer Advocate. The review 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.
6. Provide that if the board is deemed deficient and its members removed, 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. Specify that the number of board members will remain the same and designates the appointing authorities for new members.
7. Require the board to enter into an agreement with the DCA to provide various administrative functions including personnel, information technology, examination and call centers. States that a board shall not enter into such an agreement if it would reduce the board's ability to comply with its duties prescribed in law.
8. Replace the duties of the Joint Committee on Boards, Commissions, and Consumer Protection with the Office of the Consumer Advocate to determine whether the highest priority of the licensing program is the protection of the public.
9. Make subject to approval of the DCA director as well as confirmation of the Senate, the appointment of an Executive Officer.
10. Require the board to post on our Web site minutes from public meetings within 10 days of the date of the meeting.
11. Require the board to adopt meaningful, measurable and manageable performance measures to include:
  - A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety and welfare of the public.
  - The board's enforcement priorities, complaint and enforcement data, budget expenditures with average and median cost per case, case aging data specific to post and preaccusation cases at the Attorney General's Office
  - The board's fund conditions, sources of revenues and expenditure categories for the last four fiscal years.

- Description of the board's licensing process including the time and cost required to implement and administer the licensing examination, ownership of the licensing examination, relevancy and validity of the licensing examination and passage rate and areas of examination.
  - Board initiation of legislative efforts, budget change proposals and other initiatives it has taken to improve its legislative mandate.
12. Require the board to report to the director of DCA and the chief of the Office of the Consumer Advocate our performance measures on a quarterly basis as well as to post this information on the board's Web site. In addition, require the board to report this information annually to the Department of Finance, the Legislative Analyst's Office and the Legislature.
  13. Require the chief of the Office of the Consumer Advocate in consultation with LAO to annually review the information provided and report to the Legislature if it determines that a board has failed to meet the performance measures established.
  14. Require each board member to provide an annual report to the authority that appointed him or her the extent to which the member has achieved his or her goals and objectives that years as well as to report on goals and objectives for the upcoming year.
  15. Require the board to post these reports on the board's Web site within 30 days of submission.
  16. Require the department to report to the Legislature and the Governor when a board has been unable to schedule or convene a meeting because of a lack of a quorum caused by the absence of its members or by a vacancy in its membership.
  17. Require the director of the DCA the work with the State Chief Information Officer to replace the department's existing information technology system and allow the director to change each of the board's systems on a pro rata basis for the costs of replacing the information technology system.
  18. Require the director of DCA to annually report to the chairperson of fiscal committees for each house of the Legislature, as well as the Joint Legislative Budget Committee information specific information about the Office of the Consumer Advocate.
  19. Require the board to submit all notices and final rulemaking records to the chief of the Office of the Consumer Advocate, in addition to the director of the DCA and specifies the timeframes and procedures for review and approval or disapproval.

20. Create the Office of the Consumer Advocate to promote the efficiency of each board that comprise the department and designate that the office is under the supervision and control of a chief. The chief will be appointed by the Governor and subject to Senate confirmation and will serve a four year term.
21. Require the chief to appointment of chief counsel of the office as well as adequate number of attorneys to carry out the provisions.
22. Specify the duties of the Office of the Consumer Advocate to serve as an independent monitor, and detail the powers given to the chief as well as the Office of the Consumer Advocate which includes allowing the office to appear at a board meeting and permitting participation in a disciplinary proceeding by the board whenever the chief determines that the appearance is required to promote and protect the interests of consumers.
23. Allow the office to exercise and perform 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.
24. Require the chief to report annually to the Governor and appear annually before committees of the Legislature as specified.
25. Allow the chief to annually charge each board on a pro rata basis an amount sufficient to carry out the provisions.
26. Allow a board member to serve as a public member of more than one board at a time if not prohibited by another law.
27. Authorize a member of the Legislature or the chief to request the appropriate standing policy committee to conduct an analysis to evaluate a state board. This request must describe any perceived deficiencies in the operation of the board and the detailed reasons an analysis of its operations is requested.
28. Require the appropriate standing policy committee to investigate the perceived deficiencies, including holding public meetings. This committee may request the assistance from the Office of the Consumer Advocate.
29. Require determination by the committee if based on the information obtained during the course of the investigation if the highest priority of a board's operations is consumer protection.
30. Specify the types of issues the committee shall review and consider when making their determination.
31. Require the committee to report to the Joint Committee on Rules if a board is deemed deficient at which time each member of the board will be removed from office without a hearing within 10 business days and a successor board shall be appointed. In

addition, the Office of the Consumer Advocate will assume the duties of an independent monitor for the board and shall report to the Legislature within one year making recommendations for required reforms of the board.

### **AUTHOR'S INTENT**

According to the author's office, the intent of this legislation is to develop a more effective method of continuing state licensing and regulation when the Legislature sunsets a licensing board. This bill is intended to perform the ongoing continuation of the licensing and regulation of a profession via a more independent board structure, than by a bureau operated by the Department.

### **FISCAL IMPACT:**

In its amended form, the Board of Pharmacy (board) will experience fiscal impact to cover the cost of additional staff allowed under this proposal as well as the new computer system and will most likely see a large increase in the amount of pro rata it pays to the department. Unfortunately board staff was unable to obtain information from the department in advance of this meeting to quantify these increases.

### **COMMENTS:**

This legislation was significantly amended on June 25, 2007 to become a new bill. Several of the functions assigned to the Office of the Consumer Advocate are already assigned to the DCA and its director as well as the Bureau of State Audits. It is unclear if the DCA's role will change as an oversight to board or if the board will now be subject to continual review by both the director as well as the chief.

The board currently provides weekly updates to the director's office detailing the board's work for the week as well as any pressing issues. A special report is required monthly. The board completes an annual Agency Statistical Profile documenting the workload of the board for the previous fiscal year.

Several of the public reporting requirements mandated in this legislation are already provided by the board already provides on a quarterly basis as part of its inherent committee structure and close adherence to the performance measures established in the board's strategic plan.

The board's record for consumer protection is solid and strong. The board continually demonstrates its commitment to consumer protection and as such further scrutiny by another office would not be problematic for the board, except potentially for an increase in reporting requirements and possible redirection of staff to complete the reports.

Should this bill become law, the board would need to seek additional staffing to comply with all the requirements and would need to seek a statutory fee increase to cover the increased expenditures for computer systems and pro rata charges.

There are a couple of items of concern:

1. Allowing only 10 days to post public meeting minutes on the board's Web site is not a reasonable time frame given the length of meetings, the complexity of the issues as well as turn around time for board members to vote on minutes. Moreover it eliminates the board's ability to review minutes,
2. The board could lose its ability to hire the executive officer of its choice, and rather this process could become very political in nature. Given the role of the executive officer, the board may want sole discretion in making this hiring decision.

Some benefits of this proposal include:

1. A legislative mandate to replace the board's very outdated computer system.
2. A legislative mandate to adopt by regulation the personnel needed to complete all investigatory and disciplinary functions. The ratio included in the legislation is one staff per 1,000 persons regulated.

## **HISTORY:**

Date	Action
June 25	From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & P.
June 21	To Com. on B. & P.
June 6	In Assembly. Read first time. Held at Desk.
June 6	Read third time. Passed. (Ayes 26. Noes 13. Page 1279.) To Assembly.
May 31	From committee: Do pass. (Ayes 10. Noes 4. Page 1224.) Read second time. To third reading.
May 25	Set for hearing May 31.
May 7	Placed on APPR. suspense file.
Apr. 25	Set for hearing May 7.
Apr. 24	From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 6. Noes 2. Page 706.) Re-referred to Com. on APPR.

Apr. 16 From committee with author's amendments. Read second time.  
Amended. Re-referred to Com. on B., P. & E.D.  
Mar. 29 Set for hearing April 23.  
Mar. 15 To Com. on B., P. & E.D.  
Feb. 26 Read first time.  
Feb. 25 From print. May be acted upon on or after March 27.  
Feb. 23 Introduced. To Com. on RLS. for assignment. To print.

Revised July 13, 2007

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 963**

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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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

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

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

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

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

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

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

33 ~~101.1. (a) It is the intent of the Legislature that all existing  
34 and proposed consumer-related boards or categories of licensed  
35 professionals be subject to a review every four years to evaluate  
36 and determine whether each board has demonstrated a public need  
37 for the continued existence of that board in accordance with  
38 enumerated factors and standards as set forth in Division 1.2  
39 (commencing with Section 473).~~

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

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

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

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

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

26     ~~101.1. (a) It is the intent of the Legislature that all existing~~  
27 ~~and proposed consumer-related boards or categories of licensed~~  
28 ~~professionals be subject to ongoing and continuous review as well~~  
29 ~~as a periodic thorough review when issues arise requiring that~~  
30 ~~level of review and such a review is requested by a Member of the~~  
31 ~~Legislature or the chief of the Office of the Consumer Advocate~~  
32 ~~as provided in Division 1.3 (commencing with Section 474.20).~~  
33 ~~The review of a board shall evaluate and determine whether its~~  
34 ~~operations are effectively protecting the public and that protection~~  
35 ~~of the public is the highest priority of the board.~~

36     ~~(b) Notwithstanding any other provision of law, if a board is~~  
37 ~~deemed deficient and its members removed, as described in Section~~  
38 ~~474.21, a successor board shall be appointed that shall succeed~~  
39 ~~to, and be vested with, all the duties, powers, purposes,~~  
40 ~~responsibilities, and jurisdiction not otherwise repealed or made~~

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

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

14 *101.5. (a) Each board within the department shall enter into*  
15 *an agreement with the department for the department to provide*  
16 *administrative and ministerial functions and services, including,*  
17 *but not limited to, personnel services, information technology, the*  
18 *administration of call centers, and the administration of*  
19 *examinations. The Legislature intends that these agreements shall*  
20 *achieve cost savings resulting from economies of scale and a more*  
21 *consistent delivery of services to California consumers and*  
22 *licensees.*

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

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

28 *102.3. (a) The director may enter into an interagency*  
29 *agreement with an appropriate entity within the Department of*  
30 *Consumer Affairs as provided for in Section 101 to delegate the*  
31 *duties, powers, purposes, responsibilities, and jurisdiction that*  
32 *have been succeeded and vested with the department, of a board;*  
33 *as defined in Section 477, which that became inoperative and was*  
34 *repealed in accordance with Chapter 908 of the Statutes of 1994.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 *117.5. (a) Each member of a board within the department and*  
14 *the chief of any bureau within the board shall annually report, on*  
15 *or before December 31 of each year, to the authority that appointed*  
16 *him or her the extent to which the member or chief achieved his*  
17 *or her goals and objectives that year and shall also report the*  
18 *goals and objectives he or she expects to achieve during the*  
19 *following calendar year.*

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

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

25 *127.5. The department shall report to the Legislature and the*  
26 *Governor when a board within the department has been unable*  
27 *to schedule or convene a meeting of the board because of a lack*  
28 *of a quorum caused by the absence of its members or by a vacancy*  
29 *in its membership.*

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

32 *156.7. (a) Prior to January 1, 2010, the director, in*  
33 *consultation with the State Chief Information Officer, shall replace*  
34 *the department's existing information technology system with a*  
35 *system that meets the requirements of the department and of the*  
36 *boards within the department.*

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

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

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

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

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

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

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

22 (2) *The total dollars expended by the Office of the Consumer*  
23 *Advocate in the prior year; the estimated total dollars expended*  
24 *in the current year; and the total dollars proposed for*  
25 *appropriation in the following budget year.*

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

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

30 313.1. (a) Notwithstanding any other provision of law to the  
31 contrary, no rule or regulation, except those relating to  
32 examinations and qualifications for licensure, and no fee change  
33 proposed or promulgated by any of the boards, commissions, or  
34 committees within the department, shall take effect pending  
35 compliance with this section.

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

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

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

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

8 (3) Final rulemaking records.

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

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

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

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

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

1 (3) If the director *or the chief* disapproves a rule or regulation,  
 2 it shall have no force or effect unless, within 60 days of the notice  
 3 of disapproval, (A) the disapproval is overridden by a unanimous  
 4 vote of the members of the board, commission, or committee, and  
 5 (B) the board, commission, or committee files the final rulemaking  
 6 record with the Office of Administrative Law in compliance with  
 7 this section and the procedures required by Chapter 3.5  
 8 (commencing with Section 11340) of Part 1 of Division 3 of Title  
 9 2 of the Government Code.

10 (f) Nothing in this section shall be construed to prohibit the  
 11 director *or the chief of the Office of the Consumer Advocate* from  
 12 affirmatively approving a proposed rule, regulation, or fee change  
 13 at any time within the 30-day period after it has been submitted to  
 14 him or her, in which event it shall become effective upon  
 15 compliance with this section and the procedures required by  
 16 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
 17 3 of Title 2 of the Government Code.

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

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

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

31  
 32 *CHAPTER 4.5. OFFICE OF THE CONSUMER ADVOCATE*

33  
 34 *Article 1. General Provisions*

35  
 36 360. *This chapter shall be known and may be cited as the Office*  
 37 *of the Consumer Advocate Act.*

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

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

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

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

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

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

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

11

12

## Article 2. Administration

13

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

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

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

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

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

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

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

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

3  
4 *Article 3. Powers and Duties*

5  
6 380. *(a) The office shall serve as an independent monitor*  
7 *pursuant to Section 474.22.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13

14

#### Article 4. Revenue

15

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

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

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

28 450.1. A person may serve as a public member of more than  
29 one board at the same time if not prohibited by any other law.

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

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

34

#### DIVISION 1.3. LEGISLATIVE REVIEW OF STATE BOARDS 35 AND BOARDS WITHIN THE DEPARTMENT OF CONSUMER 36 AFFAIRS 37

38

39 474.20. (a) A Member of the Legislature or the chief of the  
40 Office of the Consumer Advocate may submit a written request to

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

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

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

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

11 *474.21. (a) (1) The appropriate standing policy committee of*  
12 *the Legislature shall, through its oversight function, investigate*  
13 *the perceived deficiencies described in the request submitted*  
14 *pursuant to Section 474.20 and hold public hearings on the matter.*  
15 *The committee may request the Office of the Consumer Advocate*  
16 *to assist in the investigation. The committee shall complete these*  
17 *functions within a 60-day period during the regular legislative*  
18 *session, with the period commencing on the date of the committee's*  
19 *receipt of the request.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 474.22. (a) *Within 10 business days of the date the Joint*  
8 *Committee on Rules receives the deficiency report described in*  
9 *Section 474.21, the Office of the Consumer Advocate shall assume*  
10 *the duties of an independent monitor for the board.*

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

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

17 1601.1. (a) There shall be in the Department of Consumer  
18 Affairs the Dental Board of California in which the administration  
19 of this chapter is vested. The board shall consist of eight practicing  
20 dentists, one registered dental hygienist, one registered dental  
21 assistant, and four public members. Of the eight practicing dentists,  
22 one shall be a member of a faculty of any California dental college  
23 and one shall be a dentist practicing in a nonprofit community  
24 clinic. The appointing powers, described in Section 1603, may  
25 appoint to the board a person who was a member of the prior board.  
26 The board shall be organized into standing committees dealing  
27 with examinations, enforcement, and other subjects as the board  
28 deems appropriate.

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

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

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

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

3     1632.5. (a) Prior to implementation of paragraph (2) of  
4     subdivision (c) of Section 1632, the department's Office of  
5     Examination Resources shall review the Western Regional  
6     Examining Board examination to assure compliance with the  
7     requirements of Section 139 and to certify that the examination  
8     process meets those standards. If the department determines that  
9     the examination process fails to meet those standards, paragraph  
10    (2) of subdivision (c) of Section 1632 shall not be implemented.  
11    The review of the Western Regional Examining Board examination  
12    shall be conducted during or after the Dental Board of California's  
13    occupational analysis scheduled for the 2004–05 fiscal year, but  
14    not later than September 30, 2005. However, an applicant who  
15    successfully completes the Western Regional Examining Board  
16    examination on or after January 1, 2005, shall be deemed to have  
17    met the requirements of subdivision (c) of Section 1632 if the  
18    department certifies that the Western Regional Examining Board  
19    examination meets the standards set forth in this subdivision.

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

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

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

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

1 1634.2. (a) An advanced education program's compliance  
2 with subdivision (c) of Section 1634.1 shall be regularly reviewed  
3 by the department pursuant to Section 139.

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

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

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

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

32 1638.1. (a) (1) A person licensed pursuant to Section 1634  
33 who wishes to perform elective facial cosmetic surgery shall first  
34 apply for and receive a permit to perform elective facial cosmetic  
35 surgery from the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) The Medical Board of California.

5 (B) The California Dental Association.

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

8 (D) The California Medical Association.

9 (E) The California Society of Plastic Surgeons.

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

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

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

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

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

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

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

38 (i) A holder of a permit shall comply with the requirements of  
39 subparagraph (D) of paragraph (2) of subdivision (a) of Section  
40 1248.15 of the Health and Safety Code, and the reporting

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

4 (j) Any violation of this section constitutes unprofessional  
5 conduct and is grounds for the revocation or suspension of the  
6 person's permit, license, or both, or the person may be reprimanded  
7 or placed on probation. Proceedings initiated by the board under  
8 this section shall be conducted in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title  
10 2 of the Government Code, and the board shall have all the powers  
11 granted therein.

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

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

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

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

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

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

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

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

35 1638.7. The next occupational analysis of dental licensees and  
36 oral and maxillofacial facial surgeons pursuant to Section 139 shall  
37 include a survey of the training and practices of oral and  
38 maxillofacial surgeons and, upon completion of that analysis, a  
39 report shall be made to the ~~Joint Committee on Boards,~~

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

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

5 1742. (a) There is within the jurisdiction of the board a  
6 Committee on Dental Auxiliaries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 1751. (a) The board, upon recommendation of the committee,  
24 shall adopt regulations governing the procedures that dental  
25 assistants, registered orthodontic assistants, registered surgery  
26 assistants, registered restorative assistants, registered dental  
27 assistants, registered restorative assistants in extended functions,  
28 and registered dental assistants in extended functions are authorized  
29 to perform consistent with and necessary to implement the  
30 provisions of this article, and the settings within which each may  
31 practice.

32 (b) The board shall conduct an initial review of the procedures,  
33 supervision level, settings under which they may be performed,  
34 and utilization of extended functions dental auxiliaries by January  
35 1, 2012. The board shall submit the results of its review to the ~~Joint~~  
36 ~~Committee on Boards, Commissions, and Consumer Protection~~  
37 *Legislature and the Office of the Consumer Advocate.* After the  
38 initial review, a review shall be conducted at least once every five  
39 to seven years thereafter, and the board shall update regulations  
40 as necessary to keep them current with the state of dental practice.

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

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

4 2001. There is in the Department of Consumer Affairs a  
5 Medical Board of California that consists of 21 members, nine of  
6 whom shall be public members.

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

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

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

21 2460. There is created within the jurisdiction of the Medical  
22 Board of California and its divisions the California Board of  
23 Podiatric Medicine. ~~This section shall become inoperative on July~~  
24 ~~1, 2010, and, as of January 1, 2011, is repealed, unless a later~~  
25 ~~enacted statute, which becomes effective on or before January 1,~~  
26 ~~2011, deletes or extends the dates on which it becomes inoperative~~  
27 ~~and is repealed. The repeal of this section renders the California~~  
28 ~~Board of Podiatric Medicine subject to the review required by~~  
29 ~~Division 1.2 (commencing with Section 473).~~

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

32 2531. There is in the Department of Consumer Affairs a  
33 Speech-Language Pathology and Audiology Board in which the  
34 enforcement and administration of this chapter is vested. The  
35 Speech-Language Pathology and Audiology Board shall consist  
36 of nine members, three of whom shall be public members.

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

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

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

5 ~~2569.~~ The powers and duties of the board, as set forth in this  
6 chapter, shall be subject to the review required by Division 1.2  
7 (commencing with Section 473). The review shall be performed  
8 as if this chapter were scheduled to become inoperative on July 1,  
9 2003, and would be repealed as of January 1, 2004, as described  
10 in Section 473.1.

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

13 2570.19. (a) There is hereby created a California Board of  
14 Occupational Therapy, hereafter referred to as the board. The board  
15 shall enforce and administer this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 2602. The Physical Therapy Board of California, hereafter  
16 referred to as the board, shall enforce and administer this chapter.  
17 ~~This section shall become inoperative on July 1, 2013, and, as of  
18 January 1, 2014, is repealed, unless a later enacted statute, which  
19 becomes effective on or before January 1, 2014, deletes or extends  
20 the dates on which it becomes inoperative and is repealed.~~

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

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

25 2701. There is in the Department of Consumer Affairs the  
26 Board of Registered Nursing consisting of nine members.

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

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

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

1 2841. There is in the Department of Consumer Affairs a Board  
2 of Vocational Nursing and Psychiatric Technicians of the State of  
3 California, consisting of 11 members.

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

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

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

15 2920. The Board of Psychology shall enforce and administer  
16 this chapter. The board shall consist of nine members, four of  
17 whom shall be public members.

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

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

24 3010.5. (a) There is in the Department of Consumer Affairs  
25 a State Board of Optometry in which the enforcement of this  
26 chapter is vested. The board consists of 11 members, five of whom  
27 shall be public members.

28 Six members of the board shall constitute a quorum.

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

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

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

1 3502.1. (a) In addition to the services authorized in the  
2 regulations adopted by the board, and except as prohibited by  
3 Section 3502, while under the supervision of a licensed physician  
4 and surgeon or physicians and surgeons authorized by law to  
5 supervise a physician assistant, a physician assistant may  
6 administer or provide medication to a patient, or transmit orally,  
7 or in writing on a patient's record or in a drug order, an order to a  
8 person who may lawfully furnish the medication or medical device  
9 pursuant to subdivisions (c) and (d).

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

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

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

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

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

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

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

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

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

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

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

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

7 (g) The committee shall consult with the Medical Board of  
8 California and report ~~during its sunset review required by Division~~  
9 ~~1.2 (commencing with Section 473) to the Legislature and the~~  
10 *Office of the Consumer Advocate periodically, as necessary, on*  
11 *the impacts of exempting Schedule III and Schedule IV drug orders*  
12 *from the requirement for a physician and surgeon to review and*  
13 *countersign the affected medical record of a patient.*

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

16 3504. There is established a Physician Assistant Committee  
17 of the Medical Board of California. The committee consists of  
18 nine members. ~~This section shall become inoperative on July 1,~~  
19 ~~2011, and, as of January 1, 2012, is repealed, unless a later enacted~~  
20 ~~statute, which becomes effective on or before January 1, 2012,~~  
21 ~~deletes or extends the dates on which it becomes inoperative and~~  
22 ~~is repealed. The repeal of this section renders the committee subject~~  
23 ~~to the review required by Division 1.2 (commencing with Section~~  
24 ~~473).~~

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

27 3685. (a) ~~The provisions of Article 8 (commencing with~~  
28 ~~Section 3680) shall become operative on January 1, 2004, but the~~  
29 ~~remaining provisions of this chapter shall become operative on~~  
30 ~~July 1, 2004. It is the intent of the Legislature that the initial~~  
31 ~~implementation of this chapter be administered by fees collected~~  
32 ~~in advance from applicants. Therefore, the bureau shall have the~~  
33 ~~power and authority to establish fees and receive applications for~~  
34 ~~licensure or intents to file application statements on and after~~  
35 ~~January 1, 2004. The department shall certify that sufficient funds~~  
36 ~~are available prior to implementing this chapter. Funds from the~~  
37 ~~General Fund may not be used for the purpose of implementing~~  
38 ~~this chapter.~~

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

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

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

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

9 3710. The Respiratory Care Board of California, hereafter  
10 referred to as the board, shall enforce and administer this chapter.

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

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

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

19 4001. (a) There is in the Department of Consumer Affairs a  
20 California State Board of Pharmacy in which the administration  
21 and enforcement of this chapter is vested. The board consists of  
22 13 members.

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

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

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

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

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

13 ~~(f) In accordance with Sections 101.1 and 473.1, this section  
14 shall become inoperative on July 1, 2010, and, as of January 1,  
15 2011, is repealed, unless a later enacted statute, that becomes  
16 effective on or before January 1, 2011, deletes or extends the dates  
17 on which it becomes inoperative and is repealed. The repeal of  
18 this section renders the board subject to the review required by  
19 Division 1.2 (commencing with Section 473).~~

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

22 4003. (a) The board may appoint a person exempt from civil  
23 service who shall be designated as an executive officer and who  
24 shall exercise the powers and perform the duties delegated by the  
25 board and vested in him or her by this chapter. The executive  
26 officer may or may not be a member of the board as the board may  
27 determine.

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

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

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

1 ~~(e) In accordance with Sections 101.1 and 473.1, this section~~  
2 ~~shall become inoperative on July 1, 2010, and, as of January 1,~~  
3 ~~2011, is repealed, unless a later enacted statute, that becomes~~  
4 ~~effective on or before January 1, 2011, deletes or extends the dates~~  
5 ~~on which it becomes inoperative and is repealed.~~

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

8 4200.1. (a) Notwithstanding Section 135, an applicant may  
9 take the North American Pharmacist Licensure Examination four  
10 times, and may take the Multi-State Pharmacy Jurisprudence  
11 Examination for California four times.

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

18 (c) The applicant shall comply with the requirements of Section  
19 4200 for each application for reexamination made pursuant to  
20 subdivision (b).

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

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

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

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

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

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

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

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

14 4200.3. (a) The examination process shall be regularly  
15 reviewed pursuant to Section 139.

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

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

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

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

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

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

12 4501. (a) ~~“Board,”~~ as used in this chapter, means the Board  
13 of Vocational Nursing and Psychiatric Technicians.

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

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

20 4800. There is in the Department of Consumer Affairs a  
21 Veterinary Medical Board in which the administration of this  
22 chapter is vested. The board consists of seven members, three of  
23 whom shall be public members.

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

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

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

32 4928. The Acupuncture Board, which consists of seven  
33 members, shall enforce and administer this chapter. The appointing  
34 powers, as described in Section 4929, may appoint to the board a  
35 person who was a member of the prior board prior to the repeal of  
36 that board on January 1, 2006.

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

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

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

5 ~~4989. The powers and duties of the board, as set forth in this~~  
6 ~~chapter, shall be subject to the review required by Division 1.2~~  
7 ~~(commencing with Section 473). The review shall be performed~~  
8 ~~as if this chapter were scheduled to become inoperative on July 1,~~  
9 ~~2005, and would be repealed as of January 1, 2006, as described~~  
10 ~~in Section 473.1.~~

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

13 4990. (a) There is in the Department of Consumer Affairs, a  
14 Board of Behavioral Sciences that consists of 11 members  
15 composed as follows:

16 (1) Two state licensed clinical social workers.

17 (2) One state licensed educational psychologist.

18 (3) Two state licensed marriage and family therapists.

19 (4) Six public members.

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

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

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

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

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

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

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

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

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

12 ~~4990.24. The powers and duties of the board, as set forth in  
13 this chapter, shall be subject to the review required by Division  
14 1.2 (commencing with Section 473).~~

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

17 5000. There is in the Department of Consumer Affairs the  
18 California Board of Accountancy, which consists of 15 members,  
19 seven of whom shall be licensees, and eight of whom shall be  
20 public members who shall not be licentiates of the board or  
21 registered by the board. The board has the powers and duties  
22 conferred by this chapter.

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

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

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

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

8 5510. There is in the Department of Consumer Affairs a  
9 California Architects Board which consists of 10 members.

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

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

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

20 5621. (a) There is hereby created within the jurisdiction of the  
21 board, a Landscape Architects Technical Committee, hereinafter  
22 referred to in this chapter as the landscape architects committee.

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

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

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

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

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

7 5810. ~~(a) This chapter shall be subject to the review required~~  
8 ~~by Division 1.2 (commencing with Section 473) process described~~  
9 ~~in Division 1.3 (commencing with Section 474.20).~~

10 ~~(b) This chapter shall remain in effect only until January 1,~~  
11 ~~2010, and as of that date is repealed, unless a later enacted statute,~~  
12 ~~that is enacted before January 1, 2010, deletes or extends that date.~~

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

15 5811. An interior design organization issuing stamps under  
16 Section 5801 shall provide to the ~~Joint Committee on Boards,~~  
17 ~~Commissions, and Consumer Protection Legislature and the Office~~  
18 ~~of the Consumer Advocate~~ by September 1, 2008, a report that  
19 reviews and assesses the costs and benefits associated with the  
20 California Code and Regulations Examination and explores feasible  
21 alternatives to that examination.

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

24 6510. (a) There is within the jurisdiction of the department  
25 the Professional Fiduciaries Bureau. The bureau is under the  
26 supervision and control of the director. The duty of enforcing and  
27 administering this chapter is vested in the chief of the bureau, who  
28 is responsible to the director. Every power granted or duty imposed  
29 upon the director under this chapter may be exercised or performed  
30 in the name of the director by a deputy director or by the chief,  
31 subject to conditions and limitations as the director may prescribe.

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

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

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

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

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

9 6511. (a) There is within the bureau a Professional Fiduciaries  
10 Advisory Committee. The committee shall consist of seven  
11 members; three of whom shall be licensees actively engaged as  
12 professional fiduciaries in this state, and four of whom shall be  
13 public members. One of the public members shall be a member  
14 of a nonprofit organization advocating on behalf of the elderly,  
15 and one of the public members shall be a probate court investigator.

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

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

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

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

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

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

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

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

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

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

7 ~~(h) Notwithstanding any other provision of law, if the bureau  
8 becomes inoperative or is repealed in accordance with Section  
9 6510, or by subsequent acts, the committee shall succeed to and  
10 is vested with all the duties, powers, purposes, responsibilities,  
11 and jurisdiction, not otherwise repealed or made inoperative, of  
12 the bureau and its chief. The succession of the committee to the  
13 functions of the bureau as provided in this subdivision shall  
14 establish the committee as the Professional Fiduciaries Committee  
15 in the department within the meaning of Section 22, and all  
16 references to the bureau in this code shall be considered as  
17 references to the committee.~~

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

20 6710. (a) There is in the Department of Consumer Affairs a  
21 Board for Professional Engineers and Land Surveyors, which  
22 consists of 13 members.

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

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

33 *SEC. 62. Section 7000.5 of the Business and Professions Code*  
34 *is amended to read:*

35 7000.5. (a) ~~There is in the Department of Consumer Affairs~~  
36 ~~a Contractors' State License Board, which consists of 15 members.~~

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

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

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

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

11 7200. ~~(a)~~ There is in the Department of Consumer Affairs a  
12 State Board of Guide Dogs for the Blind in whom enforcement of  
13 this chapter is vested. The board shall consist of seven members  
14 appointed by the Governor. One member shall be the Director of  
15 Rehabilitation or his or her designated representative. The  
16 remaining members shall be persons who have shown a particular  
17 interest in dealing with the problems of the blind, and at least two  
18 of them shall be blind persons who use guide dogs.

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

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

25 7303. (a) Notwithstanding Article 8 (commencing with Section  
26 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the  
27 Government Code, there is in the Department of Consumer Affairs  
28 the State Board of Barbering and Cosmetology in which the  
29 administration of this chapter is vested.

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

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

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

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

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

19 ~~7304. The board shall be subject to review pursuant to Division  
20 1.2 (commencing with Section 473).~~

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

23 7810. The Board for Geologists and Geophysicists is within  
24 the department and is subject to the jurisdiction of the department.  
25 Except as provided in this section, the board shall consist of eight  
26 members, five of whom shall be public members, two of whom  
27 shall be geologists, and one of whom shall be a geophysicist.

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

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

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

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

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

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

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

19 8000. There is in the Department of Consumer Affairs a Court  
20 Reporters Board of California, which consists of five members,  
21 three of whom shall be public members and two of whom shall be  
22 holders of certificates issued under this chapter who have been  
23 actively engaged as shorthand reporters within this state for at least  
24 five years immediately preceding their appointment.

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

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

31 8520. (a) There is in the Department of Consumer Affairs a  
32 Structural Pest Control Board, which consists of seven members.

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

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

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

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

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

7 8710. (a) The Board for Professional Engineers and Land  
8 Surveyors is vested with power to administer the provisions and  
9 requirements of this chapter, and may make and enforce rules and  
10 regulations that are reasonably necessary to carry out its provisions.

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

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

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

26 9882. ~~(a)~~ There is in the Department of Consumer Affairs a  
27 Bureau of Automotive Repair under the supervision and control  
28 of the director. The duty of enforcing and administering this chapter  
29 is vested in the chief who is responsible to the director. The director  
30 may adopt and enforce those rules and regulations that he or she  
31 determines are reasonably necessary to carry out the purposes of  
32 this chapter and declaring the policy of the bureau, including a  
33 system for the issuance of citations for violations of this chapter  
34 as specified in Section 125.9. These rules and regulations shall be  
35 adopted pursuant to Chapter 3.5 (commencing with Section 11340)  
36 of Part 1 of Division 3 of Title 2 of the Government Code.

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

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

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

13 18602. (a) Except as provided in this section, there is in the  
14 Department of Consumer Affairs the State Athletic Commission,  
15 which consists of seven members. Five members shall be appointed  
16 by the Governor, one member shall be appointed by the Senate  
17 Rules Committee *on Rules*, and one member shall be appointed  
18 by the Speaker of the Assembly.

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

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

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

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

34 (2) Financial management.

35 (3) Public safety.

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

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

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

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

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

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

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

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

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

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

23 18602.5. (a) The commission shall adopt and submit a strategic  
24 plan to the Governor and the Legislature on or before September  
25 30, 2008. The commission shall also submit a report to the  
26 Governor and the Legislature on the status of the adoption of the  
27 strategic plan ~~during the commission's next regularly scheduled~~  
28 ~~sunset review after January 1, 2007 on or before March 1, 2008.~~

29 The strategic plan shall include, but shall not be limited to, efforts  
30 to resolve prior State Athletic Commission deficiencies in the  
31 following areas:

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

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

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

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

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

3 (6) Outdated information technology.

4 (7) Unorganized and improper accounting.

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

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

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

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

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

19 18824. (a) Except as provided in Sections 18646 and 18832,  
20 every person who conducts a contest or wrestling exhibition shall,  
21 within five working days after the determination of every contest  
22 or wrestling exhibition for which admission is charged and  
23 received, furnish to the commission the following:

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

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

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

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

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

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

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

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

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

32 (3) A fee of up to 5 percent, to be established by the commission  
33 through regulations to become operative on or before July 1, 2008,  
34 and updated periodically as needed, of the gross price, exclusive  
35 of any federal taxes paid thereon, for the sale, lease, or other  
36 exploitation of broadcasting or television rights thereof, except  
37 that in no case shall the fee be less than one thousand dollars  
38 (\$1,000) or more than twenty-five thousand dollars (\$25,000).

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

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

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

9 18882. (a) At the time of payment of the fee required by  
10 Section 18824, a promoter shall pay to the commission all amounts  
11 scheduled for contribution to the pension plan. If the commission,  
12 in its discretion, requires pursuant to Section 18881, that  
13 contributions to the pension plan be made by the boxer and his or  
14 her manager, those contributions shall be made at the time and in  
15 the manner prescribed by the commission.

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

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

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

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

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

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

15 ~~22259.~~ This chapter shall be subject to the review required by  
16 Division 1.2 (commencing with Section 473):

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

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

23 9148.8. (a) The ~~Joint Committee on Boards, Commissions,  
24 and Consumer Protection~~ *Office of the Consumer Advocate*, acting  
25 pursuant to a request from the chairperson of the appropriate policy  
26 committee, shall evaluate a plan prepared pursuant to Section  
27 9148.4 or 9148.6.

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

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

35 9148.51. (a) It is the intent of the Legislature that all existing  
36 and proposed state boards be subject to review ~~every four years  
37 upon request by a Member of the Legislature or the chief of the  
38 Office of the Consumer Advocate, as provided in Division 1.3  
39 (commencing with Section 474.20) of the Business and Professions  
40 Code, to evaluate and determine whether each has demonstrated~~

~~1 a public need for its continued existence in accordance with  
2 enumerated factors and standards as set forth in Chapter 2  
3 (commencing with Section 474) of Division 1.2 of the Business  
4 and Professions Code the highest priority of each board is the  
5 protection of the public.~~

~~6 (b) In the event that If any state board becomes inoperative or  
7 is repealed in accordance with the act that added this section, any  
8 provision of existing law that provides for the appointment of  
9 board members and specifies the qualifications and tenure of board  
10 members shall not be implemented and shall have no force or effect  
11 while that state board is inoperative or repealed is determined to  
12 be deficient pursuant to Section 474.21 of the Business and  
13 Professions Code, the incumbent members of the board shall be  
14 removed from office without a hearing as described in Section  
15 474.21 of the Business and Professions Code, and a successor  
16 board shall be appointed pursuant to Section 101.1 of the Business  
17 and Professions Code.~~

~~18 (c) Any provision of law authorizing the appointment of an  
19 executive officer by a state board subject to the review described  
20 in Chapter 2 (commencing with Section 474) of Division 1.2 of  
21 the Business and Professions Code, or prescribing his or her duties,  
22 shall not be implemented and shall have no force or effect while  
23 the applicable state board is inoperative or repealed.~~

~~24 (d) It is the intent of the Legislature that subsequent legislation  
25 to extend or repeal the inoperative date for any state board shall  
26 be a separate bill for that purpose.~~

~~27 SEC. 78. Section 9148.52 of the Government Code is repealed.~~

~~28 9148.52. (a) The Joint Committee on Boards, Commissions,  
29 and Consumer Protection established pursuant to Section 473 of  
30 the Business and Professions Code shall review all state boards,  
31 as defined in Section 9148.2, other than a board subject to review  
32 pursuant to Chapter 1 (commencing with Section 473) of Division  
33 1.2 of the Business and Professions Code, every four years.~~

~~34 (b) The committee shall evaluate and make determinations  
35 pursuant to Chapter 2 (commencing with Section 474) of Division  
36 1.2 of the Business and Professions Code.~~

~~37 SECTION 1. Section 101.1 of the Business and Professions  
38 Code is repealed.~~

~~39 SEC. 2. Section 101.1 is added to the Business and Professions  
40 Code, to read:~~

1     ~~101.1. In the event that any board, as defined in Section 477,~~  
2 ~~becomes inoperative or is repealed, a successor board shall be~~  
3 ~~created in the Department of Consumer Affairs that shall succeed~~  
4 ~~to and is vested with all the duties, powers, purposes,~~  
5 ~~responsibilities, and jurisdiction not otherwise repealed or made~~  
6 ~~inoperative of the board that it is succeeding. The successor board~~  
7 ~~shall have the same number of members and composition as the~~  
8 ~~board that it is succeeding, and those members shall be appointed~~  
9 ~~by the same appointing authorities, for the same term, and with~~  
10 ~~the same membership requirements as the members of that board.~~  
11 ~~The successor board shall also have the same authority to appoint~~  
12 ~~an executive officer as was possessed by the board that it is~~  
13 ~~succeeding on the date upon which that board became inoperative.~~

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

16     ~~4001. (a) There is in the Department of Consumer Affairs a~~  
17 ~~California State Board of Pharmacy in which the administration~~  
18 ~~and enforcement of this chapter is vested. The board consists of~~  
19 ~~13 members.~~

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

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

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

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

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

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

20 ~~4003. (a) The board may appoint a person exempt from civil~~  
21 ~~service who shall be designated as an executive officer and who~~  
22 ~~shall exercise the powers and perform the duties delegated by the~~  
23 ~~board and vested in him or her by this chapter. The executive~~  
24 ~~officer may or may not be a member of the board as the board may~~  
25 ~~determine.~~

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

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

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

39 ~~(e) In accordance with Section 473.1, this section shall become~~  
40 ~~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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**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 966**

**VERSION: As Amended June 27, 2007**

**AUTHOR: Simitian and Kuehl**

**SPONSOR: Constituent**

**BOARD POSITION: Oppose**

**SUBJECT: Pharmaceutical drug disposal**

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**EXISTING LAW:**

Existing law is silent on how a consumer should dispose of unused medication.

**THIS BILL WOULD:**

1. Make findings and declarations related to the presence of drugs in streams and the negative effects on fish and other aquatic species.
2. Discuss the potential impact this may have on human health.
3. Establish a program through which the public may return and ensure the safe and environmentally sound disposal of prescription drugs.
4. State that the intent of the Legislature is 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.
  - Encourage the use of models used by other jurisdictions
  - Develop a system that recognizes the business practices of retailers and manufacturers that is consistent with their drug management programs.
5. Define "consumer" as an individual purchaser or owner of a drug.
6. Define "Department" as the Department of Toxic Substances Control.
7. Define "drug" as articles recognized in the official United States Pharmacopoeia, the official National Formulary, the Office of Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary of those pharmacopoeia. "Drug" also includes any articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals, or articles, excluding food, intended to affect the structure or any function of the body of humans or other animals.
8. Define "retailer" as any entity who makes a retail sale of a drug to a consumer in this state that is either a supermarket as defined in the Public Resources Code, or that has over 10,000 square feet of retail space, and

- that has a pharmacy license issued by the board. Specifies that a retailer does not include a veterinarian.
9. Define "sale" as a transaction conducted through a sales outlet, catalog, 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.
  10. Allow on or after January 1, 2008, California retailers to conduct projects to collect and properly dispose of drugs rendered by consumers for disposal. State that the purpose of these projects is to develop, test, evaluate and implement program models for the proper collection and disposal of waste drugs.
  11. Require participating programs to:
    - Ensure proper disposal pursuant to all applicable laws, rules and regulations
    - Ensure the protection of public health and safety, the environment and the health and safety of retail employees
    - Provide educational materials to consumers informing them of the availability of this program and what constitutes proper and improper disposal of drugs
    - Evaluate the program's efficiency, effectiveness, and funding sustainability
  12. Allow pharmacies to partner with local governments to apply for appropriate household hazardous waste grants.
  13. Require the department to 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.
  14. Require that after July 1, 2010, the department shall identify the number of collection opportunities that are consistent with the intent of this chapter. Should the department determine that less than 80% of the state's population has access to a collection opportunity that is within one mile of a retailer, the provisions of the bill become mandatory.
  15. Require this system to:
    - Be at no cost to the consumer if it is the type or brand which the retailer sold previously
    - Provide a notice to consumers that provides consumers access to obtain more information about opportunities and locations for no-cost drug recycling
    - Provide information about the retailer's drug return opportunities and encourage consumers to utilize those opportunities. The information may include signage that is prominently displayed and easily visible to the consumer, written materials provided to the consumer at the time of purchase, reference to drug take-back opportunities in retailer advertising, or other promotional materials or direct communications with the consumer at the time of purchase.
  16. Allow the department to develop regulations that are necessary to implement the provisions in a manner that is enforceable.
  17. Allow the department to adopt regulations to implement these provisions as emergency regulations.

18. Preclude controlled substances.

**AUTHOR'S INTENT**

This bill was introduced after recommendation of a constituent. The intent is to provide a safe and effective method for disposal of unused prescription and over the counter medications as prescription drugs may be left indefinitely in medicine cabinets where they pose a threat of potential prescription drug misuse or abuse.

**FISCAL IMPACT:**

The board does not anticipate any major fiscal impact to the board. Minimal fiscal impact could be absorbed within existing resources of the board.

**SUPPORT and 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

#### **COMMENTS:**

We recognize the need for the intent of this legislation, but are concerned that the appropriate balance is not achievable given the language of the bill as amended.

At the last board meeting, board members expressed several concerns about the bill. Board staff communicated these concerns to the author's office both in person and in writing.

While the bill has been amended on two occasions, it still does not address some concerns.

1. It does not address any security to prevent theft or diversion of returned medication.
2. It allows supermarkets, even those without pharmacies to collect unused medication.
3. It places this program under the authority of the Department of Toxic Substances Control, who then could potentially begin regulating pharmacies for compliance with this section.
4. The board will have no control over the handling of prescription drugs returned to these containers.

Given these concerns and the short time for implementation, the board's President authorized a change in the board's position to oppose.

The board is working very hard to ensure a secure drug supply. The bill currently does not address any controls that need to be in place to prevent drug diversion, which could lead to contaminated prescriptions being sold by the pharmacy.

Board staff continues to work with the author's office to find a workable solution and have recently met with the Department of Toxic Substances Control.

#### **HISTORY:**

<b>Dates</b>	<b>Actions</b>
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07/05/07	July 5 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 9. Noes 5.) Re-referred to Com. on APPR.
06/27/07	June 27 From committee: Do pass, but first be re-referred to Com. on HEALTH. (Ayes 4. Noes 2.) Re-referred to Com. on HEALTH. From committee with author's amendments. Read second time. Amended. Re-referred to Com. on HEALTH.
06/26/07	June 26 Hearing postponed by committee.
06/21/07	June 21 Re-referred to Com. on E.S. & T.M. and then be re-referred to Com. on HEALTH
06/11/07	June 11 To Coms. on HEALTH and E.S. & T.M.
05/31/07	May 31 In Assembly. Read first time. Held at Desk.
05/31/07	May 31 Read third time. Passed. (Ayes 21. Noes 13. Page 1125.) To Assembly.
05/17/07	May 17 Motion to reconsider made by Senator Simitian. Reconsideration granted.
05/17/07	May 17 Read third time. Refused passage. (Ayes 20. Noes 18. Page 1000.)
05/01/07	May 1 Read second time. To third reading.
04/30/07	Apr. 30 Read second time. Amended. Re-referred to Com. on RLS. Withdrawn from committee. Ordered placed on second reading.
04/26/07	Apr. 26 From committee: Do pass as amended, but first amend, and re-refer to Com. on RLS. (Ayes 5. Noes 3. Page 706.)
04/09/07	Apr. 9 Read second time. Amended. Re-referred to Com. on B., P. & E.D.
03/29/07	Mar. 29 From committee: Do pass as amended, but first amend, and re-refer to Com. on B., P. & E.D. (Ayes 4. Noes 2. Page 385.) Set for hearing April 23.
03/19/07	Mar. 19 Set for hearing March 26.
03/15/07	Mar. 15 To Coms. on E.Q., B., P. & E.D. and RLS.
02/26/07	Feb. 26 Read first time.
02/24/07	Feb. 24 From print. May be acted upon on or after March 26.
02/23/07	Feb. 23 Introduced. To Com. on RLS. for assignment. To print.

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

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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:*

1 SECTION 1. Chapter 6.9.2 (commencing with Section  
2 25400.50) is added to Division 20 of the Health and Safety Code,  
3 to read:

4  
5 CHAPTER 6.9.2. DRUG DISPOSAL  
6

7 25400.50. (a) The Legislature finds and declares all of the  
8 following:

9 (a)

10 (1) The United States Geological Survey conducted a study in  
11 2002 sampling 139 streams across 30 states and found that 80  
12 percent had measurable concentrations of prescription and  
13 nonprescription drugs, steroids, and reproductive hormones.

14 (b)

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

18 (c)

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

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

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

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

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

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

7 25400.51. For the purposes of this chapter, the following terms  
8 have the following meanings, unless the context clearly requires  
9 otherwise:

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

14 (b) “Department” means the Department of Toxic Substances  
15 Control.

16 (b)

17 (c) “Drug” means any of the following:

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

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

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

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

28 (e)

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

32 (A) Meets the definition of a “supermarket,” as defined in  
33 Section 14526.5 of the Public Resources Code.

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

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

3 (d)

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

8 ~~25400.52. (a) On and after July 1, 2008, every retailer shall~~  
9 ~~have in place a system for the acceptance and collection of drugs~~  
10 ~~for proper disposal.~~

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

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

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

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

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

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

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

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

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

38 ~~25400.52. (a) Notwithstanding any provision of law to the~~  
39 ~~contrary, commencing January 1, 2008, California retailers may~~  
40 ~~conduct projects to collect and properly dispose of drugs rendered~~

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

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

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

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

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

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

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

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

24 25400.53. (a) After July 1, 2010, but not later than September  
25 30, 2010, the department shall identify the number of collection  
26 opportunities that are consistent with the intent of this chapter. If  
27 the department finds that less than 80 percent of the state's  
28 population has access to a collection opportunity that is within  
29 one mile of a retailer, as defined in this chapter, the department  
30 shall by January 1, 2011, require every retailer to have in place  
31 a system for the acceptance and collection of drugs for proper  
32 disposal.

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

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

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

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

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

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

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

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

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

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

21 (d) (1) The department may develop regulations pursuant to  
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
23 3 of Title 2 of the Government Code that are necessary to  
24 implement this chapter, and any other regulations that the  
25 department determines are necessary to implement the provisions  
26 of this chapter in a manner that is enforceable.

27 (2) The department may adopt regulations to implement this  
28 chapter as emergency regulations. The emergency regulations  
29 adopted pursuant to this chapter shall be adopted by the  
30 department in accordance with Chapter 3.5 (commencing with  
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
32 Code, and for the purposes of that chapter, including Section  
33 11349.6 of the Government Code, the adoption of these regulations  
34 is hereby deemed an emergency and shall be considered by the  
35 Office of Administrative Law as necessary for the immediate  
36 preservation of the public peace, health, safety, and general  
37 welfare. Notwithstanding Chapter 3.5 (commencing with Section  
38 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
39 any emergency regulations adopted by the department pursuant  
40 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.



**California State Board of Pharmacy**  
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STATE AND CONSUMER SERVICES AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
ARNOLD SCHWARZENEGGER, GOVERNOR

June 29, 2007

The Honorable Joe Simitian  
California State Senate  
State Capitol, Room 2080  
Sacramento, CA 95814

RE: SB 966 (as amended 6/27/07): Oppose

Dear Senator Simitian:

The Board of Pharmacy supports your efforts to establish a method for patients to discard unneeded prescription medicines. However, the board regrets that it must take an oppose position on SB 966, as amended June 27, 2007.

This legislation would require every retailer, as defined in this bill, to have a system to collect medicine (both prescription and over-the counter medicine) for proper disposal.

The board recognizes and supports the intent of this legislation and has been communicating with your staff to develop provisions that would establish a voluntary pilot program until a wider-scale implementation is possible.

The board's fundamental concerns about SB 966 include:

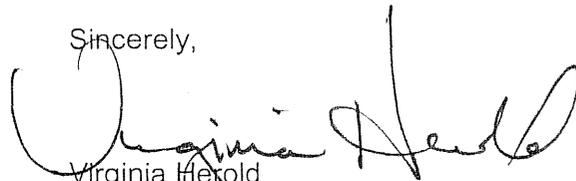
1. Abuse of prescription medicine is a serious problem. This bill offers the potential for the public to access, without control, containers that will be publicized to hold returned prescription medicine. This is likely to lead to thefts and diversion of medicine from the bins.
2. The bill does not address any security measures to prevent theft or diversion of returned medicine returned to a collection bin. There would be no sanctions for individuals who steal drugs from these bins, or even steal the bins themselves. And because the provisions are in a Health and Safety Code section not enforced by the board, should a pharmacy or its employees be involved in aiding such thefts, enforcement for such behavior would be outside the control of the board.
3. The bill would allow supermarkets, even those without pharmacies, to collect unused medicine. Again, no one would be responsible for the bins, for thefts from the bins or thefts of the bins themselves. The bill is silent on who would be responsible for ongoing thefts from a retailer that inappropriately supervises the bins.
4. The board carefully regulates prescription medicine distribution within and into California, and we have a series of sanctions to discipline drug diversion from pharmacies or unauthorized purchases of drugs by pharmacies. This bill could create chaos with regulatory control by placing a large cache of returned prescription medicine under the authority of the Department of Toxic Substances Control. The board is unaware of how this entity regulates violations of state law. For example, what resources and sanctions does this agency have to investigate thefts of bins from stores by employees or others?
5. The board believes uniform consumer information about the program would benefit patient compliance and participation in what should become a strong, statewide program. This aspect needs to be consolidated.

The Honorable Joe Simitian  
SB 966  
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The board would like to continue to work with your office on amendments that can resolve our concerns. We share your concern that patients have no appropriate means to dispose of their unwanted medicine and think your bill offers the first legislative solution introduced in California.

We would appreciate the opportunity to step into this take-back program more methodically and with clearer delineation of how disposal, responsibility for oversight and implementation can be done throughout California's 7,000 pharmacies.

Sincerely,



Virginia Herold  
Executive Officer

CC: John Gilman, Consultant, Assembly Health Committee