

E-7b
Other Active Bills of Interest Impacting
Board

- Copy of Language

AMENDED IN SENATE JULY 3, 2007

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AMENDED IN ASSEMBLY APRIL 12, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 14

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Hancock, Leno, Lieber, and
Saldana)
(Coauthors: Senators Kehoe and Kuehl)

December 4, 2006

An act to amend Sections 125.6, 16721, 16721.5, 19572, 23426.5, 23428.19, 23428.28, and 23438 of the Business and Professions Code, to amend Sections 82, 83, 84, 85, and 1747.80 of the Civil Code, to amend Sections 204 and 425.15 of the Code of Civil Procedure, to amend Sections 5047.5 and 24001.5 of the Corporations Code, to amend Sections 66030, 66251, 66270, 66292, 66292.1, 66292.2, 69535, 72011, 72014, 89757, and 92150 of the Education Code, to amend Section 2110 of the Elections Code, to amend Sections 11015, 11131, 54091, 54092, 54961, and 68088 of the Government Code, to amend Sections 1317, 1317.3, and 11801 of the Health and Safety Code, to amend Section 10115.7 of the Public Contract Code, to amend Sections 5080.18 and 5080.34 of the Public Resources Code, to amend Sections 453 and 12751.3 of the Public Utilities Code, to amend Section 24343.2 of, and to repeal and amend Section 17269 of, the Revenue and Taxation Code, and to amend Sections 4666, 5348, 5806, 10000, 16522.1, and 18907 of the Welfare and Institutions Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as amended, Laird. Discrimination: Civil Rights Act of 2007.

(1) The Unruh Civil Rights Act entitles all persons within the jurisdiction of this state to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, regardless of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

Under existing law, persons holding licenses under the provisions of the Business and Professions Code are subject to disciplinary action for refusing, or aiding or inciting another licensee to refuse, to perform the licensed services because of the prospective recipient's race, color, sex, religion, ancestry, disability, marital status, or national origin. Existing law also creates an exception to that prohibition for healing arts practitioners if the licensed activity sought would pose a direct threat to the health or safety of others.

This bill would enact the Civil Rights Act of 2007, as described herein, and would instead subject those licensees to disciplinary action if the above-described discrimination is based upon the prospective recipient's sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. This bill would also provide, however, that nothing in these provisions would prohibit the consideration of those characteristics for purposes of diagnosis or treatment, or require any healing arts practitioner to perform a licensed activity for which he or she is not qualified.

(2) Existing law provides that no person within the jurisdiction of this state shall be excluded or required to be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a 3rd party if that policy requires discrimination against that person on the basis of the person's sex, race, color, religion, ancestry, or national origin, or on the basis that the person conducts or has conducted business in a particular location.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, or on the basis that the person conducts or has conducted business in a particular location.

(3) Existing law provides that it is an unlawful trust and an unlawful restraint of trade for any person to grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, if the letter of

credit, contract, or other document contains any provision that requires any person to discriminate against, or to certify that he, she, or ~~it~~ *the letter, contract, or document* has not dealt with, any other person on the basis of sex, race, color, religion, ancestry, or national origin, or on the basis of a person's lawful business association.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, or on the basis of a person's lawful business association.

(4) The Horse Racing Law authorizes the California Horse Racing Board to provide by rule for the exclusion or ejection of specified persons from any horse racing inclosure. Notwithstanding that authorization, the law prohibits the board from providing by rule for the exclusion or ejection of a person on the ground of race, color, creed, national origin or ancestry, or sex.

This bill would instead prohibit the board from excluding or ejecting a person on the ground of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(5) Existing law prohibits tennis, handball, racquetball, and beach and athletic clubs from discriminating against any person on account of specified characteristics.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit those clubs from discriminating on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(6) Existing law requires every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin to incorporate a printed statement on its receipts that the expenditures covered by those receipts are nondeductible for tax purposes.

This bill would instead impose that requirement upon every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(7) The California Fair Dealership Law prohibits various acts of discrimination based on race, color, religion, national ancestry, or sex, with regard to the granting of dealerships, as defined.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit that discrimination based upon sex, race, color,

religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(8) A provision of the Song-Beverly Credit Card Act of 1971 prohibits a card issuer, as defined, from refusing to issue a credit card to a person solely because of that person's race, religious creed, color, national origin, ancestry, or sex.

This bill would conform that provision to the Unruh Civil Rights Act, and instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(9) Existing law specifies that no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, economic status, or sexual orientation, or for any other reason.

This bill would instead specify that no eligible person shall be exempt from service as a trial juror by reason of occupation, economic status, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, or for any other reason.

(10) Existing law provides that no cause of action may be maintained against a person serving without compensation as a director or officer of a nonprofit corporation incorporated pursuant to specified provisions of the nonprofit corporation law on account of any negligent act or omission by that person within the scope of that person's duties, except by court order or if the corporation unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

This bill would instead except from that immunity a director or officer of a nonprofit corporation that unlawfully restricts membership, services, or benefits on the basis of ancestry, marital status, political affiliation, race, national origin, religion, age, sex, sexual orientation, color, disability, or medical condition.

(11) Existing law provides that it is the policy of the state to afford all persons equal rights and opportunities in the postsecondary institutions of the state, regardless of specified factors. Existing law prohibits those institutions from discriminating on the basis of those factors, and requires the governing board of each community college district, the Chancellor of the California State University, the president of each California State University campus, the President of the University of California, and the chancellor of each University of

California campus to ensure that campus programs and activities are free from discrimination based upon those factors.

This bill would recast those factors in terms of, among others, sex, race, color, religion, age, ethnic group identification, national origin, disability, or sexual orientation.

(12) Existing law requires Cal Grant Program awards to be awarded without regard to race, religion, creed, sex, or age.

This bill would instead require Cal Grant Program awards to be awarded without regard to age, sex, race, color, religion, ethnic group identification, national origin, disability, or sexual orientation.

(13) Existing law prohibits the funds of a community college district, California State University, or University of California to be used for membership with, or for any participation involving a financial payment or contribution to, any private organization which membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

This bill would instead prohibit those funds from being used for membership or participation with any private organization that discriminates on the basis of sex, race, color, religion, age, ethnic group identification, national origin, disability, or sexual orientation.

(14) Existing law prohibits a county elections official from refusing to deputize a person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

This bill would instead prohibit that refusal to deputize if based upon a person's ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(15) Existing law prohibits the state from using state funds for membership or any participation involving any private organization or the use of a facility which membership practices discriminate on the basis of, among others, race, creed, color, sex, religion, or national origin. Existing law also prohibits the legislative body of a local agency from using a facility which practices discriminate on the basis of those factors.

This bill would instead prohibit that state or local involvement and use of private facilities if the organization or facility discriminates on the basis of, among others, ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(16) Existing law requires a city, county, or other local agency that owns, operates, or controls a public beach, or access to that beach, to allow for its use by any person regardless of color, race, religion, ancestry, sex, national origin, or residence.

This bill would allow for that access regardless of sex, race, color, religion, ancestry, age, ethnic group identification, national origin, disability, sexual orientation, or residence.

(17) Existing law authorizes the Judicial Council to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judges, commissioners, and referees.

This bill would further authorize the Judicial Council to provide by rule of court for training for judges, commissioners, and referees on any other bias based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(18) Existing law prohibits the provision of emergency services and care to be based upon, or affected by, a person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except as specified, and requires every hospital to adopt that policy.

This bill would instead prohibit that discrimination if based upon ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, except as specified, and would require every hospital to adopt that policy.

(19) Existing law authorizes each county to apply to the State Department of Health Services for funds for the purposes of alleviating problems in its county related to alcohol and drug abuse. Existing law authorizes each county to administer and coordinate all county alcohol and other drug programs funded by the state. Existing law requires every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

This bill would instead require every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(20) Existing law prohibits state governmental entities and contractors from discriminating in the awarding of any contract or subcontract on the basis of race, color, sex, ethnic origin, or ancestry.

This bill would instead prohibit that discrimination on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(21) Existing law governs contracts for state park system concessions, and prohibits discrimination by a concessionaire or his or her agents or employees against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of that person.

This bill would conform those provisions to the Unruh Civil Rights Act, and would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, age, ethnic group identification, national origin, disability, medical condition, marital status, or sexual orientation.

(22) Existing law prohibits a public utility from charging a person different rates or deposit amounts because of that person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status, or change in marital status.

This bill would instead prohibit that discrimination if based upon occupation, sex, race, color, religion, ancestry, age, ethnic group identification, national origin, disability, medical condition, marital status, or sexual orientation.

(23) The Municipal Utility District Act prohibits a municipal utility district from discriminating in the awarding and performance of district contracts on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation.

This bill would instead prohibit that discrimination if based upon marital status, ancestry, medical condition, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, disability, or retaliation.

(24) The Personal Income Tax Law and the Bank and Corporation Tax Law prohibit tax deductions based upon payments or expenditures made at a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

This bill would instead prohibit those deductions if made at a club that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. The bill would also delete an identical and duplicate provision as that described above.

(25) Existing law requires the state to contract with appropriate agencies to provide regional centers in the community for persons with developmental disabilities. Existing law prohibits those regional centers from conducting any meeting, conference, or other function in any facility that discriminates on the basis of race, religious creed, color, national origin, ancestry, sex, or disability.

This bill would further prohibit those centers from conducting any meeting, conference, or other function in any facility that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(26) Existing law requires any county that chooses to provide assisted outpatient treatment services to consider the cultural, linguistic, gender, age, and special needs of minorities in the target populations.

This bill would instead require those counties to consider the cultural, linguistic, and special needs based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability in the target populations.

(27) Existing law requires the State Department of Mental Health to establish service standards that ensure that members of the target population are identified and that services are provided to assist those members. Existing law requires those individual personal service plans to ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible.

This bill would instead require those service plans to ensure that members of the target population receive culturally appropriate services or appropriate services based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent feasible.

(28) Existing law specifies that for the purposes of the Welfare and Institutions Code that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, national origin or ancestry, religion, sex, marital status, or political affiliation.

This bill would instead specify that those services be provided without discrimination on account of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(29) Existing law requires the State Department of Social Services to adopt regulations to govern county transitional housing placement

programs that provide supervised housing services to youth meeting specified criteria. Existing law requires the department to review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of race, gender, sexual orientation, or disability.

This bill would instead require that the admission criteria do not discriminate on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(30) Existing law establishes a statewide program to enable specified recipients of aid and other low-income households to receive food stamps under the federal Food Stamp Program. Existing law provides that in the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief, to the extent not in conflict with federal law.

This bill would instead prohibit that discrimination if based upon marital status, political belief, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent not in conflict with federal law.

~~(31) This bill would further provide that the changes made by specified provisions of the act are to be construed as illustrative, rather than restrictive.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares as follows:*
- 2 (a) *Even prior to passage of the Unruh Civil Rights Act,*
- 3 *California law afforded broad protection against arbitrary*
- 4 *discrimination by business establishments. The Unruh Civil Rights*
- 5 *Act was enacted to provide broader, more effective protection*
- 6 *against arbitrary discrimination. California's interest in preventing*
- 7 *that discrimination is longstanding and compelling.*
- 8 (b) *In keeping with that history and the legislative history of the*
- 9 *Unruh Civil Rights Act, California courts have interpreted the*
- 10 *categories enumerated in the act to be illustrative rather than*
- 11 *restrictive. It is the intent of the Legislature that these enumerated*
- 12 *bases shall continue to be construed as illustrative rather than*
- 13 *restrictive, and, consistent with the Unruh Civil Rights Act, that*

1 *the civil rights provisions of this act that reference Section 51 of*
2 *the Civil Code also be interpreted to be illustrative rather than*
3 *restrictive.*

4 ~~SECTION 1.~~

5 *SEC. 1.5.* This act shall be known and may be cited as the Civil
6 Rights Act of 2007.

7 *SEC. 2.* Section 125.6 of the Business and Professions Code
8 is amended to read:

9 125.6. (a) (1) With regard to an applicant, every person who
10 holds a license under the provisions of this code is subject to
11 disciplinary action under the disciplinary provisions of this code
12 applicable to that person if, because of any characteristic listed or
13 defined in subdivision (b) or (e) of Section 51 of the Civil Code,
14 he or she refuses to perform the licensed activity or aids or incites
15 the refusal to perform that licensed activity by another licensee,
16 or if, because of any characteristic listed or defined in subdivision
17 (b) or (e) of Section 51 of the Civil Code, he or she makes any
18 discrimination, or restriction in the performance of the licensed
19 activity.

20 (2) Nothing in this section shall be interpreted to prevent a
21 physician or health care professional licensed pursuant to Division
22 2 (commencing with Section 500) from considering any of the
23 characteristics of a patient listed in subdivision (b) or (e) of Section
24 51 of the Civil Code if that consideration is medically necessary
25 and for the sole purpose of determining the appropriate diagnosis
26 or treatment of the patient.

27 (3) Nothing in this section shall be interpreted to apply to
28 discrimination by employers with regard to employees or
29 prospective employees, nor shall this section authorize action
30 against any club license issued pursuant to Article 4 (commencing
31 with Section 23425) of Chapter 3 of Division 9 because of
32 discriminatory membership policy.

33 (4) The presence of architectural barriers to an individual with
34 physical disabilities that conform to applicable state or local
35 building codes and regulations shall not constitute discrimination
36 under this section.

37 (b) (1) Nothing in this section requires a person licensed
38 pursuant to Division 2 (commencing with Section 500) to permit
39 an individual to participate in, or benefit from, the licensed activity
40 of the licensee where that individual poses a direct threat to the

1 health or safety of others. For this purpose, the term “direct threat”
2 means a significant risk to the health or safety of others that cannot
3 be eliminated by a modification of policies, practices, or procedures
4 or by the provision of auxiliary aids and services.

5 (2) Nothing in this section requires a person licensed pursuant
6 to Division 2 (commencing with Section 500) to perform a licensed
7 activity for which he or she is not qualified to perform.

8 (c) (1) “Applicant,” as used in this section, means a person
9 applying for licensed services provided by a person licensed under
10 this code.

11 (2) “License,” as used in this section, includes “certificate,”
12 “permit,” “authority,” and “registration” or any other indicia giving
13 authorization to engage in a business or profession regulated by
14 this code.

15 SEC. 3. Section 16721 of the Business and Professions Code
16 is amended to read:

17 16721. Recognizing that the California Constitution prohibits
18 a person from being disqualified from entering or pursuing a
19 business, profession, vocation, or employment because of sex,
20 race, creed, color, or national or ethnic origin, and guarantees the
21 free exercise and enjoyment of religion without discrimination or
22 preference; and recognizing that these and other basic, fundamental
23 constitutional principles are directly affected and denigrated by
24 certain ongoing practices in the business and commercial world,
25 it is necessary that provisions protecting and enhancing a person’s
26 right to enter or pursue business and to freely exercise and enjoy
27 religion, consistent with law, be established.

28 (a) No person within the jurisdiction of this state shall be
29 excluded from a business transaction on the basis of a policy
30 expressed in any document or writing and imposed by a third party
31 where that policy requires discrimination against that person on
32 the basis of any characteristic listed or defined in subdivision (b)
33 or (e) of Section 51 of the Civil Code or on the basis that the person
34 conducts or has conducted business in a particular location.

35 (b) No person within the jurisdiction of this state shall require
36 another person to be excluded, or be required to exclude another
37 person, from a business transaction on the basis of a policy
38 expressed in any document or writing that requires discrimination
39 against that other person on the basis of any characteristic listed
40 or defined in subdivision (b) or (e) of Section 51 of the Civil Code

1 or on the basis that the person conducts or has conducted business
2 in a particular location.

3 (c) Any violation of any provision of this section is a conspiracy
4 against trade.

5 (d) Nothing in this section shall be construed to prohibit any
6 person, on this basis of his or her individual ideology or
7 preferences, from doing business or refusing to do business with
8 any other person consistent with law.

9 SEC. 4. Section 16721.5 of the Business and Professions Code
10 is amended to read:

11 16721.5. (a) It is an unlawful trust and an unlawful restraint
12 of trade for any person to do the following:

13 (1) Grant or accept any letter of credit, or other document that
14 evidences the transfer of funds or credit, or enter into any contract
15 for the exchange of goods or services, where the letter of credit,
16 contract, or other document contains any provision that requires
17 any person to discriminate against or to certify that he, she, or it
18 has not dealt with any other person on the basis of any
19 characteristic listed or defined in subdivision (b) or (e) of Section
20 51 of the Civil Code, or on the basis of a person's lawful business
21 associations.

22 (2) To refuse to grant or accept any letter of credit, or other
23 document that evidences the transfer of funds or credit, or to refuse
24 to enter into any contract for the exchange of goods or services,
25 on the ground that it does not contain a discriminatory provision
26 or certification.

27 (b) The provisions of this section shall not apply to any letter
28 of credit, contract, or other document that contains any provision
29 pertaining to a labor dispute or an unfair labor practice if the other
30 provisions of that letter of credit, contract, or other document do
31 not otherwise violate the provisions of this section.

32 (c) For purposes of this section, the prohibition against
33 discrimination on the basis of a person's business associations
34 shall be deemed not to include the requiring of association with
35 particular employment or a particular group as a prerequisite to
36 obtaining group rates or discounts on insurance, recreational
37 activities, or other similar benefits.

38 (d) For purposes of this section, "person" shall include, but not
39 be limited to, individuals, firms, partnerships, associations,
40 corporations, and governmental agencies.

1 SEC. 5. Section 19572 of the Business and Professions Code
2 is amended to read:

3 19572. The board may, by rule, provide for the exclusion or
4 ejection from any inclosure where horse races are authorized, or
5 from specified portions of that inclosure, of any known bookmaker,
6 known tout, person who has been convicted of a violation of any
7 provision of this chapter or of any law prohibiting bookmaking or
8 any other illegal form of wagering on horseraces, or any other
9 person whose presence in the inclosure would, in the opinion of
10 the board, be inimical to the interests of the state or of legitimate
11 horse racing, or both. No rule shall provide for the exclusion or
12 ejection of any person on the ground of any characteristic listed
13 or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

14 SEC. 6. Section 23426.5 of the Business and Professions Code
15 is amended to read:

16 23426.5. (a) For purposes of this article, “club” also means
17 any tennis club that maintains not less than four regulation tennis
18 courts, together with the necessary facilities and clubhouse, has
19 members paying regular monthly dues, has been in existence for
20 not less than 45 years, and is not associated with a common interest
21 development as defined in Section 1351 of the Civil Code, a
22 community apartment project as defined in Section 11004 of this
23 code, a project consisting of condominiums as defined in Section
24 783 of the Civil Code, or a mobilehome park as defined in Section
25 18214 of the Health and Safety Code.

26 (b) It shall be unlawful for any club licensed pursuant to this
27 section to make any discrimination, distinction, or restriction
28 against any person on account of age or any characteristic listed
29 or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

30 SEC. 7. Section 23428.19 of the Business and Professions
31 Code is amended to read:

32 23428.19. For purposes of this article, “club” also means any
33 private club organized to play handball or racquetball, which owns,
34 maintains, or operates a building containing not less than four
35 regulation-size handball or racquetball courts, which has members,
36 and the members each pay regular monthly dues. As used in this
37 section, a “regulation-size handball or racquetball court” is a court
38 meeting the standards for regulation courts as are promulgated by
39 the United States Handball Association or an equivalent
40 organization.

1 It shall be unlawful for any club licensed pursuant to this section
2 to make any discrimination, distinction, or restriction against any
3 person on account of any characteristic listed or defined in
4 subdivision (b) or (e) of Section 51 of the Civil Code.

5 SEC. 8. Section 23428.28 of the Business and Professions
6 Code is amended to read:

7 23428.28. For the purposes of this article, “club” also means
8 any beach and athletic club that owns, maintains, or operates a
9 standard Amateur Athletic Union (AAU) swimming pool together
10 with the necessary facilities and clubhouse, has a minimum of 500
11 members paying regular monthly dues, and has continuously
12 operated for not less than one year.

13 No license shall be issued to any beach and athletic club
14 qualifying as a club pursuant to this section if the beach and athletic
15 club in any manner restricts membership or the use of its facilities
16 on the basis of age or any characteristic listed or defined in
17 subdivision (b) or (e) of Section 51 of the Civil Code.

18 SEC. 9. Section 23438 of the Business and Professions Code
19 is amended to read:

20 23438. (a) Any alcoholic beverage club licensee which restricts
21 membership or the use of its services or facilities on the basis of
22 ancestry or any characteristic listed or defined in Section 11135
23 of the Government Code shall, when issuing a receipt for expenses
24 which may otherwise be used by taxpayers for deduction purposes
25 pursuant to Section 162(a) of the Internal Revenue Code, for
26 purposes of the Personal Income Tax Law, or Section 24343 of
27 the Revenue and Taxation Code, for purposes of the Bank and
28 Corporation Tax Law, incorporate a printed statement on the receipt
29 as follows:

30 “The expenditures covered by this receipt are nondeductible for
31 state income tax purposes or franchise tax purposes.”

32 (b) For purposes of this section, the following terms have the
33 following meanings:

34 (1) “Expenses” means expenses, as defined in Section 17269
35 or 24343.2 of the Revenue and Taxation Code.

36 (2) “Club” means a club holding an alcoholic beverage license
37 pursuant to the provisions of this division, except a club holding
38 an alcoholic beverage license pursuant to Section 23425.

39 SEC. 10. Section 82 of the Civil Code is amended to read:

1 82. This part shall be liberally construed and applied to promote
2 its underlying purposes and policies, which are as follows:

3 (a) The prohibition of discrimination based upon any
4 characteristic listed or defined in subdivision (b) or (e) of Section
5 51 in the granting, sale, transfer, bequest, termination, and
6 nonrenewal of dealerships.

7 (b) The requirements of this part shall not be varied by contract
8 or agreement and any portion of a contract or agreement purporting
9 to do so is void and unenforceable.

10 SEC. 11. Section 83 of the Civil Code is amended to read:

11 83. On or after January 1, 1981, no grantor, directly or
12 indirectly, shall refuse to grant a dealership to any person because
13 of any characteristic listed or defined in subdivision (b) or (e) of
14 Section 51.

15 SEC. 12. Section 84 of the Civil Code is amended to read:

16 84. On or after January 1, 1981, no grantor, directly or
17 indirectly, may terminate, cancel, or refuse to renew a dealership
18 agreement with a dealer because of any characteristic listed or
19 defined in subdivision (b) or (e) of Section 51.

20 SEC. 13. Section 85 of the Civil Code is amended to read:

21 85. On or after January 1, 1981, no grantor or dealer, directly
22 or indirectly, shall refuse to make or to consent to an assignment,
23 sale, transfer, or bequest of a dealership to any person, or to the
24 intestate succession to the dealership by any person, because of
25 any characteristic listed or defined in subdivision (b) or (e) of
26 Section 51. This section shall not be construed to create any right
27 in a dealer to assign, sell, transfer, or bequeath a dealership where
28 the right did not exist prior to January 1, 1981.

29 SEC. 14. Section 1747.80 of the Civil Code is amended to
30 read:

31 1747.80. (a) No card issuer shall refuse to issue a credit card
32 to any person solely because of any characteristic listed or defined
33 in subdivision (b) or (e) of Section 51.

34 (b) Any card issuer who willfully violates this section is liable
35 for each and every offense for the actual damages, and two hundred
36 fifty dollars (\$250) in addition thereto, suffered by any person
37 denied a credit card solely for the reasons set forth in subdivision
38 (a). In addition, that person may petition the court to order the card
39 issuer to issue him or her a credit card upon the terms, conditions,

1 and standards as the card issuer normally utilizes in granting credit
2 to other individuals.

3 SEC. 15. Section 204 of the Code of Civil Procedure is
4 amended to read:

5 204. (a) No eligible person shall be exempt from service as a
6 trial juror by reason of occupation, economic status, or any
7 characteristic listed or defined in Section 11135 of the Government
8 Code, or for any other reason. No person shall be excused from
9 service as a trial juror except as specified in subdivision (b).

10 (b) An eligible person may be excused from jury service only
11 for undue hardship, upon themselves or upon the public, as defined
12 by the Judicial Council.

13 SEC. 16. Section 425.15 of the Code of Civil Procedure is
14 amended to read:

15 425.15. (a) No cause of action against a person serving without
16 compensation as a director or officer of a nonprofit corporation
17 described in this section, on account of any negligent act or
18 omission by that person within the scope of that person's duties
19 as a director acting in the capacity of a board member, or as an
20 officer acting in the capacity of, and within the scope of the duties
21 of, an officer, shall be included in a complaint or other pleading
22 unless the court enters an order allowing the pleading that includes
23 that claim to be filed after the court determines that the party
24 seeking to file the pleading has established evidence that
25 substantiates the claim. The court may allow the filing of a pleading
26 that includes that claim following the filing of a verified petition
27 therefor accompanied by the proposed pleading and supporting
28 affidavits stating the facts upon which the liability is based. The
29 court shall order service of the petition upon the party against
30 whom the action is proposed to be filed and permit that party to
31 submit opposing affidavits prior to making its determination. The
32 filing of the petition, proposed pleading, and accompanying
33 affidavits shall toll the running of any applicable statute of
34 limitations until the final determination of the matter, which ruling,
35 if favorable to the petitioning party, shall permit the proposed
36 pleading to be filed.

37 (b) Nothing in this section shall affect the right of the plaintiff
38 to discover evidence on the issue of damages.

39 (c) Nothing in this section shall be construed to affect any action
40 against a nonprofit corporation for any negligent action or omission

1 of a volunteer director or officer occurring within the scope of the
2 person's duties.

3 (d) For the purposes of this section, "compensation" means
4 remuneration whether by way of salary, fee, or other consideration
5 for services rendered. However, the payment of per diem, mileage,
6 or other reimbursement expenses to a director or officer shall not
7 constitute compensation.

8 (e) (1) This section applies only to officers and directors of
9 nonprofit corporations that are subject to Part 2 (commencing with
10 Section 5110), Part 3 (commencing with Section 7110), or Part 4
11 (commencing with Section 9110) of Division 2 of Title 1 of the
12 Corporations Code that are organized to provide charitable,
13 educational, scientific, social, or other forms of public service and
14 that are exempt from federal income taxation under Section
15 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5),
16 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

17 (2) This section does not apply to any corporation that
18 unlawfully restricts membership, services, or benefits conferred
19 on the basis of political affiliation, age, or any characteristic listed
20 or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

21 SEC. 17. Section 5047.5 of the Corporations Code is amended
22 to read:

23 5047.5. (a) The Legislature finds and declares that the services
24 of directors and officers of nonprofit corporations who serve
25 without compensation are critical to the efficient conduct and
26 management of the public service and charitable affairs of the
27 people of California. The willingness of volunteers to offer their
28 services has been deterred by a perception that their personal assets
29 are at risk for these activities. The unavailability and unaffordability
30 of appropriate liability insurance makes it difficult for these
31 corporations to protect the personal assets of their volunteer
32 decisionmakers with adequate insurance. It is the public policy of
33 this state to provide incentive and protection to the individuals
34 who perform these important functions.

35 (b) Except as provided in this section, no cause of action for
36 monetary damages shall arise against any person serving without
37 compensation as a director or officer of a nonprofit corporation
38 subject to Part 2 (commencing with Section 5110), Part 3
39 (commencing with Section 7110), or Part 4 (commencing with
40 Section 9110) of this division on account of any negligent act or

1 omission occurring (1) within the scope of that person's duties as
2 a director acting as a board member, or within the scope of that
3 person's duties as an officer acting in an official capacity; (2) in
4 good faith; (3) in a manner that the person believes to be in the
5 best interest of the corporation; and (4) is in the exercise of his or
6 her policymaking judgment.

7 (c) This section shall not limit the liability of a director or officer
8 for any of the following:

9 (1) Self-dealing transactions, as described in Sections 5233 and
10 9243.

11 (2) Conflicts of interest, as described in Section 7233.

12 (3) Actions described in Sections 5237, 7236, and 9245.

13 (4) In the case of a charitable trust, an action or proceeding
14 against a trustee brought by a beneficiary of that trust.

15 (5) Any action or proceeding brought by the Attorney General.

16 (6) Intentional, wanton, or reckless acts, gross negligence, or
17 an action based on fraud, oppression, or malice.

18 (7) Any action brought under Chapter 2 (commencing with
19 Section 16700) of Part 2 of Division 7 of the Business and
20 Professions Code.

21 (d) This section only applies to nonprofit corporations organized
22 to provide religious, charitable, literary, educational, scientific,
23 social, or other forms of public service that are exempt from federal
24 income taxation under Section 501(c)(3) or 501(c)(6) of the Internal
25 Revenue Code.

26 (e) This section applies only if the nonprofit corporation
27 maintains a general liability insurance policy with an amount of
28 coverage of at least the following amounts:

29 (1) If the corporation's annual budget is less than fifty thousand
30 dollars (\$50,000), the minimum required amount is five hundred
31 thousand dollars (\$500,000).

32 (2) If the corporation's annual budget equals or exceeds fifty
33 thousand dollars (\$50,000), the minimum required amount is one
34 million dollars (\$1,000,000).

35 This section applies only if the claim against the director or
36 officer may also be made directly against the corporation and a
37 general liability insurance policy is in force both at the time of
38 injury and at the time the claim against the corporation is made,
39 so that a policy is applicable to the claim. If a general liability
40 policy is found to cover the damages caused by the director or

1 officer, no cause of action as provided in this section shall be
2 maintained against the director or officer.

3 (f) For the purposes of this section, the payment of actual
4 expenses incurred in attending meetings or otherwise in the
5 execution of the duties of a director or officer shall not constitute
6 compensation.

7 (g) Nothing in this section shall be construed to limit the liability
8 of a nonprofit corporation for any negligent act or omission of a
9 director, officer, employee, agent, or servant occurring within the
10 scope of his or her duties.

11 (h) This section does not apply to any corporation that
12 unlawfully restricts membership, services, or benefits conferred
13 on the basis of political affiliation, age, or any characteristic listed
14 or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

15 (i) This section does not apply to any volunteer director or
16 officer who receives compensation from the corporation in any
17 other capacity, including, but not limited to, as an employee.

18 SEC. 18. Section 24001.5 of the Corporations Code is amended
19 to read:

20 24001.5. (a) The Legislature finds and declares that the
21 services of directors or officers of nonprofit medical associations,
22 as defined in Section 21200, who serve without compensation are
23 critical to the efficient conduct and management of the public
24 service and charitable affairs of the people of California. The
25 willingness of volunteers to offer their services has been deterred
26 by a perception that their personal assets are at risk for these
27 activities. The unavailability and unaffordability of appropriate
28 liability insurance makes it difficult for these associations to protect
29 the personal assets of their volunteer decisionmakers with adequate
30 insurance. It is the public policy of this state to provide incentive
31 and protection to the individuals who perform these important
32 functions.

33 (b) Except as provided in this section, no cause of action for
34 monetary damages shall arise against any person serving without
35 compensation as a director or officer of a nonprofit medical
36 association, as defined in Section 21200, on account of any
37 negligent act or omission occurring (1) within the scope of that
38 person's duties as a director acting as a board member, or within
39 the scope of that person's duties as an officer acting in an official
40 capacity; (2) in good faith; (3) in a manner that the person believes

1 to be in the best interest of the association; and (4) is in the exercise
2 of his or her policymaking judgment.

3 (c) This section shall not limit the liability of a director or officer
4 for any of the following:

5 (1) Self-dealing transactions, as described in Sections 5233 and
6 9243.

7 (2) Conflicts of interest, as described in Section 7233.

8 (3) Actions described in Sections 5237, 7236, and 9245.

9 (4) In the case of a charitable trust, an action or proceeding
10 against a trustee brought by a beneficiary of that trust.

11 (5) Any action or proceeding brought by the Attorney General.

12 (6) Intentional, wanton, or reckless acts, gross negligence, or
13 an action based on fraud, oppression, or malice.

14 (7) Any action brought under Chapter 2 (commencing with
15 Section 16700) of Part 2 of Division 7 of the Business and
16 Professions Code.

17 (d) This section only applies to nonprofit organizations
18 organized to provide charitable, educational, scientific, social, or
19 other forms of public service that are exempt from federal income
20 taxation under Section 501(c)(3) or 501(c)(6) of the Internal
21 Revenue Code.

22 (e) This section applies only if the nonprofit association
23 maintains a general liability insurance policy with an amount of
24 coverage of at least the following amounts:

25 (1) If the association's annual budget is less than fifty thousand
26 dollars (\$50,000), the minimum required amount is five hundred
27 thousand dollars (\$500,000).

28 (2) If the association's annual budget equals or exceeds fifty
29 thousand dollars (\$50,000), the minimum required amount is one
30 million dollars (\$1,000,000).

31 This section applies only if the general liability insurance policy
32 is in force both at the time of injury and at the time that the claim
33 is made, so that the policy is applicable to the claim.

34 (f) For the purposes of this section, the payment of actual
35 expenses incurred in attending meetings or otherwise in the
36 execution of the duties of a director or officer shall not constitute
37 compensation.

38 (g) Nothing in this section shall be construed to limit the liability
39 of a nonprofit association for any negligent act or omission of a

1 director, officer, employee, agent, or servant occurring within the
2 scope of his or her duties.

3 (h) This section does not apply to any association that unlawfully
4 restricts membership, services, or benefits conferred on the basis
5 of political affiliation, age, or any characteristic listed or defined
6 in subdivision (b) or (e) of Section 51 of the Civil Code.

7 (i) This section does not apply to any volunteer director or
8 officer who receives compensation from the association in any
9 other capacity, including, but not limited to, as an employee.

10 SEC. 19. Section 66030 of the Education Code is amended to
11 read:

12 66030. (a) It is the intent of the Legislature that public higher
13 education in California strive to provide educationally equitable
14 environments that give each Californian, regardless of age,
15 economic circumstance, or any other characteristic listed or defined
16 in Section 11135 of the Government Code, a reasonable
17 opportunity to develop fully his or her potential.

18 (b) It is the responsibility of the governing boards of institutions
19 of higher education to ensure and maintain multicultural learning
20 environments free from all forms of discrimination and harassment,
21 in accordance with state and federal law.

22 SEC. 20. Section 66251 of the Education Code is amended to
23 read:

24 66251. It is the policy of the State of California to afford all
25 persons, regardless of any characteristic listed or defined in Section
26 11135 of the Government Code or any basis that is contained in
27 the prohibition of hate crimes set forth in subdivision (a) of Section
28 422.6 of the Penal Code, equal rights and opportunities in the
29 postsecondary institutions of the state. The purpose of this chapter
30 is to prohibit acts that are contrary to that policy and to provide
31 remedies therefor.

32 SEC. 21. Section 66270 of the Education Code is amended to
33 read:

34 66270. No person shall be subjected to discrimination on the
35 basis of any characteristic listed or defined in Section 11135 of
36 the Government Code or any basis that is contained in the
37 prohibition of hate crimes set forth in subdivision (a) of Section
38 422.6 of the Penal Code in any program or activity conducted by
39 any postsecondary educational institution that receives, or benefits

1 from, state financial assistance or enrolls students who receive
2 state student financial aid.

3 SEC. 22. Section 66292 of the Education Code is amended to
4 read:

5 66292. (a) The governing board of a community college district
6 shall have the primary responsibility for ensuring that community
7 college district programs and activities are free from discrimination
8 based on any characteristic listed or defined in Section 11135 of
9 the Government Code.

10 (b) The Chancellor's office of the California Community
11 Colleges shall have responsibility for monitoring the compliance
12 of each district with any and all regulations adopted pursuant to
13 Section 11138 of the Government Code.

14 SEC. 23. Section 66292.1 of the Education Code is amended
15 to read:

16 66292.1. The Chancellor of the California State University and
17 the president of each California State University campus shall have
18 the primary responsibility for ensuring that campus programs and
19 activities are free from discrimination based on any characteristic
20 listed or defined in Section 11135 of the Government Code.

21 SEC. 24. Section 66292.2 of the Education Code is amended
22 to read:

23 66292.2. The President of the University of California and the
24 chancellor of each University of California campus shall have
25 primary responsibility for ensuring that campus programs and
26 activities are free from discrimination based on any characteristic
27 listed or defined in Section 11135 of the Government Code.

28 SEC. 25. Section 69535 of the Education Code is amended to
29 read:

30 69535. (a) Cal Grant Program awards shall be based upon the
31 financial need of the applicant. The level of financial need of each
32 applicant shall be determined by the commission pursuant to
33 Article 1.5 (commencing with Section 69503).

34 (b) For the applicants so qualifying, academic criteria or criteria
35 related to past performances shall be utilized as the criteria in
36 determining eligibility for grants.

37 (c) All Cal Grant Program award recipients shall be residents
38 of California, as determined by the commission pursuant to Part
39 41 (commencing with Section 68000), and shall remain eligible
40 only if they are in attendance and making satisfactory progress

1 through the instructional programs, as determined by the
2 commission.

3 (d) Part-time students shall not be discriminated against in the
4 selection of Cal Grant Program award recipients, and awards to
5 part-time students shall be roughly proportional to the time spent
6 in the instructional program, as determined by the commission.
7 First-time Cal Grant Program award recipients who are part-time
8 students shall be eligible for a full-time renewal award.

9 (e) Cal Grant Program awards shall be awarded without regard
10 to any characteristic listed or defined in Section 11135 of the
11 Government Code.

12 (f) No applicant shall receive more than one type of Cal Grant
13 Program award concurrently. Except as provided in subdivisions
14 (b) and (c) of Section 69535.1, no applicant shall:

15 (1) Receive one or a combination of Cal Grant Program awards
16 in excess of a total of four years of full-time attendance in an
17 undergraduate program.

18 (2) Have obtained a baccalaureate degree prior to receiving a
19 Cal Grant Program award, except as provided in Section 69540.

20 (g) Cal Grant Program awards, except as provided in subdivision
21 (c) of Section 69535.1, may only be used for educational expenses
22 of a program of study leading directly to an undergraduate degree
23 or certificate, or for expenses of undergraduate coursework in a
24 program of study leading directly to a first professional degree,
25 but for which no baccalaureate degree is awarded.

26 (h) Commencing in 1999, the commission shall, for students
27 who accelerate college attendance, increase the amount of award
28 proportional to the period of additional attendance resulting from
29 attendance in classes that fulfill requirements or electives for
30 graduation during summer terms, sessions, or quarters. In the
31 aggregate, the total amount a student may receive in a four-year
32 period may not be increased as a result of accelerating his or her
33 progress to a degree by attending summer terms, sessions, or
34 quarters.

35 (i) The commission shall notify Cal Grant award recipients of
36 the availability of funding for the summer term, session, or quarter
37 through prominent notice in financial aid award letters, materials,
38 guides, electronic information, and other means that may include,
39 but not be limited to, surveys, newspaper articles, or attachments

1 to communications from the commission and any other published
2 documents.

3 (j) The commission may provide by appropriate rules and
4 regulations for reports, accounting, and statements from the award
5 winner and college or university of attendance pertaining to the
6 use or application of the award as the commission may deem
7 proper.

8 (k) The commission may establish Cal Grant Program awards
9 in one hundred dollar (\$100) increments.

10 (l) A Cal Grant Program award may be utilized only at the
11 following institutions or programs:

12 (1) Any California private or independent postsecondary
13 educational institution or program that participates in two of the
14 three federal campus-based student aid programs and whose
15 students participate in the Pell Grant program.

16 (2) Any nonprofit regionally accredited institution headquartered
17 and operating in California that certifies to the commission that
18 10 percent of the institution's operating budget, as demonstrated
19 in an audited financial statement, is expended for the purposes of
20 institutionally funded student financial aid in the form of grants
21 and that demonstrates to the commission that it has the
22 administrative capacity to administer the funds.

23 (3) Any California public postsecondary educational institution
24 or program.

25 SEC. 26. Section 72011 of the Education Code is amended to
26 read:

27 72011. Every community college district shall provide access
28 to its services, classes, and programs without regard to ancestry
29 or any characteristic listed or defined in Section 11135 of the
30 Government Code.

31 SEC. 27. Section 72014 of the Education Code is amended to
32 read:

33 72014. No funds under the control of a community college
34 district shall ever be used for membership or for any participation
35 involving a financial payment or contribution, on behalf of the
36 district or any individual employed by or associated therewith, in
37 any private organization whose membership practices are
38 discriminatory on the basis of any characteristic listed or defined
39 in Section 11135 of the Government Code. This section does not
40 apply to any public funds which have been paid to an individual

1 officer or employee of the district as salary, or to any funds which
2 are used directly or indirectly for the benefit of student
3 organizations.

4 SEC. 28. Section 89757 of the Education Code is amended to
5 read:

6 89757. None of the funds enumerated in Section 89756, nor
7 any of the funds of an auxiliary organization, shall ever be used
8 by any university or college for membership or for any participation
9 involving a financial payment or contribution, on behalf of the
10 institution, or any individual employed by or associated therewith,
11 in any private organization whose membership practices are
12 discriminatory on the basis of any characteristic listed or defined
13 in Section 11135 of the Government Code. This section does not
14 apply to any public funds which have been paid to an individual
15 employee or officer as salary, or to any funds which are used
16 directly or indirectly for the benefit of student organizations.

17 SEC. 29. Section 92150 of the Education Code is amended to
18 read:

19 92150. No state funds under the control of an officer or
20 employee of the University of California shall ever be used for
21 membership or for any participation involving a financial payment
22 or contribution, on behalf of the university, or any individual
23 employed by or associated therewith, in any private organization
24 whose membership practices are discriminatory on the basis of
25 any characteristic listed or defined in Section 11135 of the
26 Government Code. This section does not apply to any public funds
27 which have been paid to an individual employee or officer of the
28 university as salary, or to any funds which are used directly or
29 indirectly for the benefit of student organizations.

30 SEC. 30. Section 2110 of the Elections Code is amended to
31 read:

32 2110. No county elections official may refuse to deputize any
33 person to register voters because of ancestry, marital status,
34 political affiliation, or any characteristic listed or defined in Section
35 11135 of the Government Code.

36 SEC. 31. Section 11015 of the Government Code is amended
37 to read:

38 11015. No state funds under the control of an officer or
39 employee of the state, or of any agency thereof, shall ever be used
40 for membership or for any participation involving a financial

1 payment or contribution, on behalf of the state agency, or any
2 individual employed by or associated therewith, in any private
3 organization whose membership practices are discriminatory on
4 the basis of any characteristic listed or defined in Section 11135.
5 This section does not apply to any public funds which have been
6 paid to an individual employee or officer as salary.

7 SEC. 32. Section 11131 of the Government Code is amended
8 to read:

9 11131. No state agency shall conduct any meeting, conference,
10 or other function in any facility that prohibits the admittance of
11 any person, or persons, on the basis of ancestry or any characteristic
12 listed or defined in Section 11135, or that is inaccessible to disabled
13 persons, or where members of the public may not be present
14 without making a payment or purchase. As used in this section,
15 “state agency” means and includes every state body, office, officer,
16 department, division, bureau, board, council, commission, or other
17 state agency.

18 SEC. 33. Section 54091 of the Government Code is amended
19 to read:

20 54091. Any city, county, or other local agency that owns,
21 operates, or controls any public beach shall allow the use of that
22 public beach by all persons regardless of ancestry, residence, or
23 any characteristic listed or defined in Section 11135. Nonresidents
24 of the city, county, or other local agency shall be permitted to use
25 that public beach upon the same terms and conditions as are
26 residents of the city, county, or local agency.

27 SEC. 34. Section 54092 of the Government Code is amended
28 to read:

29 54092. Any city, county, or other local agency that allows any
30 property owned, operated, or controlled by it to be used as a means
31 of access to any public beach shall allow free access over that
32 property to all persons regardless of ancestry, residence, or any
33 characteristic listed or defined in Section 11135.

34 SEC. 35. Section 54961 of the Government Code is amended
35 to read:

36 54961. (a) No legislative body of a local agency shall conduct
37 any meeting in any facility that prohibits the admittance of any
38 person, or persons, on the basis of ancestry or any characteristic
39 listed or defined in Section 11135, or which is inaccessible to
40 disabled persons, or where members of the public may not be

1 present without making a payment or purchase. This section shall
2 apply to every local agency as defined in Section 54951.

3 (b) No notice, agenda, announcement, or report required under
4 this chapter need identify any victim or alleged victim of tortious
5 sexual conduct or child abuse unless the identity of the person has
6 been publicly disclosed.

7 SEC. 36. Section 68088 of the Government Code is amended
8 to read:

9 68088. The Judicial Council may provide by rule of court for
10 racial, ethnic, and gender bias, and sexual harassment training and
11 training for any other bias based on any characteristic listed or
12 defined in Section 11135 for judges, commissioners, and referees.

13 SEC. 37. Section 1317 of the Health and Safety Code is
14 amended to read:

15 1317. (a) Emergency services and care shall be provided to
16 any person requesting the services or care, or for whom services
17 or care is requested, for any condition in which the person is in
18 danger of loss of life, or serious injury or illness, at any health
19 facility licensed under this chapter that maintains and operates an
20 emergency department to provide emergency services to the public
21 when the health facility has appropriate facilities and qualified
22 personnel available to provide the services or care.

23 (b) In no event shall the provision of emergency services and
24 care be based upon, or affected by, the person's ethnicity,
25 citizenship, age, preexisting medical condition, insurance status,
26 economic status, ability to pay for medical services, or any other
27 characteristic listed or defined in subdivision (b) or (e) of Section
28 51 of the Civil Code, except to the extent that a circumstance such
29 as age, sex, preexisting medical condition, or physical or mental
30 disability is medically significant to the provision of appropriate
31 medical care to the patient.

32 (c) Neither the health facility, its employees, nor any physician
33 and surgeon, dentist, clinical psychologist, or podiatrist shall be
34 liable in any action arising out of a refusal to render emergency
35 services or care if the refusal is based on the determination,
36 exercising reasonable care, that the person is not suffering from
37 an emergency medical condition, or that the health facility does
38 not have the appropriate facilities or qualified personnel available
39 to render those services.

1 (d) Emergency services and care shall be rendered without first
2 questioning the patient or any other person as to his or her ability
3 to pay therefor. However, the patient or his or her legally
4 responsible relative or guardian shall execute an agreement to pay
5 therefor or otherwise supply insurance or credit information
6 promptly after the services are rendered.

7 (e) If a health facility subject to this chapter does not maintain
8 an emergency department, its employees shall nevertheless exercise
9 reasonable care to determine whether an emergency exists and
10 shall direct the persons seeking emergency care to a nearby facility
11 that can render the needed services, and shall assist the persons
12 seeking emergency care in obtaining the services, including
13 transportation services, in every way reasonable under the
14 circumstances.

15 (f) No act or omission of any rescue team established by any
16 health facility licensed under this chapter, or operated by the federal
17 or state government, a county, or by the Regents of the University
18 of California, done or omitted while attempting to resuscitate any
19 person who is in immediate danger of loss of life shall impose any
20 liability upon the health facility, the officers, members of the staff,
21 nurses, or employees of the health facility, including, but not
22 limited to, the members of the rescue team, or upon the federal or
23 state government or a county, if good faith is exercised.

24 (g) "Rescue team," as used in this section, means a special group
25 of physicians and surgeons, nurses, and employees of a health
26 facility who have been trained in cardiopulmonary resuscitation
27 and have been designated by the health facility to attempt, in cases
28 of emergency, to resuscitate persons who are in immediate danger
29 of loss of life.

30 (h) This section shall not relieve a health facility of any duty
31 otherwise imposed by law upon the health facility for the
32 designation and training of members of a rescue team or for the
33 provision or maintenance of equipment to be used by a rescue
34 team.

35 SEC. 38. Section 1317.3 of the Health and Safety Code is
36 amended to read:

37 1317.3. (a) As a condition of licensure, each hospital shall
38 adopt, in consultation with the medical staff, policies and transfer
39 protocols consistent with this article and regulations adopted
40 hereunder.

1 (b) As a condition of licensure, each hospital shall adopt a policy
2 prohibiting discrimination in the provision of emergency services
3 and care based on ethnicity, citizenship, age, preexisting medical
4 condition, insurance status, economic status, ability to pay for
5 medical services, or any characteristic listed or defined in
6 subdivision (b) or (e) of Section 51 of the Civil Code, except to
7 the extent that a circumstance such as age, sex, preexisting medical
8 condition, or physical or mental disability is medically significant
9 to the provision of appropriate medical care to the patient. Transfer
10 by a hospital of a patient who requires evaluation for involuntary
11 psychiatric treatment, as determined by the receiving hospital or
12 other receiving health facility, based upon the decision of a
13 professional person duly authorized by law to make that decision,
14 shall not constitute discrimination for the purposes of this section,
15 if the transferring hospital has not been designated as an evaluation
16 facility by a county pursuant to Section 5150 of the Welfare and
17 Institutions Code, and if the transfer is in compliance with Section
18 1317.2.

19 (c) As a condition of licensure, each hospital shall require that
20 physicians and surgeons who serve on an “on-call” basis to the
21 hospital’s emergency room cannot refuse to respond to a call on
22 the basis of the patient’s ethnicity, citizenship, age, preexisting
23 medical condition, insurance status, economic status, ability to
24 pay for medical services, or any characteristic listed or defined in
25 subdivision (b) or (e) of Section 51 of the Civil Code, except to
26 the extent that a circumstance such as age, sex, preexisting medical
27 condition, or physical or mental disability is medically significant
28 to the provision of appropriate medical care to the patient. If a
29 contract between a physician and surgeon and hospital for the
30 provision of emergency room coverage presently prevents the
31 hospital from imposing those conditions, the conditions shall be
32 included in the contract as soon as is legally permissible. Nothing
33 in this section shall be construed as requiring that any physician
34 serve on an “on-call” basis.

35 (d) As a condition of licensure, all hospitals shall inform all
36 persons presented to an emergency room or their representatives
37 if any are present and the person is unable to understand verbal or
38 written communication, both orally and in writing, of the reasons
39 for the transfer or refusal to provide emergency services and care
40 and of the person’s right to emergency services and care prior to

1 transfer or discharge without regard to ability to pay. Nothing in
2 this subdivision requires notification of the reasons for the transfer
3 in advance of the transfer where a person is unaccompanied and
4 the hospital has made a reasonable effort to locate a representative,
5 and because of the person's physical or mental condition,
6 notification is not possible. All hospitals shall prominently post a
7 sign in their emergency rooms informing the public of their rights.
8 Both the posted sign and written communication concerning the
9 transfer or refusal to provide emergency services and care shall
10 give the address of the department as the government agency to
11 contact in the event the person wishes to complain about the
12 hospital's conduct.

13 (e) If a hospital does not timely adopt the policies and protocols
14 required in this article, the hospital, in addition to denial or
15 revocation of any of its licenses, shall be subject to a fine not to
16 exceed one thousand dollars (\$1,000) each day after expiration of
17 60 days' written notice from the state department that the hospital's
18 policies or protocols required by this article are inadequate unless
19 the delay is excused by the state department upon a showing of
20 good and sufficient cause by the hospital. The notice shall include
21 a detailed statement of the state department's reasons for its
22 determination and suggested changes to the hospital's protocols
23 which would be acceptable to the state department.

24 (f) Each hospital's policies and protocols required in or under
25 this article shall be submitted for approval to the state department
26 by December 31, 1988.

27 SEC. 39. Section 11801 of the Health and Safety Code is
28 amended to read:

29 11801. The alcohol and drug program administrator, acting
30 through administrative channels designated pursuant to Section
31 11795, shall do all of the following:

32 (a) Coordinate and be responsible for the planning process,
33 including preparation of the county plan executing the negotiated
34 net amount contract, and Drug Medi-Cal contract, whichever is
35 applicable.

36 (b) (1) Recommend to the board of supervisors the provision
37 of services, establishment of facilities, contracting for services or
38 facilities, and other matters necessary or desirable in accomplishing
39 the purposes of this part.

1 (2) Exercise general supervision over the alcohol and other drug
2 program services provided under the county plan, negotiated net
3 amount contract, and Drug Medi-Cal contract, whichever is
4 applicable.

5 (c) Assure compliance with applicable laws relating to
6 discrimination against any person because of any characteristic
7 listed or defined in Section 11135 of the Government Code.

8 (d) (1) Provide reports and information periodically to the
9 advisory board regarding the status of alcohol and other drug
10 programs in the county and keep the advisory board informed
11 regarding changes in relevant state, federal, and local laws or
12 regulations or improvements in program design and services that
13 may affect the county alcohol and other drug program.

14 (2) Submit an annual report to the board of supervisors reporting
15 all activities of the alcohol and other drug program, including a
16 financial accounting of expenditures and a forecast of anticipated
17 needs for the upcoming year.

18 (e) Be directly responsible for the administration of all alcohol
19 or other drug program funds allocated to the county under this
20 part, administration of county operated programs, and coordination
21 and monitoring of programs that have contracts with the county
22 to provide alcohol and other drug services.

23 (f) Encourage the appropriate utilization of all other public and
24 private alcohol and other drug programs and services in the county
25 in coordination with the programs funded pursuant to this part.

26 (g) Coordinate the activities of the county alcohol and other
27 drug program with appropriate health planning agencies pursuant
28 to Chapter 5 (commencing with Section 11820).

29 (h) Assure the evaluation of alcohol and other drug programs,
30 including the collection of appropriate and necessary information,
31 pursuant to Chapter 6 (commencing with Section 11825).

32 (i) Participate in the process to assure program quality in
33 compliance with appropriate standards pursuant to Chapter 7
34 (commencing with Section 11830).

35 (j) Participate in the regulations process pursuant to Chapter 8
36 (commencing with Section 11835).

37 (k) Participate and represent the county in meetings of the
38 County Alcohol and Drug Program Administrators Association of
39 California pursuant to Section 11811.5 for the purposes of
40 representing the counties in their relationship with the state with

1 respect to policies, standards, and administration for alcohol and
2 other drug abuse services.

3 (l) Provide for the orientation of the members of the advisory
4 board, including, but not limited to, the provision of information
5 and materials on alcohol and other drug problems and programs,
6 planning, procedures, and site visits to local programs.

7 (m) Perform any other acts that may be necessary, desirable, or
8 proper to carry out the purposes of this part.

9 SEC. 40. Section 10115.7 of the Public Contract Code is
10 amended to read:

11 10115.7. (a) Nothing in this article shall be construed to
12 authorize any awarding department to discriminate in the awarding
13 of any contract on the basis of ancestry or any characteristic listed
14 or defined in Section 11135 of the Government Code.

15 (b) Nothing in this article shall be construed to authorize any
16 contractor to discriminate in the solicitation or acceptance of bids
17 for subcontracting, or for materials or equipment, on the basis of
18 ancestry or any characteristic listed or defined in Section 11135
19 of the Government Code.

20 SEC. 41. Section 5080.18 of the Public Resources Code is
21 amended to read:

22 5080.18. All concession contracts entered into pursuant to this
23 article shall contain, but are not limited to, all of the following
24 provisions:

25 (a) The maximum term shall be 10 years, except that a term of
26 more than 10 years may be provided if the director determines that
27 the longer term is necessary to allow the concessionaire to amortize
28 improvements made by the concessionaire, to facilitate the full
29 utilization of a structure that is scheduled by the department for
30 replacement or redevelopment, or to serve the best interests of the
31 state. The term shall not exceed 20 years without specific
32 authorization by statute.

33 (b) Every concessionaire shall submit to the department all sales
34 and use tax returns.

35 (c) Every concession shall be subject to audit by the department.

36 (d) A performance bond shall be obtained and maintained by
37 the concessionaire. In lieu of a bond, the concessionaire may
38 substitute a deposit of funds acceptable to the department. Interest
39 on the deposit shall accrue to the concessionaire.

1 (e) The concessionaire shall obtain and maintain in force at all
2 times a policy of liability insurance in an amount adequate for the
3 nature and extent of public usage of the concession and naming
4 the state as an additional insured.

5 (f) Any discrimination by the concessionaire or his or her agents
6 or employees against any person because of the marital status or
7 ancestry of that person or any characteristic listed or defined in
8 Section 11135 of the Government Code is prohibited.

9 (g) To be effective, any modification of the concession contract
10 shall be evidenced in writing.

11 (h) Whenever a concession contract is terminated for substantial
12 breach, there shall be no obligation on the part of the state to
13 purchase any improvements made by the concessionaire.

14 SEC. 42. Section 5080.34 of the Public Resources Code is
15 amended to read:

16 5080.34. Every agreement entered into pursuant to this article
17 and every contract for a concession on lands that are subject to an
18 agreement entered into pursuant to this article shall expressly
19 prohibit discrimination against any person because of the marital
20 status or ancestry of that person or any characteristic listed or
21 defined in Section 11135 of the Government Code.

22 SEC. 43. Section 453 of the Public Utilities Code is amended
23 to read:

24 453. (a) No public utility shall, as to rates, charges, service,
25 facilities, or in any other respect, make or grant any preference or
26 advantage to any corporation or person or subject any corporation
27 or person to any prejudice or disadvantage.

28 (b) No public utility shall prejudice, disadvantage, or require
29 different rates or deposit amounts from a person because of
30 ancestry, medical condition, marital status or change in marital
31 status, occupation, or any characteristic listed or defined in Section
32 11135 of the Government Code. A person who has exhausted all
33 administrative remedies with the commission may institute a suit
34 for injunctive relief and reasonable attorney's fees in cases of an
35 alleged violation of this subdivision. If successful in litigation, the
36 prevailing party shall be awarded attorney's fees.

37 (c) No public utility shall establish or maintain any unreasonable
38 difference as to rates, charges, service, facilities, or in any other
39 respect, either as between localities or as between classes of
40 service.

1 (d) No public utility shall include with any bill for services or
2 commodities furnished any customer or subscriber any advertising
3 or literature designed or intended (1) to promote the passage or
4 defeat of a measure appearing on the ballot at any election whether
5 local, statewide, or national, (2) to promote or defeat any candidate
6 for nomination or election to any public office, (3) to promote or
7 defeat the appointment of any person to any administrative or
8 executive position in federal, state, or local government, or (4) to
9 promote or defeat any change in federal, state, or local legislation
10 or regulations.

11 (e) The commission may determine any question of fact arising
12 under this section.

13 SEC. 44. Section 12751.3 of the Public Utilities Code is
14 amended to read:

15 12751.3. (a) The purpose of this section is to provide affected
16 districts with an alternative acquisition process that will result in
17 reduced costs to ratepayers. Notwithstanding Section 12751, when
18 the expenditure for the purchase of supplies and materials exceeds
19 fifty thousand dollars (\$50,000) and the district determines that
20 ratepayers reasonably can expect a net benefit in the cost of district
21 services, the district may provide for the purchase of the supplies
22 and materials by contract let in accordance with best value at the
23 lowest cost acquisition policies adopted by the board pursuant to
24 this section.

25 (b) The best value at the lowest cost acquisition policies adopted
26 pursuant to subdivision (a) shall include the following:

27 (1) Price and service level proposals that reduce the district's
28 overall operating costs.

29 (2) Supplies and materials standards that support the district's
30 strategic supplies and materials acquisition and management
31 program direction.

32 (3) A procedure for protest and resolution.

33 (c) For purposes of this section, "best value at the lowest cost
34 acquisition" means a competitive procurement process whereby
35 the award of a contract for supplies and materials may take into
36 consideration any of the following factors:

37 (1) The total cost to the district of its use or consumption of
38 supplies and materials.

39 (2) The operational cost or benefit incurred by the district as a
40 result of the contract award.

1 (3) The value to the district of vendor-added services.

2 (4) The quality, effectiveness, and innovation of supplies,
3 materials, and services.

4 (5) The reliability of delivery or installation schedules.

5 (6) The terms and conditions of product warranties and vendor
6 guarantees.

7 (7) The financial stability of the vendor.

8 (8) The vendor's quality assurance program.

9 (9) The vendor's experience with the provision of supplies,
10 materials, and services.

11 (10) The consistency of the vendor's proposed supplies,
12 materials, and services with the district's overall supplies and
13 materials procurement program.

14 (11) The economic benefits to the general community related
15 to job creation or retention.

16 (d) If a district that did not purchase supplies and materials by
17 contract let pursuant to this section before January 1, 2006, elects
18 to purchase supplies and materials by contract, let in accordance
19 with best value acquisition policies adopted by the board pursuant
20 to this section, the district shall submit a report to the Legislative
21 Analyst on or before January 1, 2011. The district shall include in
22 the report a summary of the costs and benefits of best value
23 acquisition compared to traditional low bid procurement practices.
24 The report shall also include statistics showing the number of
25 contracts awarded to small businesses, minority-owned businesses,
26 and new businesses and the number of years each contract awardee
27 had been in business. The report shall also include an analysis of
28 the effects of best value procurement practices on these businesses,
29 the nature of any disputes arising from the use of best value
30 procurement practices, and the status of those disputes. On or
31 before April 1, 2011, the Legislative Analyst shall report to the
32 Legislature on the use of "best value at lowest cost acquisition"
33 procurement practices used by municipal utility districts, and
34 recommend whether to modify this section and extend the authority
35 of additional districts to elect to purchase supplies and materials
36 by contract let in accordance with best value acquisition policies,
37 beyond January 1, 2012.

38 (e) The district shall ensure that all businesses have a fair and
39 equitable opportunity to compete for, and participate in, district
40 contracts and shall also ensure that discrimination in the award

1 and performance of contracts does not occur on the basis of marital
2 status, ancestry, medical condition, any characteristic listed or
3 defined in Section 11135 of the Government Code, or retaliation
4 for having filed a discrimination complaint in the performance of
5 district contractual obligations.

6 (f) A district that did not purchase supplies and materials by
7 contract let pursuant to this section before January 1, 2006, shall
8 not purchase supplies and materials by contract let pursuant to this
9 section after January 1, 2012.

10 SEC. 45. Section 17269 of the Revenue and Taxation Code,
11 as added by Section 4 of Chapter 1139 of the Statutes of 1987, is
12 repealed.

13 SEC. 46. Section 17269 of the Revenue and Taxation Code,
14 as added by Section 2 of Chapter 1463 of the Statutes of 1987, is
15 amended to read:

16 17269. Whereas, the people of the State of California desire
17 to promote and achieve tax equity and fairness among all the state's
18 citizens and further desire to conform to the public policy of
19 nondiscrimination, the Legislature hereby enacts the following for
20 these reasons and for no other purpose:

21 (a) The provisions of Section 162 (a) of the Internal Revenue
22 Code shall not be applicable to expenses incurred by a taxpayer
23 with respect to expenditures made at, or payments made to, a club
24 which restricts membership or the use of its services or facilities
25 on the basis of ancestry or any characteristic listed or defined in
26 Section 11135 of the Government Code.

27 (b) A club described in subdivision (a) holding an alcoholic
28 beverage license pursuant to Division 9 (commencing with Section
29 23000) of the Business and Professions Code, except a club holding
30 an alcoholic beverage license pursuant to Section 23425 thereof,
31 shall provide on each receipt furnished to a taxpayer a printed
32 statement as follows:

33 "The expenditures covered by this receipt are nondeductible for
34 state income tax purposes or franchise tax purposes."

35 (c) For purposes of this section:

36 (1) "Expenses" means those expenses otherwise deductible
37 under Section 162(a) of the Internal Revenue Code, except for
38 subdivision (a), and includes, but is not limited to, club membership
39 dues and assessments, food and beverage expenses, expenses for
40 services furnished by the club, and reimbursements or salary

1 adjustments to officers or employees for any of the preceding
2 expenses.

3 (2) “Club” means a club as defined in Division 9 (commencing
4 with Section 23000) of the Business and Professions Code, except
5 a club as defined in Section 23425 thereof.

6 SEC. 47. Section 24343.2 of the Revenue and Taxation Code
7 is amended to read:

8 24343.2. Whereas, the people of the State of California desire
9 to promote and achieve tax equity and fairness among all the state’s
10 citizens and further desire to conform to the public policy of
11 nondiscrimination, the Legislature hereby enacts the following for
12 these reasons and for no other purpose:

13 (a) No deduction shall be allowed under Section 24343 for
14 expenses incurred by a taxpayer with respect to expenditures made
15 at, or payments made to, a club which restricts membership or the
16 use of its services or facilities on the basis of ancestry or any
17 characteristic listed or defined in Section 11135 of the Government
18 Code.

19 (b) A club described in subdivision (a) holding an alcoholic
20 beverage license pursuant to Division 9 (commencing with Section
21 23000) of the Business and Professions Code, except a club holding
22 an alcoholic beverage license pursuant to Section 23425 thereof,
23 shall provide on each receipt furnished to a taxpayer a printed
24 statement as follows:

25 “The expenditures covered by this receipt are nondeductible for
26 state income tax purposes or franchise tax purposes.”

27 (c) For purposes of this section:

28 (1) “Expenses” means those expenses otherwise deductible
29 under Section 24343, except for subdivision (a), and includes, but
30 is not limited to, club membership dues and assessments, food and
31 beverage expenses, expenses for services furnished by the club,
32 and reimbursements or salary adjustments to officers or employees
33 for any of the preceding expenses.

34 (2) “Club” means a club as defined in Division 9 (commencing
35 with Section 23000) of the Business and Professions Code, except
36 a club as defined in Section 23425 thereof.

37 SEC. 48. Section 4666 of the Welfare and Institutions Code is
38 amended to read:

39 4666. No regional center shall conduct any meeting, conference,
40 or other function in any facility that prohibits the admittance of

1 any person, or persons, on the basis of ancestry or any characteristic
2 listed or defined in Section 11135 of the Government Code.

3 SEC. 49. Section 5348 of the Welfare and Institutions Code is
4 amended to read:

5 5348. (a) For purposes of subdivision (e) of Section 5346, any
6 county that chooses to provide assisted outpatient treatment
7 services pursuant to this article shall offer assisted outpatient
8 treatment services including, but not limited to, all of the following:

9 (1) Community-based, mobile, multidisciplinary, highly trained
10 mental health teams that use high staff-to-client ratios of no more
11 than 10 clients per team member for those subject to court-ordered
12 services pursuant to Section 5346.

13 (2) A service planning and delivery process that includes the
14 following:

15 (A) Determination of the numbers of persons to be served and
16 the programs and services that will be provided to meet their needs.
17 The local director of mental health shall consult with the sheriff,
18 the police chief, the probation officer, the mental health board,
19 contract agencies, and family, client, ethnic, and citizen
20 constituency groups as determined by the director.

21 (B) Plans for services, including outreach to families whose
22 severely mentally ill adult is living with them, design of mental
23 health services, coordination and access to medications, psychiatric
24 and psychological services, substance abuse services, supportive
25 housing or other housing assistance, vocational rehabilitation, and
26 veterans' services. Plans shall also contain evaluation strategies,
27 that shall consider cultural, linguistic, and special needs based on
28 any characteristic listed or defined in Section 11135 of the
29 Government Code in the target populations. Provision shall be
30 made for staff with the cultural background and linguistic skills
31 necessary to remove barriers to mental health services as a result
32 of having limited-English-speaking ability and cultural differences.
33 Recipients of outreach services may include families, the public,
34 primary care physicians, and others who are likely to come into
35 contact with individuals who may be suffering from an untreated
36 severe mental illness who would be likely to become homeless if
37 the illness continued to be untreated for a substantial period of
38 time. Outreach to adults may include adults voluntarily or
39 involuntarily hospitalized as a result of a severe mental illness.

1 (C) Provisions for services to meet the needs of persons who
2 are physically disabled.

3 (D) Provision for services to meet the special needs of older
4 adults.

5 (E) Provision for family support and consultation services,
6 parenting support and consultation services, and peer support or
7 self-help group support, where appropriate.

8 (F) Provision for services to be client-directed and that employ
9 psychosocial rehabilitation and recovery principles.

10 (G) Provision for psychiatric and psychological services that
11 are integrated with other services and for psychiatric and
12 psychological collaboration in overall service planning.

13 (H) Provision for services specifically directed to seriously
14 mentally ill young adults 25 years of age or younger who are
15 homeless or at significant risk of becoming homeless. These
16 provisions may include continuation of services that would still
17 be received through other funds had eligibility not been terminated
18 as a result of age.

19 (I) Services reflecting special needs of women from diverse
20 cultural backgrounds, including supportive housing that accepts
21 children, personal services coordinator therapeutic treatment, and
22 substance treatment programs that address gender specific trauma
23 and abuse in the lives of persons with mental illness, and vocational
24 rehabilitation programs that offer job training programs free of
25 gender bias and sensitive to the needs of women.

26 (J) Provision for housing for clients that is immediate,
27 transitional, permanent, or all of these.

28 (K) Provision for clients who have been suffering from an
29 untreated severe mental illness for less than one year, and who do
30 not require the full range of services, but are at risk of becoming
31 homeless unless a comprehensive individual and family support
32 services plan is implemented. These clients shall be served in a
33 manner that is designed to meet their needs.

34 (3) Each client shall have a clearly designated mental health
35 personal services coordinator who may be part of a
36 multidisciplinary treatment team who is responsible for providing
37 or assuring needed services. Responsibilities include complete
38 assessment of the client's needs, development of the client's
39 personal services plan, linkage with all appropriate community
40 services, monitoring of the quality and follow through of services,

1 and necessary advocacy to ensure each client receives those
2 services which are agreed to in the personal services plan. Each
3 client shall participate in the development of his or her personal
4 services plan, and responsible staff shall consult with the designated
5 conservator, if one has been appointed, and, with the consent of
6 the client, shall consult with the family and other significant
7 persons as appropriate.

8 (4) The individual personal services plan shall ensure that
9 persons subject to assisted outpatient treatment programs receive
10 age, gender, and culturally appropriate services, to the extent
11 feasible, that are designed to enable recipients to:

12 (A) Live in the most independent, least restrictive housing
13 feasible in the local community, and, for clients with children, to
14 live in a supportive housing environment that strives for
15 reunification with their children or assists clients in maintaining
16 custody of their children as is appropriate.

17 (B) Engage in the highest level of work or productive activity
18 appropriate to their abilities and experience.

19 (C) Create and maintain a support system consisting of friends,
20 family, and participation in community activities.

21 (D) Access an appropriate level of academic education or
22 vocational training.

23 (E) Obtain an adequate income.

24 (F) Self-manage their illnesses and exert as much control as
25 possible over both the day-to-day and long-term decisions that
26 affect their lives.

27 (G) Access necessary physical health care and maintain the best
28 possible physical health.

29 (H) Reduce or eliminate serious antisocial or criminal behavior,
30 and thereby reduce or eliminate their contact with the criminal
31 justice system.

32 (I) Reduce or eliminate the distress caused by the symptoms of
33 mental illness.

34 (J) Have freedom from dangerous addictive substances.

35 (5) The individual personal services plan shall describe the
36 service array that meets the requirements of paragraph (4), and to
37 the extent applicable to the individual, the requirements of
38 paragraph (2).

1 (b) Any county that provides assisted outpatient treatment
2 services pursuant to this article also shall offer the same services
3 on a voluntary basis.

4 (c) Involuntary medication shall not be allowed absent a separate
5 order by the court pursuant to Sections 5332 to 5336, inclusive.

6 (d) Each county that operates an assisted outpatient treatment
7 program pursuant to this article shall provide data to the State
8 Department of Mental Health and, based on the data, the
9 department shall report to the Legislature on or before May 1 of
10 each year in which the county provides services pursuant to this
11 article. The report shall include, at a minimum, an evaluation of
12 the effectiveness of the strategies employed by each program
13 operated pursuant to this article in reducing homelessness and
14 hospitalization of persons in the program and in reducing
15 involvement with local law enforcement by persons in the program.
16 The evaluation and report shall also include any other measures
17 identified by the department regarding persons in the program and
18 all of the following, based on information that is available:

19 (1) The number of persons served by the program and, of those,
20 the number who are able to maintain housing and the number who
21 maintain contact with the treatment system.

22 (2) The number of persons in the program with contacts with
23 local law enforcement, and the extent to which local and state
24 incarceration of persons in the program has been reduced or
25 avoided.

26 (3) The number of persons in the program participating in
27 employment services programs, including competitive employment.

28 (4) The days of hospitalization of persons in the program that
29 have been reduced or avoided.

30 (5) Adherence to prescribed treatment by persons in the program.

31 (6) Other indicators of successful engagement, if any, by persons
32 in the program.

33 (7) Victimization of persons in the program.

34 (8) Violent behavior of persons in the program.

35 (9) Substance abuse by persons in the program.

36 (10) Type, intensity, and frequency of treatment of persons in
37 the program.

38 (11) Extent to which enforcement mechanisms are used by the
39 program, when applicable.

40 (12) Social functioning of persons in the program.

1 (13) Skills in independent living of persons in the program.

2 (14) Satisfaction with program services both by those receiving
3 them and by their families, when relevant.

4 SEC. 50. Section 5806 of the Welfare and Institutions Code is
5 amended to read:

6 5806. The State Department of Mental Health shall establish
7 service standards that ensure that members of the target population
8 are identified, and services provided to assist them to live
9 independently, work, and reach their potential as productive
10 citizens. The department shall provide annual oversight of grants
11 issued pursuant to this part for compliance with these standards.
12 These standards shall include, but are not limited to, all of the
13 following:

14 (a) A service planning and delivery process that is target
15 population based and includes the following:

16 (1) Determination of the numbers of clients to be served and
17 the programs and services that will be provided to meet their needs.
18 The local director of mental health shall consult with the sheriff,
19 the police chief, the probation officer, the mental health board,
20 contract agencies, and family, client, ethnic, and citizen
21 constituency groups as determined by the director.

22 (2) Plans for services, including outreach to families whose
23 severely mentally ill adult is living with them, design of mental
24 health services, coordination and access to medications, psychiatric
25 and psychological services, substance abuse services, supportive
26 housing or other housing assistance, vocational rehabilitation, and
27 veterans' services. Plans shall also contain evaluation strategies,
28 that shall consider cultural, linguistic, gender, age, and special
29 needs of minorities in the target populations. Provision shall be
30 made for staff with the cultural background and linguistic skills
31 necessary to remove barriers to mental health services due to
32 limited-English-speaking ability and cultural differences.
33 Recipients of outreach services may include families, the public,
34 primary care physicians, and others who are likely to come into
35 contact with individuals who may be suffering from an untreated
36 severe mental illness who would be likely to become homeless if
37 the illness continued to be untreated for a substantial period of
38 time. Outreach to adults may include adults voluntarily or
39 involuntarily hospitalized as a result of a severe mental illness.

1 (3) Provisions for services to meet the needs of target population
2 clients who are physically disabled.

3 (4) Provision for services to meet the special needs of older
4 adults.

5 (5) Provision for family support and consultation services,
6 parenting support and consultation services, and peer support or
7 self-help group support, where appropriate for the individual.

8 (6) Provision for services to be client-directed and that employ
9 psychosocial rehabilitation and recovery principles.

10 (7) Provision for psychiatric and psychological services that are
11 integrated with other services and for psychiatric and psychological
12 collaboration in overall service planning.

13 (8) Provision for services specifically directed to seriously
14 mentally ill young adults 25 years of age or younger who are
15 homeless or at significant risk of becoming homeless. These
16 provisions may include continuation of services that would still
17 be received through other funds had eligibility not been terminated
18 due to age.

19 (9) Services reflecting special needs of women from diverse
20 cultural backgrounds, including supportive housing that accepts
21 children, personal services coordinator therapeutic treatment, and
22 substance treatment programs that address gender specific trauma
23 and abuse in the lives of persons with mental illness, and vocational
24 rehabilitation programs that offer job training programs free of
25 gender bias and sensitive to the needs of women.

26 (10) Provision for housing for clients that is immediate,
27 transitional, permanent, or all of these.

28 (11) Provision for clients who have been suffering from an
29 untreated severe mental illness for less than one year, and who do
30 not require the full range of services but are at risk of becoming
31 homeless unless a comprehensive individual and family support
32 services plan is implemented. These clients shall be served in a
33 manner that is designed to meet their needs.

34 (b) Each client shall have a clearly designated mental health
35 personal services coordinator who may be part of a
36 multidisciplinary treatment team who is responsible for providing
37 or assuring needed services. Responsibilities include complete
38 assessment of the client's needs, development of the client's
39 personal services plan, linkage with all appropriate community
40 services, monitoring of the quality and follow through of services,

1 and necessary advocacy to ensure each client receives those
2 services which are agreed to in the personal services plan. Each
3 client shall participate in the development of his or her personal
4 services plan, and responsible staff shall consult with the designated
5 conservator, if one has been appointed, and, with the consent of
6 the client, consult with the family and other significant persons as
7 appropriate.

8 (c) The individual personal services plan shall ensure that
9 members of the target population involved in the system of care
10 receive culturally appropriate services or appropriate services based
11 on any characteristic listed or defined in Section 11135 of the
12 Government Code, to the extent feasible, that are designed to
13 enable recipients to:

14 (1) Live in the most independent, least restrictive housing
15 feasible in the local community, and for clients with children, to
16 live in a supportive housing environment that strives for
17 reunification with their children or assists clients in maintaining
18 custody of their children as is appropriate.

19 (2) Engage in the highest level of work or productive activity
20 appropriate to their abilities and experience.

21 (3) Create and maintain a support system consisting of friends,
22 family, and participation in community activities.

23 (4) Access an appropriate level of academic education or
24 vocational training.

25 (5) Obtain an adequate income.

26 (6) Self-manage their illness and exert as much control as
27 possible over both the day-to-day and long-term decisions which
28 affect their lives.

29 (7) Access necessary physical health care and maintain the best
30 possible physical health.

31 (8) Reduce or eliminate serious antisocial or criminal behavior
32 and thereby reduce or eliminate their contact with the criminal
33 justice system.

34 (9) Reduce or eliminate the distress caused by the symptoms of
35 mental illness.

36 (10) Have freedom from dangerous addictive substances.

37 (d) The individual personal services plan shall describe the
38 service array that meets the requirements of subdivision (c), and
39 to the extent applicable to the individual, the requirements of
40 subdivision (a).

1 SEC. 51. Section 10000 of the Welfare and Institutions Code
2 is amended to read:

3 10000. The purpose of this division is to provide for protection,
4 care, and assistance to the people of the state in need thereof, and
5 to promote the welfare and happiness of all of the people of the
6 state by providing appropriate aid and services to all of its needy
7 and distressed. It is the legislative intent that aid shall be
8 administered and services provided promptly and humanely, with
9 due regard for the preservation of family life, and without
10 discrimination on account of ancestry, marital status, political
11 affiliation, or any characteristic listed or defined in Section 11135
12 of the Government Code. That aid shall be so administered and
13 services so provided, to the extent not in conflict with federal law,
14 as to encourage self-respect, self-reliance, and the desire to be a
15 good citizen, useful to society.

16 SEC. 52. Section 16522.1 of the Welfare and Institutions Code
17 is amended to read:

18 16522.1. In order to be licensed pursuant to Section 1559.110
19 of the Health and Safety Code, an applicant shall obtain
20 certification from the county department of social services or the
21 county probation department that the facility program provides all
22 of the following:

23 (a) (1) Admission criteria for participants in the program,
24 including, but not limited to, consideration of the applicant's age,
25 previous placement history, delinquency history, history of drug
26 or alcohol abuse, current strengths, level of education, mental
27 health history, medical history, prospects for successful
28 participation in the program, and work experience. Youth who are
29 wards of the court described in Section 602 and youth receiving
30 psychotropic medications shall be eligible for consideration to
31 participate in the program, and shall not be automatically excluded
32 due to these factors.

33 (2) The department shall review the admission criteria to ensure
34 that the criteria are sufficient to protect participants and that they
35 do not discriminate on the basis of any characteristic listed or
36 defined in Section 11135 of the Government Code.

37 (b) Strict employment criteria that include a consideration of
38 the employee's age, drug or alcohol history, and experience in
39 working with persons in this age group.

1 (c) A training program designed to educate employees who
2 work directly with participants about the characteristics of persons
3 in this age group placed in long-term care settings, and designed
4 to ensure that these employees are able to adequately supervise
5 and counsel participants and to provide them with training in
6 independent living skills.

7 (d) A detailed plan for monitoring the placement of persons
8 under the licensee's care.

9 (e) A contract between the participating person and the licensee
10 that specifically sets out the requirements for each party, and in
11 which the licensee and the participant agree to the requirements
12 of this article.

13 (f) An allowance to be provided to each participant in the
14 program. In the case of a participant living independently, this
15 allowance shall be sufficient for the participant to purchase food
16 and other necessities.

17 (g) A system for payment for utilities, telephone, and rent.

18 (h) Policies regarding all of the following:

19 (1) Education requirements.

20 (2) Work expectations.

21 (3) Savings requirements.

22 (4) Personal safety.

23 (5) Visitors including, but not limited to, visitation by the
24 placement auditor pursuant to subdivision (d).

25 (6) Emergencies.

26 (7) Medical problems.

27 (8) Disciplinary measures.

28 (9) Child care.

29 (10) Pregnancy.

30 (11) Curfew.

31 (12) Apartment cleanliness.

32 (13) Use of utilities and telephone.

33 (14) Budgeting.

34 (15) Care of furnishings.

35 (16) Decorating of apartments.

36 (17) Cars.

37 (18) Lending or borrowing money.

38 (19) Unauthorized purchases.

39 (20) Dating.

1 (21) Grounds for termination that may include, but shall not be
2 limited to, illegal activities or harboring runaways.

3 (i) Apartment furnishings, and a policy on disposition of the
4 furnishings when the participant completes the program.

5 (j) Evaluation of the participant's progress in the program and
6 reporting to the independent living program and to the department
7 regarding that progress.

8 (k) A linkage to the federal Job Training and Partnership Act
9 (29 U.S.C. Sec. 1501 et seq.) program administered in the local
10 area to provide employment training to eligible participants.

11 SEC. 53. Section 18907 of the Welfare and Institutions Code
12 is amended to read:

13 18907. In the determination of eligibility for food stamps, there
14 shall be no discrimination against any household by reason of
15 marital status, political belief, or any characteristic listed or defined
16 in Section 11135 of the Government Code to the extent not in
17 conflict with federal law.

18 ~~SEC. 54. The changes made by Sections 2, 3, 4, 5, 6, 7, 8, 10,~~
19 ~~11, 12, 13, 14, 16, 17, 18, 37, and 38 of this act that become~~
20 ~~effective January 1, 2008, are intended to be construed as~~
21 ~~illustrative, rather than restrictive.~~

AMENDED IN SENATE JULY 11, 2007
AMENDED IN SENATE JUNE 11, 2007
AMENDED IN ASSEMBLY APRIL 18, 2007
AMENDED IN ASSEMBLY APRIL 10, 2007
AMENDED IN ASSEMBLY MARCH 22, 2007
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 64

Introduced by Assembly Member Berg
(Coauthors: Assembly Members Beall, De Leon, DeVore, Huffman,
Horton, Jeffries, Jones, Krekorian, Niello, Portantino,
Richardson, and Wolk)

December 4, 2006

An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes the Emergency Medical Services Authority, in the Health and Welfare Agency, to establish planning and implementation guidelines for emergency medical service systems, as specified. The guidelines are required to address, among other things, disaster response, and the authority is required to provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems.

The authority is required to adopt rules and regulations, approved by the Commission on Emergency Medical Services, in order to carry out its duties.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register in this state volunteer health practitioners with valid and current licenses in other states. The bill would allow a volunteer to provide in this state, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state, local or health emergency or a state of war, and would require a host entity in this state to ~~consult~~ and coordinate its activities with the Emergency Medical Services Authority to the extent practicable.

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the Emergency Medical Services Authority, ~~in consultation with the Office of Emergency Services~~, and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would require the authority to ~~consult~~ and coordinate its activities with the Office of Emergency Services, as specified. The bill would also permit a host entity to restrict the health or veterinary services that a volunteer practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions are met. The bill would also provide that volunteer health practitioners providing services in California shall be considered agents or employees of the state for the purpose of workers' compensation coverage while performing services in this state or traveling to or from this state for that purpose. The bill would authorize the authority to promulgate rules, after approval by the Commission on Emergency Medical Services, in order to implement the provisions of the Uniform Emergency Volunteer Health Practitioners Act.

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. Article 7.7 (commencing with Section 8599.5)
2 is added to Chapter 7 of Division 1 of Title 2 of the Government
3 Code, to read:

4
5 Article 7.7. Uniform Emergency Volunteer Health Practitioners
6 Act
7

8 8599.5. This article may be cited as the Uniform Emergency
9 Volunteer Health Practitioners Act.

10 8599.51. For the purposes of this article, the following terms
11 have the following meanings:

12 (a) “Disaster relief organization” means an entity that provides
13 emergency or disaster relief services that include health or
14 veterinary services provided by volunteer health practitioners and
15 that meets either of the following requirements:

16 (1) It is designated or recognized as a provider of those services
17 pursuant to a disaster response and recovery plan adopted by an
18 agency of the federal government or the Emergency Medical
19 Services Authority.

20 (2) It regularly plans and conducts its activities in coordination
21 with an agency of the federal government or the Emergency
22 Medical Services Authority.

23 (b) “Emergency” means an event or condition that is a state of
24 emergency proclaimed pursuant to Section 8588 or 8625, a local
25 emergency proclaimed pursuant to Section 8630, a health
26 emergency proclaimed pursuant to Section 101080 of the Health
27 and Safety Code, or a state of war.

28 (c) “Emergency declaration” means a proclamation of
29 emergency issued pursuant to Section 8588, 8625, or 8630, a
30 declaration of health emergency pursuant to Section 101080 of
31 the Health and Safety Code, or a declaration of war by the United
32 States.

33 (d) “Emergency Management Assistance Compact” means the
34 interstate compact approved by Congress by Public Law No.
35 104-321 and ratified in Article 3.7 (commencing with Section 179)
36 of Chapter 1 of Division 1 of Title 1.

37 (e) “Entity” means a person other than an individual.

1 (f) “Health facility” means an entity licensed under the laws of
2 this or another state to provide health or veterinary services.

3 (g) “Health practitioner” means an individual licensed under
4 the laws of this or another state to provide health or veterinary
5 services.

6 (h) “Health services” means the provision of treatment, care,
7 advice, or guidance, or other services, or supplies, related to the
8 health or death of individuals or human populations, to the extent
9 necessary to respond to an emergency, including all of the
10 following:

11 (1) Services or supplies concerning the physical or mental
12 condition or functional status of an individual or affecting the
13 structure or function of the body, including the following:

14 (A) Preventive, diagnostic, therapeutic, rehabilitative,
15 maintenance, or palliative care.

16 (B) Counseling, assessment, procedures, or other services.

17 (2) The sale or dispensing of a drug, a device, equipment, or
18 another item to an individual in accordance with a prescription.

19 (3) Funeral, cremation, cemetery, or other mortuary services.

20 (i) “Host entity” means an entity operating in this state that uses
21 volunteer health practitioners to respond to an emergency.

22 (j) “License” means authorization by a state to engage in health
23 or veterinary services that are unlawful without the authorization.
24 The term includes authorization under the laws of California to
25 provide health or veterinary services based upon a national
26 certification issued by a public or private entity.

27 (k) “Person” means an individual, corporation, business trust,
28 trust, partnership, limited liability company, association, joint
29 venture, public corporation, government or governmental
30 subdivision, agency, or instrumentality, or any other legal or
31 commercial entity.

32 (l) “Scope of practice” means the extent of the authorization to
33 provide health or veterinary services granted to a health practitioner
34 by a license issued to the practitioner in the state in which the
35 principal part of the practitioner’s services are rendered, including
36 any conditions imposed by the licensing authority in that state.

37 (m) “State” means a state of the United States, the District of
38 Columbia, Puerto Rico, the United States Virgin Islands, or any
39 territory or insular possession subject to the jurisdiction of the
40 United States.

1 (n) “Veterinary services” means the provision of treatment,
2 care, advice or guidance, or other services or supplies, related to
3 the health or death of an animal or to animal populations, to the
4 extent necessary to respond to an emergency, including all of the
5 following:

6 (1) Diagnosis, treatment, or prevention of an animal disease,
7 injury, or other physical or mental condition by the prescription,
8 administration, or dispensing of vaccine, medicine, surgery, or
9 therapy.

10 (2) Use of a procedure for reproductive management.

11 (3) Monitoring and treatment of animal populations for diseases
12 that have spread or demonstrate the potential to spread to humans.

13 (o) “Volunteer health practitioner” means a health practitioner
14 who provides health or veterinary services, whether or not the
15 practitioner receives compensation for those services. “Volunteer
16 health practitioner” does not include a practitioner who receives
17 compensation pursuant to a preexisting employment relationship
18 with a host entity or affiliate that requires the practitioner to provide
19 health services in this state, unless the practitioner is not a resident
20 of this state and is employed by a disaster relief organization
21 providing services in this state while an emergency declaration is
22 in effect.

23 8599.52. This article applies to volunteer health practitioners
24 registered with a registration system that complies with Section
25 8599.54 and who provide health or veterinary services in this state
26 for a host entity while an emergency declaration is in effect.

27 8599.53. (a) While an emergency declaration is in effect, the
28 Emergency Medical Services Authority, ~~in consultation with the~~
29 ~~Office of Emergency Services,~~ may limit, restrict, or otherwise
30 regulate all of the following:

31 (1) The duration of practice by volunteer health practitioners.

32 (2) The geographical areas in which volunteer health
33 practitioners may practice.

34 (3) The types of volunteer health practitioners who may practice.

35 (4) Any other matters necessary to coordinate effectively the
36 provision of health or veterinary services during the emergency.

37 (b) An order issued pursuant to subdivision (a) may take effect
38 immediately, without prior notice or comment, and is not a
39 regulation within the meaning of the Administrative Procedure

1 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3).

3 (c) A host entity that uses volunteer health practitioners to
4 provide health or veterinary services in this state shall do both of
5 the following:

6 (1) ~~Consult and coordinate~~ *Coordinate* its activities with the
7 Emergency Medical Services Authority to the extent practicable
8 to provide for the efficient and effective use of volunteer health
9 practitioners.

10 (2) Comply with any laws other than this article relating to the
11 management of emergency health or veterinary services.

12 (d) The Emergency Medical Services Authority shall ~~consult~~
13 ~~and~~ coordinate its activities under this section with the Office of
14 Emergency Services to ensure that any deployment of volunteer
15 health practitioners is consistent with the standard emergency
16 management system, established pursuant to Section 8607.

17 8599.54. (a) To qualify as a volunteer health practitioner
18 registration system, a system must do all of the following:

19 (1) Accept applications for the registration of volunteer health
20 practitioners before or during an emergency.

21 (2) Include information about the licensure and good standing
22 of health practitioners that is accessible by authorized persons.

23 (3) Be capable of supplying sufficient information about
24 registered volunteer health practitioners to the Emergency Medical
25 Services Authority, or a similar designated agency, in order to
26 allow that authority or agency to confirm the accuracy of
27 information concerning whether a health practitioner is licensed
28 and in good standing before health services or veterinary services
29 are provided under this article.

30 (4) Meet at least one of the following conditions:

31 (A) Be an emergency system for advance registration of
32 volunteer health care practitioners established by a state and funded
33 through the Health Resources Services Administration under
34 Section 3191 of the Public Health Services Act (42 U.S.C. Sec.
35 247d-7b).

36 (B) Be a local unit consisting of trained and equipped emergency
37 response, public health, and medical personnel formed pursuant
38 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.
39 300hh).

40 (C) Be operated by one of the following:

1 (i) A disaster relief organization.

2 (ii) A licensing board or bureau established pursuant to Division
3 2 (commencing with Section 500) of, or Chapter 12 (commencing
4 with Section 7600) of Division 3 of, the Business and Professions
5 Code.

6 (iii) A national, state, or regional association of licensing boards
7 or health practitioners.

8 (iv) A health facility that provides comprehensive inpatient and
9 outpatient health care services, including a tertiary care and
10 teaching hospital.

11 (v) A governmental entity.

12 (D) Be designated by the Emergency Medical Services Authority
13 as a registration system for purposes of this article.

14 (b) While an emergency declaration is in effect, the Emergency
15 Medical Services Authority, a person authorized to act on behalf
16 of the authority, or a host entity may confirm whether volunteer
17 health practitioners utilized in this state are registered with a
18 registration system that complies with subdivision (a).
19 Confirmation is limited to obtaining identities of the practitioners
20 from the system and determining whether the system indicates that
21 the practitioners are licensed and in good standing.

22 (c) Upon request of a person in this state authorized to manage
23 the emergency response, or a similarly authorized person in another
24 state, a registration system located in this state shall notify the
25 person of the identities of volunteer health practitioners and
26 whether the practitioners are licensed and in good standing.

27 (d) A host entity is not required to use the services of a volunteer
28 health practitioner even if the practitioner is registered with a
29 registration system that indicates that the practitioner is licensed
30 and in good standing.

31 8599.55. (a) While an emergency declaration is in effect, a
32 volunteer health practitioner, registered with a registration system
33 that complies with Section 8599.54 and licensed and in good
34 standing in the state in which the practitioner's registration is based,
35 may practice in this state to the extent authorized by this article as
36 if the practitioner were licensed in this state.

37 (b) A volunteer health practitioner qualified under subdivision
38 (a) is not entitled to the protections of this article if the practitioner
39 is licensed in more than one state and any license of the practitioner
40 is suspended, revoked, or subject to an order limiting or restricting

1 practice privileges, or has been voluntarily terminated under threat
2 of sanction.

3 (c) Nothing in this article is intended to modify the licensing
4 requirements imposed on any health practitioner by licensing or
5 regulatory provisions contained in Division 2 (commencing with
6 Section 500) of the Business and Professions Code, or by any other
7 laws or regulations of this state, in the absence of an emergency
8 declaration, as that term is defined in subdivision (c) of Section
9 8599.51.

10 8599.56. (a) For purposes of this section, the following terms
11 have the following meanings:

12 (1) “Credentialing” means obtaining, verifying, and assessing
13 the qualifications of a health practitioner to provide treatment,
14 care, or services in or for a health facility.

15 (2) “Privileging” means the authorizing by an appropriate
16 authority, such as a governing body, of a health practitioner to
17 provide specific treatment, care, or services at a health facility
18 subject to limits based on factors that include license, education,
19 training, experience, competence, health status, and specialized
20 skill.

21 (b) This article does not affect credentialing or privileging
22 standards of a health facility and does not preclude a health facility
23 from waiving or modifying those standards while an emergency
24 declaration is in effect.

25 8599.57. (a) ~~Subject to~~ *Except as further limited by*
26 subdivisions (b) and (c), a volunteer health practitioner shall adhere
27 to the scope of practice for a similarly licensed practitioner
28 established by the licensing provisions, practice acts, or other laws
29 of this state.

30 (b) Except as otherwise provided in subdivision (c), this article
31 does not authorize a volunteer health practitioner to provide
32 services that are outside the practitioner’s scope of practice, even
33 if a similarly licensed practitioner in this state would be permitted
34 to provide the services.

35 (c) The applicable licensing board or bureau may ~~modify or~~
36 *restrict or may, consistent with the limitations set forth in*
37 *subdivision (a), modify* the health services or veterinary services
38 regulated by that body that volunteer health practitioners may
39 provide pursuant to this article. An order under this subdivision
40 may take effect immediately, without prior notice or comment,

1 and is not a regulation within the meaning of the Administrative
2 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
3 Part 1 of Division 3).

4 (d) A host entity may restrict the health or veterinary services
5 that a volunteer health practitioner may provide pursuant to this
6 article.

7 (e) A volunteer health practitioner shall not be found to have
8 engaged in unauthorized practice unless the practitioner has reason
9 to know of any limitation, modification, or restriction under this
10 section or that a similarly licensed practitioner in this state would
11 not be permitted to provide the services. A volunteer health
12 practitioner has reason to know of a limitation, modification, or
13 restriction or that a similarly licensed practitioner in this state
14 would not be permitted to provide a service if either:

15 (1) The practitioner knows the limitation, modification, or
16 restriction exists or that a similarly licensed practitioner in this
17 state would not be permitted to provide the service.

18 (2) From all the facts and circumstances known to the
19 practitioner at the relevant time, a reasonable person would
20 conclude that the limitation, modification, or restriction exists or
21 that a similarly licensed practitioner in this state would not be
22 permitted to provide the service.

23 (f) In addition to the authority granted by the laws of this state,
24 other than this article, to regulate the conduct of health
25 practitioners, a licensing board or other disciplinary authority in
26 this state has the following powers and duties:

27 (1) It may impose administrative sanctions upon a health
28 practitioner licensed in this state for conduct outside of this state
29 in response to an out-of-state emergency.

30 (2) It may impose administrative sanctions upon a practitioner
31 not licensed in this state for conduct in this state in response to an
32 in-state emergency.

33 (3) It shall report any administrative sanctions imposed upon a
34 practitioner licensed in another state to the appropriate licensing
35 board or other disciplinary authority in any other state in which
36 the practitioner is known to be licensed.

37 (g) In determining whether to impose administrative sanctions
38 under subdivision (f), a licensing board or other disciplinary
39 authority shall consider the circumstances in which the conduct
40 took place, including any exigent circumstances, and the

1 practitioner's scope of practice, education, training, experience,
2 and specialized skill.

3 8599.58. This article does not limit rights, privileges, or
4 immunities provided to volunteer health practitioners by laws other
5 than this article.

6 8599.59. A volunteer health practitioner who is providing
7 health or veterinary services in this state pursuant to this article,
8 or who is traveling to or from this state to provide those services,
9 shall be considered an employee of this state for purposes of
10 worker's compensation coverage concerning any injury,
11 occupational illness, or death incurred by the practitioner in
12 providing the services or in traveling to or from this state to provide
13 the services. Worker's compensation benefits for volunteer health
14 practitioners are limited to those benefits provided to state
15 employees under the laws of this state.

16 8599.6. The Emergency Medical Services Authority may
17 promulgate rules, after approval by the Commission on Emergency
18 Medical Services, to implement this article. In doing so, the
19 authority shall consult with and consider the recommendations of
20 the entity established to coordinate the implementation of the
21 Emergency Management Assistance Compact and shall also consult
22 with and consider rules promulgated by similarly empowered
23 agencies in other states to promote uniformity of application of
24 this article and make the emergency response systems in the various
25 states reasonably compatible.

26 8599.61. In applying and construing this article, consideration
27 shall be given to the need to promote uniformity of the law with
28 respect to its subject matter among states that enact it.

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AMENDED IN ASSEMBLY JUNE 1, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 106

Introduced by Assembly Member Berg
(Coauthors: Assembly Members Bass, Beall, DeVore, Hancock, Hayashi, Horton, Krekorian, Lieber, Ma, Salas, and Wolk)

January 4, 2007

An act to add Section 120392.9 to the Health and Safety Code, relating to immunizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 106, as amended, Berg. Immunizations.

Under existing law, the State Department of Health Services is responsible for the licensure and regulation of health facilities, including general acute care hospitals, as defined.

Under existing law, the department also has responsibilities relating to the prevention and control of communicable diseases by various means, including requiring immunization by vaccine for various populations.

Existing law requires a skilled nursing facility, an intermediate care facility, or a nursing facility, as defined, to offer immunizations for influenza and pneumococcal disease to its residents, aged 65 years or older, between October 1 and April 1 of each year, and to offer pneumococcal vaccine to all new admittees. The facility is required to be reimbursed the standard Medi-Cal rate for vaccines provided to Medi-Cal recipients, except under specified circumstances. Existing law requires the facility to obtain informed consent for the immunization services from the resident or, if the person lacks the capacity to make

medical decisions, for the person legally authorized to make medical decisions on the resident's behalf.

This bill would require a general acute care hospital, pursuant to its own standardized procedures and if it has the vaccine in its possession, each year, commencing October 1 to the following April 1, inclusive, to offer, prior to discharge, immunizations for influenza and pneumococcal disease to its inpatients, aged 65 years or older.

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 120392.9 is added to the Health and
2 Safety Code, to read:
3 120392.9. Pursuant to its standardized procedures and if it has
4 the vaccine in its possession, each year, commencing October 1
5 to the following April 1, inclusive, a general acute care hospital,
6 as defined in subdivision (a) of Section 1250, shall offer, prior to
7 discharge, immunizations for influenza and pneumococcal disease
8 to inpatients, aged 65 years or older, based upon the ~~latest~~
9 ~~recommendation~~ *adult immunization recommendations* of the
10 Advisory Committee on Immunization Practices of the federal
11 Centers for Disease Control and Prevention, and the ~~latest~~
12 recommendations of appropriate entities for the prevention,
13 detection, and control of influenza outbreaks in California general
14 acute care hospitals.

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AMENDED IN SENATE JUNE 19, 2007
AMENDED IN ASSEMBLY MARCH 29, 2007
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 329

Introduced by Assembly Member Nakanishi
(Coauthors: Assembly Members Arambula, Fuller, and Maze)
(Coauthors: Senators Cogdill and Ridley-Thomas)

February 13, 2007

An act to add Section 2028.5 to the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as amended, Nakanishi. Chronic diseases: telemedicine.

Existing law, the Medical Practice Act, creates the Medical Board of California that is responsible for issuing a ~~physician~~ *physician's* and surgeon's certificate to practice medicine and for regulating the practice of physicians and surgeons. The act also regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

This bill would ~~require~~ *authorize* the board to establish a pilot program to expand the practice of telemedicine and would authorize the board to implement the program by convening a working group ~~to discuss the means.~~ *The bill would specify that the purpose of the pilot program shall be to develop methods, using a telemedicine model, of delivering health care to those with chronic diseases using and delivering other health information technologies.* The bill would require the board to make recommendations regarding its findings to the Legislature ~~on or~~

before January 1, 2009 within one calendar year of the commencement date of the pilot program.

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 2028.5 is added to the Business and
2 Professions Code, to read:

3 2028.5. (a) The board shall ~~may~~ establish a pilot program to
4 expand the practice of telemedicine in this state.

5 ~~(b) The board may implement this pilot program by convening~~

6 *(b) To implement this pilot program, the board may convene a*
7 *working group of interested parties from the public and private*
8 *sectors, including, but not limited to, state health-related agencies,*
9 *health care providers, health plan administrators, information*
10 *technology groups, and groups representing health care consumers.*

11 ~~(c) The members of the working group shall discuss the means~~
12 ~~of delivering health care to those with chronic diseases, and assist~~
13 ~~in developing a plan for offering the best practices in a telemedicine~~
14 ~~model in order to reach all Californians, using innovative health~~
15 ~~information technologies as a means by which to share nationally~~
16 ~~accepted chronic disease management techniques throughout the~~
17 ~~state.~~

18 *(c) The purpose of the pilot program shall be to develop*
19 *methods, using a telemedicine model, to deliver throughout the*
20 *state health care to persons with chronic diseases as well as*
21 *information on the best practices for chronic disease management*
22 *services and techniques and other health care information as*
23 *deemed appropriate.*

24 (d) The board shall make a report with its recommendations
25 regarding its findings to the Legislature ~~on or before January 1,~~
26 ~~2009 within one calendar year of the commencement date of the~~
27 ~~pilot program.~~ The report shall include an evaluation of the
28 improvement and affordability of health care services and the
29 reduction in the number of complications achieved by the pilot
30 program.

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E – 8

Meeting Summary of the July 5, 2007
Legislation and Regulation Committee
Meeting

MEETING SUMMARY
LEGISLATION AND REGULATION COMMITTEE
DATE: July 5, 2007
LOCATION: Department of Consumer Affairs
1625 N Market Blvd
Sacramento, CA 95834

BOARD MEMBERS PRESENT:

Ken Schell, PharmD, Acting Chair
Tim Dazé, Board Member
Robert Graul, Board Member

BOARD STAFF PRESENT:

Virginia Herold, Executive Officer
Robert Ratcliff, Supervising Inspector
Anne Sodergren, Staff Manager

Chairperson Dr. Schell called the meeting to order at 1:00 p.m.

Proposed Legislation – Board Sponsored

Omnibus Provisions

The committee reviewed omnibus provisions previously approved by the board to be introduced this legislative cycle. These provisions include amendments to the following:

- B & PC 4084 – Adulterated or Counterfeit Drugs or Dangerous Devices
- B & PC 4162 and 4162.5 – Wholesaler Bonding Requirements
- B & PC 4314 and 4315 – Citation and Fine for Repository and Distribution Programs for Dangerous Drugs
- B & PC 4160(f) and 4161(k) – Temporary License Fee for Wholesalers
- B & PC 4208 – Intern Pharmacist License
- B & PC 4101 – Pharmacist In Charge, Exemptee: Termination of Employment; Notification to Board
- B & PC 4068 – Dispense Dangerous Drug or Controlled Substance to Emergency Room Patient; Requirements

No comments were made by the committee or public.

Legislation Introduced Impacting the Practice of Pharmacy or the Board's Jurisdiction

Dr. Schell provided a brief overview of each of the relevant bills, as well as the author's intent.

AB 110 (Laird) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects

This proposal would allow for the use of General Fund money to purchase needles for NEP programs.

AB 249 (Eng) Licensees: Healing Arts: Settlement Agreements

This proposal would prevent all health care practitioners from including a “gag clause” in a civil action.

AB 501 (Swanson) Pharmaceutical Devices: Hypodermic Needle and Syringe Disposal

This proposal would require every pharmaceutical company whose product requires the use of prefilled syringe, prefilled pen needle or other prefilled injection device to provide a method for California patients to dispose of the device.

Board staff indicated that this proposal was recently amended, but is a two-year bill.

AB 543 (Plescia) Ambulatory Surgical Centers: Licensure

This proposal would standardize the licensing requirements for ambulatory surgical centers.

The committee was updated on the status of this proposal and was notified that with the approval of the board’s president, staff offered amendments to this bill that would require the board to complete an initial inspection of all clinics issued a board license that are not also licensed by the DHS. In addition, the board would also be required to complete an annual inspection of such facilities.

Board staff has testified in support of this pending legislation.

AB 1025 (Bass) Professions and Vocations: Denial of Licensure

This proposal would prohibit the board from denying an application for licensure or pursuing administrative action against a licensee for a conviction that has been set aside or for an arrest where a final disposition has not occurred within one year.

The committee was updated on the status of this proposal as well as amendments. Board staff cautioned that even with the included amendments, this proposal would diminish the board’s ability to consider all evidence of criminal backgrounds when evaluating applications and possible disciplinary actions, which could result in compromised consumer protection.

AB 1587 (De La Torre) Personal Information: Pharmacy

This proposal would make exemptions to the definition of marketing materials to allow a pharmacy to distribute drug information sponsored by drug manufacturers.

Jennifer Hendrick Snyder, representing the sponsor of this proposal, provided an overview to the committee about the intent of the proposal stating that the bill would authorize a pharmacy to provide written information.

Dr. Schell expressed concern that this bill would allow another form of direct to consumer marketing and questioned in a pharmacist can already provide this information.

Ms. Snyder indicated that this proposal would allow the information to be sponsored but that the information needs to be educational.

Dr. Schell stated that pharmacists already provide information and expressed concern about the requirement that allows for information on generic alternative therapies, but precludes brand alternatives.

Ms. Snyder provided clarification to several questions and reiterated that the contents of the flyer must be primarily educational and be approved by the FDA, the sponsor of the flyer as well as the pharmacy. Additionally, a pharmacy cannot accept remuneration for providing the supplemental information.

Committee Recommendation: Request that the board have a discussion about this proposal.

SB 472 (Corbett) Prescription Drugs: Labeling Requirements

This bill was amended to mandate that the board develop and adopt a standardized prescription label. These amendments were offered after consultation with the board president.

Fred Meyer representing PPSI, Gray Panthers and Consumer Advocate thanked the board for its support of SB 472 but questioned what is happening with AB 851, AB 1276 and AB 1399 all of which also deal with prescription labeling.

Ms. Herold clarified that SB 472 does not expand the informational requirements of the prescription label, but rather requires that the label become patient-centered and standardized.

Kathy Lynch, representing the California Pharmacists Association also thanked the board for engaging in SB 472 to help facilitate amendments and reiterated that CPhA is in support of the efforts of the panel responsible for the SCR 49 report.

SB 606 (Scott) Pharmaceutical Information: Clinical Trial Data

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

Ms. Herold indicated that manufacturers that were originally opposed to this proposal are now neutral.

SB 615 (Oropeza) Pharmacy Technicians: Scholarship and Loan Repayment Program

This proposal would establish a scholarship and loan repayment program for pharmacy technicians and require all pharmacy technicians as well as pharmacies to contribute \$10.00 at the time of renewal.

Board staff indicated that upon receipt of additional clarifying information, the board president changed the position of the board to one of support.

SB 963 (Ridley-Thomas) Regulatory Boards: Termination

This proposal would be recently amended to create an Office of Consumer Advocate with the DCA whose primary responsibility will be to ensure that the consumer protection mandate is met for boards within the DCA. This oversight would replace the sunset review process.

Ms. Herold stated that this proposal was going to interim study and would most likely be a two-year bill.

Mr. Dazé stated concern that this proposal imposes additional requirements on the board, but does not provide for funding.

The committee decided not to take a position on this bill.

SB 966 (Simitian) Pharmaceutical Drug Disposal

This proposal would require pharmacies to accept, then dispose of, returned unused medications.

Mr. Dazé stated agreement with the intent of the legislation, but expressed concern that the process offered in the bill is inadequate.

Dr. Schell also spoke in support of the intent of the proposal, but stated that the bill in its current form leaves a lot of issues unresolved and suggested that the board should continue to work with the author's office.

Heidi Barsugila, representing the California Retailers Association, stated that CRA is opposed to the bill but has tried to work with the author's office. Specifically, CRA is concerned with the 2010 effective date as well as possible issues with return of controlled substances. The CRA has suggested that the author work with the Department of Toxic Substances Control, the board, and law enforcement to define a workable solution.

Fred Meyer stated that the intent of the proposal is good, but that the board should focus efforts on education consumers on proper disposal of unused medicines. Mr. Meyer stated that he is opposed to the proposal because it imposes an unfunded mandate on pharmacies.

Ms. Herold highlighted that the proposal does not detail any parameters for a take back program and does not provide for any enforcement mechanism. Ms. Herold stated that board staff has tried to work with the author's office, but no amendments have been accepted. Ms. Herold believes that this bill will most likely make it to the governor's office.

Dr. Schell indicated that the agenda listed additional legislation that was provided for information only. These items were not discussed.

Approved Regulations

Dr. Schell stated that two regulations were recently approved by the Office of Administrative Law.

Addition of 16 CCR 1784 – Self-Assessment of a Wholesaler

The adoption of this section establishes a self-assessment form for wholesalers and the requirement of the designated representative-in-charge to complete this form to ensure compliance with pharmacy law. This form will also aid wholesalers in complying with legal requirements of wholesaler operations and therefore increase public safety as a result of this compliance. This regulation went into effect the end of April 2007.

Amendment to 16 CCR 1706.2 - Abandonment of Applications

In 1997, the board established the provisions of 1706.2 to define when an application for a pharmacy, manufacturer, supplier, clinic, medical device retailer, or warehouse of a medical device retailer, had been abandoned. In 2005, the board updated this regulation to add non-resident pharmacy, sterile injectable compounding pharmacy to the regulation and to delete the terms, manufacturer, supplier, medical device retailer, and warehouse of a medical device retailer. This proposed regulation change would update the regulation to add veterinary food-animal drug retailer, hypodermic needle and syringes, pharmacist interns and designated representatives to the regulation. The effective date of this amended regulation was June 22, 2007.

Board Approved Regulations – Pending Administrative Review

Dr. Schell briefly discussed two rulemakings undergoing review by the Administration.

The Board of Pharmacy submitted the following Section 100 regulation package to the Office of Administrative Law. These changes are without regulatory effect because they merely conform to statutory changes already in effect as well as to remove an outdated regulation. The changes included:

Proposed Amendment to CCR §1707. Waiver Requirements for Off-Site Storage of Records - In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee” with “designated representative” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure the consistency with the Business and Professions Code.

16 CCR § 1709.1 – Replace the term “Exemptee-in-Charge” with “Designated Representative-in-Charge. - In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee-in-charge” with “designated representative-in-charge” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure the consistency with the Business and Professions Code.

Proposed Amendment to CCR § 1715 – Self Assessment Forms - The self-assessment forms, which is incorporated by reference in the regulation, is a compilation of laws. A Section 100 regulation change is necessary to update the self-assessment form to reflect changes in pharmacy law since the forms last revision date.

Proposed Amendment to CCR §1717. Pharmacy Practice – This section currently makes reference to section 1306.26 of the Code of Federal Regulations. This reference is incorrect and needs to be changed to the appropriate CFR section, 1306.25.

16 CCR §1780.1 and §1781 – Replace the term “Exemptee” with “Designated Representative”- In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee” with “designated representative” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure the consistency with the Business and Professions Code.

Proposed Repeal of 16 CCR §1786 – Return of Exemption Certificates - This section is outdated and needs to be repealed. The provision requires a supplier to immediately return a certificate of exemption to the board if an exemptee leave the employment of a wholesaler. This regulation is based on prior Pharmacy Law, which linked an exemptee license (designated representative) to a specific licensed wholesaler location.

Proposed Amendment to CCR §1787. Authorization to Distribute Dialysis Drugs and Devices - In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee” with “designated representative” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure consistency with the Business and Professions Code.

Proposed Amendment to CCR §1790. Assembling and Packaging - In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee” with “designated representative” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure consistency with the Business and Professions Code.

Proposed Amendment to CCR § 1793.8. – Pharmacy Technicians in Hospitals - This section currently references Business and Professions Code section 4052, however because of recodification of this section included in Assembly Bill 2408 (Chapter 777, Statutes of 2006), this reference requires correction.

In addition to the Section 100 Changes, board staff also completed the rulemaking process in conformance with the California Building Standards Rulemaking Process.

Specifically, at the April 2006 Board Meeting, the board voted to amend language in the California Building Code, Title 24, California Code of Regulations, section 490A.3 and 505.12 with respect to the building standards for pharmacies that compound parenteral solutions. Thereafter, the Building Standards Commission advised the board of a new process to submit items into the California Building Code. Board staff anticipates adoption of these regulations by the end of July 2007.

Board Approved Regulations Currently Noticed

Dr. Schell advised the committee of two regulations that are currently noticed. Dr. Schell provided a brief overview of each of the two rulemakings and stated that the comment period for both ended July 3, 2007. No comments were received on either rulemaking.

Proposed Amendment to 16 CCR 1707.2 – Notice to Consumers

CCR 1707.2 currently requires every pharmacy to prominently post a “Notice to Consumers” poster as authorized by Business and Professions Code section 4122. Assembly Bill 2583 (Chapter 487, Statutes of 2006) amended sections 733 and 4122 of the Business and Professions Code to require the board to amend the “Notice to Consumers” to include a statement that describes a patient’s right to obtain medication from a pharmacy even if a pharmacist has ethical, moral or religious grounds against dispensing a particular drug, in which case protocols for getting the medication is required.

This is the second rulemaking the board is pursuing to ensure compliance with AB 2583. The previous rulemaking was withdrawn from the Office of Administrative Law after the April 2007 Board Meeting.

Proposed Amendment to 16 CCR 1749 – Fee Schedule

CCR 1749 defines the application and renewal fees of licensees as set forth in Business and Professions Code. At the April 2007 Board Meeting, the board voted to approve a recommendation from the board’s Organizational Development Committee to increase all board fees to their statutory maximum amounts.

This proposal will raise board fees to their statutory maximum as provided for in referenced Business and Professions Code sections. This proposal is necessary to ensure sufficient resources to maintain current board operations.

Specifically, for more than four years the board’s expenses have exceeded board’s revenues. Repayment of a 2001 \$6 million loan to the General Fund has allowed the board to maintain its operating expenses. A review of the anticipated Fund Condition for the board reveals that a fee increase must be sought to continue board operations. It is estimated that absent a fee increase, the board’s fund condition will be reduced to a little over a one-month reserve by the end of fiscal year 2008-09 and will be in a deficit by three and one half months by the end of fiscal year 2009-10.

Board Approved Regulations Awaiting Notice

Dr. Schell stated that in addition to the Section 100 changes undergoing administrative review by the Office of Administrative Law, the board approved one additional Section 100 change.

Proposed Amendment to 16 CCR 1780 – Update the USP Standards Reference Material

Section 1780 sets minimum standards for drug Wholesalers. Section 1780(b) references the 1990 edition of the United States Pharmacopeia Standards (USP Standards) for temperature and humidity standards. The USP Standards is updated and published annually. Consequently, this section requires an amendment to amend Section 1780(b) to reflect the 2005 version of the publication and to hold wholesalers accountable to the latest standards.

At the last committee meeting the committee was advised to review the updates made in the USP Standards Reference Material referenced in the proposed language to ensure that the board was fully aware of and in support of the USP changes. Given this, board staff did not include this proposed regulation change, but rather is seeking input from the pharmacy industry to highlight potential problems with referencing the 2005 edition of the USP Standards Reference Material.

Dr. Schell agreed to facilitate a meeting with stakeholders to discuss the revisions made in the 2005 version and make recommendations to the board.

Committee members were advised on the status of two additional regulations that were previously approved by the board that are awaiting notice.

2. Proposed Amendment to 16 CCR 1760 – Disciplinary Guidelines – FOR INFORMATION ONLY

Dr. Schell provided an updated on the status of the revisions to the Disciplinary Guidelines. Staff has suggested a number of amendments to the Disciplinary Guidelines that were last revised in 2001. Upon completion, this rulemaking will allow the board to use the revised 2007 edition of this publication when deciding on appropriate disciplinary action to take for violations of Pharmacy Law. Staff made recommendations for changes that were presented to the board at the June 2007 Enforcement Committee. Based on comments received during the Enforcement Committee Hearing, the Disciplinary Guidelines will remain with the Enforcement Committee for discussion at the September 2007 Meeting and will be forwarded to the board for consideration at the October 2007 Board Meeting.

3. Proposed Addition to CCR 1785 – Self Assessment of a Veterinary Food-Animal Drug Retailer.

The adoption of Section 1785 of the California Code of Regulations would establish a self-assessment form for veterinary food-animal drug retailers and require the designated representative-in-charge to complete this form to ensure compliance with pharmacy law. This form would also aid these licensees in complying with legal requirements of their operations and therefore increase public safety as a result of this compliance.

Dr. Schell reported that staff is currently developing this form. It is anticipated that the draft form will be reviewed at the September 2007 Enforcement Committee meeting and could be forwarded to the board for consideration at the October 2007 Board Meeting.

Board Approved Regulations – Proposed Language

Process and Criteria to Approve Accreditation Agencies for Pharmacies

Dr. Schell provided a brief overview of this proposal.

Ms. Herold provided history on the board's current process to approve an accreditation agency for pharmacies that compound sterile injectable products and stated that the proposed regulation would formalize criteria the board uses to approve such agencies and would remove the administrative burden placed on the board for such approvals.

Committee Recommendation: Move the language to the full board for consideration.

Adjournment

The committee adjourned around 3:00 p.m.

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Fourth Quarterly Report on Committee
Goals for 2006/07

LEGISLATION AND REGULATION COMMITTEE

Goal 3: Advocate legislation and promulgate regulations that advance the vision and mission of the Board of Pharmacy.

Outcome: Improve the health and safety of Californians.

Objective 3.1	Annually identify and respond with legislative changes to keep pharmacy laws current and consistent with the board's mission.
Measure:	100 percent successful enactment of promoted legislative changes.
Tasks:	<ol style="list-style-type: none"> 1. Secure extension of board's sunset date. <i>Sept. 30, 2006: Governor signs SB 1476 which delays the board's sunset date two years (until 2010), and requires the board's sunset report in 2008.</i> <i>June 2007: SB 963 (Ridley-Thomas) is amended to alter the sunset review process.</i> 2. Sponsor legislation to update pharmacy law. <i>Sept. 30, 2006: Governor signs SB 1475 containing provisions that:</i> <ol style="list-style-type: none"> (a) Allow a check-off box on electronic prescriptions that if marked by a prescriber, would prevent generic substitution at a pharmacist's discretion (B&P 4073). (b) Clarify requirements for reporting to the board when a licensee is impaired to the extent it affects the licensee's safe practice or who has stolen or diverted drugs (B&P 4104). (c) Establish the authority to issue a temporary sterile injectable compounding license following a change in ownership (B&P 4127.8). (d) Exempt government-owned wholesalers from having to post a \$100,000 bond (B&P 4162). (e) Exempt drug manufacturers who hold a biologics license application from the FDA from having to post a \$100,000 bond otherwise required for nonresident wholesalers (B&P 4162.5). (f) Make technical changes in the licensure requirements for clinics (B&P 4180 - 4182, 4190 - 4192). <i>June 2007: Senate Business and Professions Committee omnibus bill (SB 1048) is amended to include board provisions that:</i> <ol style="list-style-type: none"> (a) Revise section to include schedule IV controlled substances to the CURES reporting requirements for hospitals. (B&P 4068) (b) Allow board inspectors to embargo a prescription drug when the inspector has probable cause that it is misbranded. (B&P 4084) (c) Change the term "exemptee" to "designated representative." (B&P) 4101 (d) Revise section to specify temporary license fee of \$550. Current law does not specify the temporary fee. (B&P 4160 (f) & 4161 (k)) (e) Extend bonding requirements for wholesalers from 2011 to 2015 to match the extension given to implement the e-pedigree requirements, restoring provisions in SB 1476 chaptered out by SB 1475. (B&P 4162 & 4162.5) (f) Change in the name of the exam to more accurately reflect the requirements described in B&P 4200.2. The new name will be the "California Practice Standards and Jurisprudence Examination for Pharmacists" (CPJE). (B & P 4200, 4200.1 & 4200.2) (g) Revise requirements for intern licenses to allow the board the discretion to extend the duration of an intern license. (B&P 4208)

(h) Allow the board to cite and fine licensees for violations of Health and Safety Code sections 150200-150206 which authorize a county to establish by local ordinance, a repository and distribution program for specified unused medications from skilled nursing homes to medically indigent patients served by government-owned pharmacies. (B&P 4314 & 4315)

3. Advocate the board's role and its positions regarding pharmacists' care and dispensing of dangerous drugs and devices (AB 2408).

Sept. 30, 2006: Governor signs AB 2408. Amendments taken in August remove provisions that would have described the professional services provided by pharmacists, and authorized pharmacists outside California to provide pharmacists' care services to patients in California if licensed here or working within the framework of a nonresident pharmacy. Remaining provisions restructure pharmacist protocol provisions and several other changes.

4. Secure statutory standards for pharmacies that compound medications (AB 595).

Aug. 2006: Amendments made to remove opposition of DHS regarding pharmacy contracting with another pharmacy for compounded drugs triggers opposition from pharmacy organizations. Board drops AB 595, but will advance regulations developed for compounding pharmacies in the future.

5. Secure implementation of e-pedigrees on prescription drugs dispensed in California (SB 1476).

Sept. 30, 2006: Governor signs SB 1476 which contains board amendments to delay implementation of the e-pedigree requirements until 2009, or upon board action, until 2011. Amendments also require interoperability, serialization, returned drug products to retain the initiating pedigree, require notice to the board of suspected or actual counterfeiting, and continuation of the pedigree through repackaging operations.

6. Advocate the board's position on pending legislation affecting pharmacy practice and/or the board's jurisdiction.

AB 110 (Laird) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects.

AB 249 (Eng) Healing Arts: Settlement Agreements.

AB 543 (Plescia) Ambulatory Surgical Centers: Licensure.

AB 1025 (Bass) Professions and Vocations: Denial of Licensure.

SB 472 (Corbett) Prescription Drugs: Labeling Requirements.

SB 615 (Oropeza) Pharmacy Technicians: Scholarship Fund.

SB 606 (Scott) Pharmaceutical Information: Clinical Data Trial.

SB 963 (Ridely-Thomas) Regulatory Boards: Operations.

SB 966 (Simitian) Pharmaceutical Drug Disposal.

7. Expand the conditions under which a pharmacist may administer an immunization independent of physician protocol.

March 2007: Licensing Committee considers and approves concept. More work is required.

June 2007: Licensing Committee considers draft language and requests additional refinements to proposal for consideration at September 2007 committee meeting.

Objective 3.2	Annually identify and respond with regulatory changes to keep pharmacy regulations current and consistent with the board's mission.
Measure:	Percentage successful enactment of promoted regulatory changes.
Tasks:	<ol style="list-style-type: none"> 1. Authorize technicians to check technicians in inpatient pharmacies with clinical pharmacist programs (sections 1793.7-1793.8). <ul style="list-style-type: none"> <i>Aug. 2006:</i> Rulemaking file compiled and undergoing review by the Department of Consumer Affairs. <i>Nov. 2006:</i> Rulemaking file submitted to the Office of Administrative Law. <i>Jan. 2007:</i> Office of Administrative Law approves rulemaking. Regulation takes effect. 2. Authorize the use of prescription drop boxes and automated delivery machines for outpatient pharmacies (sections 1713 and 1717(e)). <ul style="list-style-type: none"> <i>Aug. 2006:</i> Rulemaking file compiled and undergoing review by the Department of Consumer Affairs. <i>Jan. 2007:</i> Regulation takes effect following approval by the Office of Administrative Law. 3. Make technical changes in pharmacy regulations to keep the code updated. <ul style="list-style-type: none"> <i>Dec. 2006:</i> Board notices regulation for 45 days of public comment. <ul style="list-style-type: none"> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files <i>Jan. 2007:</i> Board adopts regulations. <ul style="list-style-type: none"> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files <i>Feb. 2007:</i> Rulemaking file compiled and undergoing review by the Department of Consumer Affairs. <ul style="list-style-type: none"> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files <i>April 2007:</i> Section 1775.4 contested citations. DCA determines no regulation is needed to accomplish the requirement to allow 1 rescheduling of an office conference. This regulation is withdrawn. <i>June 2007:</i> Changes to 1706.2 take effect following approval by the Office of Administrative Law. 4. Repeal the requirement to post a notice regarding electronic files (section 1717.2). <ul style="list-style-type: none"> <i>July 2006:</i> Regulation released for 45 days of public comment. Action to be taken at the October Board Meeting. <i>Oct. 2006:</i> Board approves regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration review. <i>March 2007:</i> Office of Administrative Law approves rulemaking. Regulation takes effect. 5. Revise and update Disciplinary Guidelines revision and update (section 1760). <ul style="list-style-type: none"> <i>Aug. 2006:</i> Final changes to Disciplinary Guidelines being compiled by staff. <i>Dec. 2006:</i> Disciplinary Guidelines is being reformatted into strikeout and underscore version for eventual release for public comment. <i>June 2007:</i> Enforcement Committee reviews Disciplinary Guidelines and requests additional time to review before being submitted to the board.

6. **Self-assessment of a wholesaler by the designated representative (section 1784).**
July 2006: Regulation released for 45 days of public comment. Action to be taken at the October Board Meeting.
Oct. 2006: Board approves regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration review.
April 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.
May 2007: Wholesalers are notified of this requirement.
7. **Exempt the address of records of interns from display on the board's Web site (section 1727.1).**
Sept. 2006: Office of Administrative Law approves rulemaking. Regulation takes effect October 2006.
8. **Modification of building standards for pharmacies – rulemaking by the California Building Standards Commission.**
July 2006: Board notified that a new procedure now exists for adopting building standards. Staff will pursue these procedures in 2007.
June 2007: Board staff submit rulemaking file to the California Building Standards Commission.
9. **Update Notice to Consumers Poster in conformance with AB 2583 (Chapter 487, Statutes 2006)(Section 1707.2).**
Feb. 2007: Board notices regulation for 45 days comment period.
April 2007: Board considers comments submitted during public comment period and modifies text regulation to reflect comments.
May 2007: New section 1707.2 released for 45 days of public comment.
10. **Secure changes without regulatory effect (Section 100 changes) to pharmacy regulations to keep them accurate and current.**
June 2007: Submitted the following Section 100 changes:
 Section 1707 – Waiver Requirements for Off-Site Storage of Records.
 Section 1709.1 – Replace the term "Exemptee-in-Charge" with "Designated Representative-in-Charge".
 Section 1715 – Self-Assessment of a Pharmacy by the Pharmacist-in-Charge to Update for Changes in Pharmacy Law.
 Section 1719 – Pharmacy Practice.
 Sections 1780.1 and 1781 – Replace the term "Exemptee" with "Designated Representative".
 Section 1786 – Return of Exemptee Certificate.
 Section 1787 – Authorization to Distribute Dialysis Drugs and Devices.
 Section 1790 – Assembling and Packaging.
 1793.8 – Update regulation reference to recodified Business and Professions Code section 4052.
11. **Increase fees to keep the board's contingency fund solvent and maintain operations.**
March 2007: Organization Development Committee reviews proposals and recommends approval.
April 2007: Board approves the proposal.
May 2007: Board releases language for the 45-day public comment period.

	<p>12. Secure regulatory standards for pharmacies that compound.</p> <p><i>Dec. 2006: Licensing Committee evaluates proposed compounding regulations developed in 2004. Some modifications may be needed.</i></p> <p><i>March 2007: Licensing Committee convenes discussion of amendments to compounding regulations. More work is required.</i></p> <p><i>May 2007: Licensing Committee holds detailed discussion on compounding regulations.</i></p>
Objective 3.3	Review 5 areas of pharmacy law for relevancy, currency and value for consumer protection by June 30, 2011.
Measure:	Number of areas of pharmacy law reviewed.
Tasks:	