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

## Legislation and Regulation Committee

**Andrea Zinder, Board Member and Chair**  
**Tim Dazé, Esq. Board Member**  
**Robert Graul, Board Member**  
**Ken Schell, PharmD, Board Member**

## LEGISLATION REPORT

### ITEM 3: BOARD SPONSORED LEGISLATION

#### Omnibus Provisions

#### FOR INFORMATION:

At the January 2007 Board Meeting, the board voted to include several of the following provisions as omnibus provisions for 2007. The language was incorporated into SB 1048 (Chapter 588, Statutes of 2007), a committee bill containing omnibus provisions for several boards within the DCA. The Governor signed this legislation and all of its provisions will become effective January 1, 2008. These changes will be highlighted on the Board's Web site as well as in the next issue of *The Script*.

- **Business and Professions Code Section 4068**  
Revise section to include schedule IV controlled substances to the CURES reporting requirements for hospitals.
- **Business and Professions Code Section 4084**  
Allows board inspectors to embargo a prescription drug when the inspector has probable cause that it is misbranded.
- **Business and Professions Code Section 4101**  
Amend B&P 4101 to change the term "exemptee" to "designated representative."
- **Business and Professions Code Sections 4160(f) & 4161(k)**  
Revise section to specify temporary license fee of \$550. Current law does not specify the temporary fee.
- **Business and Professions Code Sections 4162 and 4162.5**  
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.
- **Business and Professions Code Sections 4200 – 4200.2**  
Changes 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).

- **Business and Professions Code Section 4208**  
Revise requirements for intern licenses to allow the board discretion to extend the duration of an intern license.
- **Business and Professions Code Sections 4314 and 4315**  
Allows 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.

A partial copy of the Chaptered bill containing the board provisions is provided in **Attachment 1**.

## **ITEM 4: LEGISLATION INTRODUCED IMPACTING THE PRACTICE OF PHARMACY OR THE BOARD'S JURISDICTION**

### **FOR INFORMATION:**

Provided in this packet are copies of Chaptered and Vetoed bills impacting the practice of pharmacy or the board's jurisdiction (**Attachment 2**). SB 472 and SB 966 are two major pieces of legislation that were Chaptered that will significantly impact board resources. A brief summary of the measure and implementation plan is included below.

#### 1. SB 472 (Chapter 470, Statutes of 2007) Prescription Drugs: Labeling Requirements

This proposal mandates that the board develop regulations standardizing the prescription label. The bill specifies that the board shall hold a series of public meetings to elicit comments and suggestions about how to standardize the prescription label and make it patient-centered. These meetings will occur throughout 2008. At the conclusion of these public meetings, the board will need to promulgate regulations, ideally completing the rulemaking process in 2009 or early 2010. The legislation requires that the standardized label be in place no later than January 1, 2011, given industry substantial time to comply with the new requirements.

The implementation of SB 472 will be facilitated through a subcommittee of the Public Education and Communication Committee. Board staff will work with the subcommittee as well as the bill's sponsor to identify key locations to conduct these meetings and to ensure that identified groups, i.e. seniors, etc. are represented at the meetings. The intent is to hold the meetings statewide in locations that are easily accessible to the public, i.e. community centers, senior centers etc. At the conclusion of these meetings, board staff will develop language for board review and considered at which time the rulemaking process will begin.

Board Position: Support  
Status: Chaptered

#### 2. SB 966 (Chapter 542, Statutes of 2007) Pharmaceutical Drug Disposal

This bill allows for the creation of voluntary pharmaceutical drug take-back programs. A key goal in this legislation is to allow consumers with the ability to discard unused medicines in an environmentally friendly way. The board had an oppose position on this bill, however amendments were taken to make the program voluntary and to place the program under the Integrated Waste Management Board. After these amendments were accepted the board's position was changed to support.

The development of the models for the take-back programs will be established by the Integrated Waste Management Board, who is required to work closely with the Department of Toxic Control Substances, the State Water Resources Control Board, our board as well as other local, state and federal agencies. These model programs must be available no later than December 2008.

Board staff will work closely to ensure that the model programs will safeguard the handling and proper disposal of returned medicines and to eliminate these returned medicines reentering the supply chain. (The board currently has three pending administrative cases where pharmacies are reselling previously dispensed medicines.)

Board Position: Support  
Status: Chaptered

In addition to the above legislation, the board also took positions of the following legislation. Below is a brief summary of each bill as well as the board's position and status.

3. AB 110 (Chapter 707, Statutes of 2007) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects

This legislation allows for the use of General Fund money to purchase needles for NEP programs.

Board Position: Support  
Status: Chaptered

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

This proposal would have prevented all health care practitioners from including a "gag clause" in a civil action.

Board Position: Support  
Status: Veto (Veto message included.)

5. AB 543 (Plescia) Ambulatory Surgical Centers: Licensure

This proposal would have standardized the licensing requirements for ambulatory surgical centers and would have allowed the board to issue clinic licenses to clinics that Medicare Certified or accredited.

Board Position: Support  
Status: Veto (Veto message included.)

6. AB 1025 (Bass) Professions and Vocations: Licensure

This proposal would have prohibited the board from denying an application for licensure or pursuing administrative action against a licensee for a conviction that has been set aside under certain circumstances.

Board Position: Oppose  
Status: Veto (Veto message included.)

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

This proposal 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.

Board Position: Support  
Status: Inactive File

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

This proposal would have established a scholarship and loan repayment program for pharmacy technicians.

Board Position: Oppose  
Status: Veto (Veto message included.)

**ITEM 5: FIRST QUARTERLY REPORT ON COMMITTEE GOALS FOR 2007/08**

**FOR INFORMATION:**

The update on the first quarterly report on committee's strategic goals for 2007/08 is included in **Attachment 3**.

# Attachment 1

## Board Sponsored Legislation

SB 1048 (Chapter 588, Statutes of 2007)

**Senate Bill No. 1048**

**CHAPTER 588**

An act to amend Sections 337, 1209, 1701.1, 1725, 1750, 1750.1, 1750.2, 1750.3, 1750.4, 1751, 1752, 1752.1, 1752.2, 1752.5, 1752.6, 1753, 1753.1, 1754, 1756, 1757, 1770, 2177, 2225, 2313, 2335, 2416, 2497.5, 2570.7, 2717, 2732.05, 3057, 3527, 3634, 4068, 4084, 4101, 4160, 4161, 4162, 4162.5, 4200, 4200.1, 4200.2, 4208, 4314, 4315, 4980.01, 4980.38, 4980.40, 4980.44, 4980.54, 4980.57, 4980.80, 4980.90, 4982, 4984.1, 4984.4, 4989.36, 4989.42, 4989.54, 4992.3, 4996.4, 4996.6, 4996.18, and 4996.22 of, to add Sections 1672, 2471, 2570.8, 4984.01, 4984.72, 4992.10, and 4996.28 to, and to repeal and add Sections 3530, 4984.7, 4984.8, 4996.3, 4996.14, and 4997 of, the Business and Professions Code, and to amend Sections 11372, 12529, and 12529.5 of the Government Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor October 13, 2007. Filed with  
Secretary of State October 13, 2007.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1048, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law provides for the regulation and licensure of clinical laboratories and clinical laboratory personnel, including laboratory directors.

This bill would prohibit a laboratory director from directing more than a specified number of laboratories.

(2) Existing law, the Dental Practice Act, establishes the Dental Board of California and provides for the licensure and regulation of the practice of dentistry. The act makes the willful practice, attempt to practice, or advertisement to practice without appropriate authorization in circumstances causing harm, as specified, a misdemeanor offense. The act also provides for the licensure of various types of dental auxiliaries and for their licensure fees to be established by board resolution, and requires the board to adopt regulations for the approval and recognition of specified dental education courses. The act also provides for the establishment by board resolution of fees for the review of radiation courses and specialty registration courses. The act defines the functions certain dental auxiliaries are authorized to perform and the requirements for such authorization, and, on and after January 1, 2008, revises the criteria for licensure and the functions certain dental auxiliaries are authorized to perform. Under the act, commencing on that date, the board is authorized to issue dental auxiliary licenses for a registered orthodontic, surgery, and restorative assistant, and a dentist is authorized to train and educate employees in those licensure categories pursuant to specified procedures. The act requires the board, commencing

11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the committee that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The committee or the administrative law judge hearing the petition, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the committee or administrative law judge finds necessary.

(e) The committee or administrative law judge, when hearing a petition for reinstating a license or approval or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The committee may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

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

SEC. 42. Section 3634 of the Business and Professions Code is amended to read:

3634. A license issued under this chapter shall be subject to renewal biennially as prescribed by the bureau and shall expire unless renewed in that manner. The bureau may provide by regulation for the late renewal of a license.

SEC. 43. Section 4068 of the Business and Professions Code is amended to read:

4068. (a) Notwithstanding any provision of this chapter, a prescriber may dispense a dangerous drug, including a controlled substance, to an emergency room patient if all of the following apply:

(1) The hospital pharmacy is closed and there is no pharmacist available in the hospital.

(2) The dangerous drug is acquired by the hospital pharmacy.

(3) The dispensing information is recorded and provided to the pharmacy when the pharmacy reopens.

(4) The hospital pharmacy retains the dispensing information and, if the drug is a schedule II, schedule III, or schedule IV controlled substance, reports the dispensing information to the Department of Justice pursuant to Section 11165 of the Health and Safety Code.

(5) The prescriber determines that it is in the best interest of the patient that a particular drug regimen be immediately commenced or continued, and the prescriber reasonably believes that a pharmacy located outside the hospital is not available and accessible at the time of dispensing to the patient.

(6) The quantity of drugs dispensed to any patient pursuant to this section are limited to that amount necessary to maintain uninterrupted therapy during the period when pharmacy services outside the hospital are not readily available or accessible, but shall not exceed a 72-hour supply.

(7) The prescriber shall ensure that the label on the drug contains all the information required by Section 4076.

(b) The prescriber shall be responsible for any error or omission related to the drugs dispensed.

SEC. 44. Section 4084 of the Business and Professions Code is amended to read:

4084. (a) When a board inspector finds, or has probable cause to believe, that any dangerous drug or dangerous device is adulterated, misbranded, or counterfeit, the board inspector shall affix a tag or other marking to that dangerous drug or dangerous device. The board inspector shall give notice to the person that the dangerous drug or dangerous device bearing the tag or marking has been embargoed.

(b) When a board inspector has found that an embargoed dangerous drug or dangerous device is not adulterated, misbranded, or counterfeit, a board inspector shall remove the tag or other marking.

(c) A board inspector may secure a sample or specimen of a dangerous drug or dangerous device. If the board inspector obtains a sample prior to leaving the premises, the board inspector shall leave a receipt describing the sample.

(d) For the purposes of this article, "counterfeit" shall have the meaning defined in Section 109905 of the Health and Safety Code.

(e) For the purposes of this article, "adulterated" shall have the meaning defined in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(f) For the purposes of this article, "misbranded" shall have the meaning defined in Article 3 (commencing with Section 111330) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

SEC. 45. Section 4101 of the Business and Professions Code is amended to read:

4101. (a) A pharmacist who takes charge of, or acts as pharmacist-in-charge of a pharmacy or other entity licensed by the board, who terminates his or her employment at the pharmacy or other entity, shall notify the board within 30 days of the termination of employment.

(b) A designated representative-in-charge of a wholesaler or veterinary food drug-animal retailer, who terminates his or her employment at that entity shall notify the board within 30 days of the termination of employment.

SEC. 46. Section 4160 of the Business and Professions Code is amended to read:

4160. (a) A person may not act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

(b) Upon approval by the board and the payment of the required fee, the board shall issue a license to the applicant.

(c) A separate license shall be required for each place of business owned or operated by a wholesaler. Each license shall be renewed annually and shall not be transferable.

(d) The board shall not issue or renew a wholesaler license until the wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of that designated representative. The designated representative-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. A wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be the designated representative-in-charge. A pharmacist may be identified as the designated representative-in-charge.

(e) A drug manufacturer premises licensed by the Food and Drug Administration or licensed pursuant to Section 111615 of the Health and Safety Code that only distributes dangerous drugs and dangerous devices of its own manufacture is exempt from this section and Section 4161.

(f) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be five hundred fifty dollars (\$550) or another amount established by the board not to exceed the annual fee for renewal of a license to compound injectable sterile drug products. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180 days, subject to terms and conditions that the board deems necessary. If the board determines that a temporary license was issued by mistake or denies the application for a permanent license, the temporary license shall terminate upon either personal service of the notice of termination upon the licenseholder or service by certified mail, return receipt requested, at the licenseholder's address of record with the board, whichever occurs first. Neither for purposes of retaining a temporary license, nor for purposes of any disciplinary or license denial proceeding before the board, shall the temporary licenseholder be deemed to have a vested property right or interest in the license.

(g) This section shall become operative on January 1, 2006.

SEC. 47. Section 4161 of the Business and Professions Code is amended to read:

4161. (a) A person located outside this state that ships, mails, or delivers dangerous drugs or dangerous devices into this state shall be considered a nonresident wholesaler.

(b) A nonresident wholesaler shall be licensed by the board prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

(c) A separate license shall be required for each place of business owned or operated by a nonresident wholesaler from or through which dangerous drugs or dangerous devices are shipped, mailed, or delivered to a site located in this state. A license shall be renewed annually and shall not be transferable.

(d) The following information shall be reported, in writing, to the board at the time of initial application for licensure by a nonresident wholesaler, on renewal of a nonresident wholesaler license, or within 30 days of a change in that information:

- (1) Its agent for service of process in this state.
  - (2) Its principal corporate officers, as specified by the board, if any.
  - (3) Its general partners, as specified by the board, if any.
  - (4) Its owners if the applicant is not a corporation or partnership.
- (e) A report containing the information in subdivision (d) shall be made within 30 days of any change of ownership, office, corporate officer, or partner.

(f) A nonresident wholesaler shall comply with all directions and requests for information from the regulatory or licensing agency of the state in which it is licensed, as well as with all requests for information made by the board.

(g) A nonresident wholesaler shall maintain records of dangerous drugs and dangerous devices sold, traded, or transferred to persons in this state, so that the records are in a readily retrievable form.

(h) A nonresident wholesaler shall at all times maintain a valid, unexpired license, permit, or registration to conduct the business of the wholesaler in compliance with the laws of the state in which it is a resident. An application for a nonresident wholesaler license in this state shall include a license verification from the licensing authority in the applicant's state of residence.

(i) The board may not issue or renew a nonresident wholesaler license until the nonresident wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of the designated representative-in-charge.

(j) The designated representative-in-charge shall be responsible for the nonresident wholesaler's compliance with state and federal laws governing wholesalers. A nonresident wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be the designated representative-in-charge.

(k) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be five hundred fifty dollars (\$550) or another amount established by the board not to exceed the annual fee for renewal of a license to compound injectable sterile drug products. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180 days, subject to terms and conditions that the board deems necessary. If the board determines that a temporary license was issued by mistake or denies the application for a permanent license, the temporary license shall terminate upon either personal service of the notice of termination upon the licenseholder or service by certified mail, return receipt requested, at the licenseholder's address of record with the board, whichever occurs first. Neither for purposes of retaining a temporary license, nor for purposes of any disciplinary or license denial proceeding before the board,

shall the temporary licenseholder be deemed to have a vested property right or interest in the license.

(l) The registration fee shall be the fee specified in subdivision (f) of Section 4400.

SEC. 48. Section 4162 of the Business and Professions Code is amended to read:

4162. (a) (1) An applicant, that is not a government-owned and operated wholesaler, for the issuance or renewal of a wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000) or other equivalent means of security acceptable to the board payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purposes of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the wholesaler is ten million dollars (\$10,000,000) or less, in which case the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) A person to whom an approved new drug application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application, and is licensed or applies for licensure as a wholesaler, shall not be required to post a surety bond as provided in paragraph (1).

(4) For licensees subject to paragraph (2) or (3), the board may require a bond up to one hundred thousand dollars (\$100,000) for any licensee who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days after the order imposing the fine, or costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends those dates.

SEC. 49. Section 4162.5 of the Business and Professions Code is amended to read:

4162.5. (a) (1) An applicant for the issuance or renewal of a nonresident wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000), or other equivalent means of security acceptable to the board, such as an irrevocable letter of credit, or a deposit in a trust account or financial institution, payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purposes of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the nonresident wholesaler is ten million dollars (\$10,000,000) or less in which the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) For applicants who satisfy paragraph (2), the board may require a bond up to one hundred thousand dollars (\$100,000) for any nonresident wholesaler who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(4) A person to whom an approved new drug application or a biologics license application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application or biologics license application, and is licensed or applies for licensure as a nonresident wholesaler, shall not be required to post a surety bond as provided in this section.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days of the issuance of the fine or when the costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall become inoperative and is repealed on, January 1, 2015, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends those dates.

SEC. 50. Section 4200 of the Business and Professions Code is amended to read:

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

(1) Is at least 18 years of age.

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

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

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

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

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

(6) Has passed a written and practical examination given by the board prior to December 31, 2003, or has passed the North American Pharmacist

Licensure Examination and the California Practice Standards and Jurisprudence Examination for Pharmacists on or after January 1, 2004.

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

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

SEC. 51. Section 4200.1 of the Business and Professions Code is amended to read:

4200.1. (a) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination four times, and may take the California Practice Standards and Jurisprudence Examination for Pharmacists four times.

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

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

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

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

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

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

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

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

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

SEC. 51.5. Section 4200.1 of the Business and Professions Code is amended to read:

4200.1. (a) Notwithstanding Section 135, an applicant may take the North American Pharmacist Licensure Examination four times, and may take the California Practice Standards and Jurisprudence Examination for Pharmacists four times.

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

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

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

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

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

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

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

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

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

SEC. 52. Section 4200.2 of the Business and Professions Code is amended to read:

4200.2. When developing the California Practice Standards and Jurisprudence Examination for Pharmacists, the board shall include all of the following:

- (a) Examination items to demonstrate the candidate's proficiency in patient communication skills.
- (b) Aspects of contemporary standards of practice for pharmacists in California, including, but not limited to, the provision of pharmacist care and the application of clinical knowledge to typical pharmacy practice situations that are not evaluated by the North American Pharmacy Licensure Examination.

SEC. 53. Section 4208 of the Business and Professions Code is amended to read:

4208. (a) At the discretion of the board, an intern pharmacist license may be issued for a period of:

- (1) One to six years to a person who is currently enrolled in a school of pharmacy recognized by the board.
- (2) Two years to a person who is a graduate of a school of pharmacy recognized by the board and who has applied to become licensed as a pharmacist in California.
- (3) Two years to a foreign graduate who has met educational requirements described in paragraphs (1) and (2) of subdivision (a) of Section 4200.
- (4) One year to a person who has failed the pharmacist licensure examination four times and has reenrolled in a school of pharmacy to satisfy the requirements of Section 4200.1.

(b) The board may issue an intern pharmacist license to an individual for the period of time specified in a decision of reinstatement adopted by the board.

(c) An intern pharmacist shall notify the board within 30 days of any change of address.

(d) An intern pharmacist whose license has been issued pursuant to paragraph (1) or (4) of subdivision (a) shall return his or her license, by registered mail, within 30 days of no longer being enrolled in a school of pharmacy. The intern pharmacist license shall be canceled by the board. Notwithstanding subdivision (c), an intern pharmacist license may be reinstated if the student reenrolls in a school of pharmacy recognized by the board to fulfill the education requirements of paragraphs (1) to (4), inclusive, of subdivision (a) of Section 4200.

(e) A person who has not completed the experience requirements necessary to be eligible for the licensure examination may have his or her intern license extended for a period of up to two years at the discretion of the board if he or she is able to demonstrate his or her inability to exercise the privileges of the intern license during the initial license period.

SEC. 54. Section 4314 of the Business and Professions Code is amended to read:

4314. (a) The board may issue citations containing fines and orders of abatement for any violation of Section 733, for any violation of this chapter or regulations adopted pursuant to this chapter, or for any violation of Division 116 (commencing with Section 150200) of the Health and Safety Code, in accordance with Sections 125.9, 148, and 4005 and the regulations adopted pursuant to those sections.

(b) Where appropriate, a citation issued by the board, as specified in this section, may subject the person or entity to whom the citation is issued to an administrative fine.

(c) Notwithstanding any other provision of law, where appropriate, a citation issued by the board may contain an order of abatement. The order of abatement shall fix a reasonable time for abatement of the violation. It may also require the person or entity to whom the citation is issued to demonstrate how future compliance with the Pharmacy Law, and the regulations adopted pursuant thereto, will be accomplished. A demonstration may include, but is not limited to, submission of a corrective action plan, and requiring completion of up to six hours of continuing education courses in the subject matter specified in the order of abatement. Any continuing education courses required by the order of abatement shall be in addition to those required for license renewal.

(d) Nothing in this section shall in any way limit the board from issuing a citation, fine, and order of abatement pursuant to Section 4067 or Section 56.36 of the Civil Code, and the regulations adopted pursuant to those sections.

SEC. 55. Section 4315 of the Business and Professions Code is amended to read:

4315. (a) The executive officer, or his or her designee, may issue a letter of admonishment to a licensee for failure to comply with Section 733, for failure to comply with this chapter or regulations adopted pursuant to this chapter, or for failure to comply with Division 116 (commencing with Section 150200) of the Health and Safety Code, directing the licensee to come into compliance.

(b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the statutes or regulations violated.

(c) The letter of admonishment shall inform the licensee that within 30 days of service of the order of admonishment the licensee may do either of the following:

(1) Submit a written request for an office conference to the executive officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the executive officer, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the executive officer, or his or her designee, no individual other than the legal counsel or authorized representative of the licensee may accompany the licensee to the office conference.

(B) Prior to or at the office conference, the licensee may submit to the executive officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The office conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The executive officer, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the executive officer, or his or her designee, shall personally serve or send by certified mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment.

(2) Comply with the letter of admonishment and submit a written corrective action plan to the executive officer documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.

(d) The letter of admonishment shall be served upon the licensee personally or by certified mail at the licensee's address of record with the board. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.

(e) The licensee shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if any, for at least three years from the date of issuance of the letter of admonishment.

(f) Nothing in this section shall in any way limit the board's authority or ability to do either of the following:

(1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to Section 1775 of Title 16 of the California Code of Regulations.

(2) Institute disciplinary proceedings pursuant to Article 19 (commencing with Section 4300).

SEC. 56. Section 4980.01 of the Business and Professions Code is amended to read:

4980.01. (a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is

## Attachment 2

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

- SB 472 (Chapter 470, Statutes of 2007)
- SB 966 (Chapter 542, Statutes of 2007)
- AB 110 (Chapter 707, Statutes of 2007)
- AB 249 (Eng)
- AB 543 (Plescia)
- AB 1025 (Bass)
- SB 615 (Oropeza)

**Senate Bill No. 472**

**CHAPTER 470**

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

[Approved by Governor October 11, 2007. Filed with  
Secretary of State October 11, 2007.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 472, Corbett. Prescription drugs: labeling requirements.

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

This bill would require the board to promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medication dispensed to patients in California. The bill would require the board to hold special public meetings statewide in order to seek information from certain groups, and would require the board to consider specified factors in developing the label requirements. The bill would require the board to report to the Legislature on or before January 1, 2010, on its progress at the time of the report, and to report to the Legislature on or before January 1, 2013, on the status of implementation of the requirements.

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

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

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

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

SECTION 1. This act shall be known and may be cited as the California Patient Medication Safety Act.

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

(a) Health care costs and spending in California are rising dramatically and are expected to continue to increase.

(b) In California, prescription drug spending totaled over \$188 billion in 2004, a \$14 billion dollar per year spending increase from 1984.

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

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

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

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

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

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

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

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

(k) It is the intent of the Legislature to adopt a standardized prescription drug label that will be designed by the California State Board of Pharmacy for use on any prescription drug dispensed to a patient in California.

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

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

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

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

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

(2) Improved directions for use.

(3) Improved font types and sizes.

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

(5) The needs of patients with limited English proficiency.

(6) The needs of senior citizens.

(7) Technology requirements necessary to implement the standards.

(d) (1) On or before January 1, 2010, the board shall report to the Legislature on its progress under this section as of the time of the report.

(2) On or before January 1, 2013, the board shall report to the Legislature the status of implementation of the prescription drug label requirements adopted pursuant to this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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**Senate Bill No. 966**

**CHAPTER 542**

An act to amend Section 47200 of, and to add and repeal Article 3.4 (commencing with Section 47120) of Chapter 1 of Part 7 of Division 30 of, the Public Resources Code, relating to pharmaceutical waste.

[Approved by Governor October 12, 2007. Filed with  
Secretary of State October 12, 2007.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 966, Simitian. Pharmaceutical drug waste disposal.

(1) Existing law creates the California Integrated Waste Management Board (board) within the California Environmental Protection Agency.

This bill would, until January 1, 2013, require the board to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of pharmaceutical drug waste. The model programs would be required to include, at a minimum, specific actions and informational elements and would be required to be available to eligible participants no sooner than July 1, 2008, but no later than December 1, 2008.

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

(2) Existing law requires the board to expend certain funds, upon appropriation by the Legislature, for the making of grants, as provided, to cities, counties, and other local agencies with responsibilities for solid waste management, and for local programs to prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, initial implementation or expansion of household hazardous waste programs. The total amount of the grants in any one fiscal year may exceed \$3,000,000 but cannot exceed \$5,000,000, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

This bill would increase the limit to \$6,000,000.

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

SECTION 1. Article 3.4 (commencing with Section 47120) is added to Chapter 1 of Part 7 of Division 30 of the Public Resources Code, to read:

**Article 3.4. Drug Waste Management and Disposal**

47120. (a) The Legislature finds and declares all of the following:

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

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

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

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

(1) To encourage a cooperative relationship between the board and manufacturers, retailers, and local, state, and federal government agencies in the board's development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

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

47121. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

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

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

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

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

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

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

(c) "Participant" means any entity which the board deems appropriate for implementing and evaluating a model program and which chooses to participate, including, but not limited to, governmental entities, pharmacies, veterinarians, clinics, and other medical settings.

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

47122. (a) (1) The board shall, in consultation with appropriate state, local, and federal agencies, including, but not limited to, the Department of Toxic Substances Control, the State Water Resources Control Board, and the California State Board of Pharmacy, develop model programs for the collection and proper disposal of drug waste. Notwithstanding any other provision of law, the board shall establish, for participants, criteria and procedures for the implementation of the model programs.

(2) In developing model programs the board shall evaluate a variety of models used by other state, local, and other governmental entities, and shall consider a variety of potential participants that may be appropriate for the collection and disposal of drug waste.

(3) No sooner than July 1, 2008, but no later than December 1, 2008, the board shall make the model programs available to eligible participants.

(b) The model programs shall at a minimum include all of the following:

(1) A means by which a participant is required to provide, at no additional cost to the consumer, for the safe take back and proper disposal of the type or brand of drugs that the participant sells or previously sold.

(2) A means by which a participant is required to ensure the protection of public health and safety, the environment, and the health and safety of consumers and employees.

(3) A means by which a participant is required to report to the board for purposes of evaluation of the program for safety, efficiency, effectiveness, and funding sustainability.

(4) A means by which a participant shall protect against the potential for the diversion of drug waste for unlawful use or sale.

(c) The model programs shall provide notice and informational materials for consumers that provide information about the potential impacts of improper disposal of drug waste and the return opportunities for the proper disposal of drug waste. Those materials may include, Internet Web site links, a telephone number placed on an invoice or purchase order, or packaged with a drug; information about the opportunities and locations for no-cost drug disposal; signage that is prominently displayed and easily visible to the consumer; written materials provided to the consumer at the time of purchase or delivery; reference to the drug take back opportunity in advertising or other promotional materials; or direct communications with the consumer at the time of purchase.

(d) Model programs deemed in compliance with this article shall be deemed in compliance with state law and regulation concerning the handling, management, and disposal of drug waste for the purposes of implementing the model program.

(e) (1) The board may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this article, including

regulations that the department determines are necessary to implement the provisions of this article in a manner that is enforceable.

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

47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the board shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, statewide accessibility, and cost effectiveness. The report shall include the consideration of the incidence of diversion of drugs for unlawful sale and use, if any. The report also shall provide recommendations for the potential implementation of a statewide program and statutory changes.

47124. This article shall not apply to a controlled substance, as defined in Section 11007 of the Health and Safety Code.

47125. Nothing in this article shall limit or affect any other right or remedy under any applicable law.

47126. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 47200 of the Public Resources Code is amended to read:

47200. (a) The board shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this section, the board shall give priority to funding programs that provide for the following:

- (1) New programs for rural areas, underserved areas, and for small cities.
- (2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.
- (3) Regional household hazardous waste programs.

(b) (1) The total amount of grants made by the board pursuant to this section shall not exceed, in any one fiscal year, three million dollars (\$3,000,000).

(2) Notwithstanding paragraph (1), the total amount of grants made by the board pursuant to this section may exceed three million dollars (\$3,000,000) but shall not exceed six million dollars (\$6,000,000), in any one fiscal year, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

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**Assembly Bill No. 110**

**CHAPTER 707**

An act to amend Section 121349.3 of, and to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of, the Health and Safety Code, relating to the use of state HIV prevention and education funds for distribution of needles and syringes.

[Approved by Governor October 14, 2007. Filed with  
Secretary of State October 14, 2007.]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 110, Laird. Drug paraphernalia: clean needle and syringe exchange projects.

(1) Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

Existing law establishes the Office of AIDS in the State Department of Public Health. That office, among other functions, provides funding for AIDS prevention and education.

This bill would authorize a public entity, as defined, that receives General Fund money from the department for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes, subject to specified conditions.

(2) Existing law requires the health officer of the participating jurisdiction to annually present a report on the status of clean needle and syringe exchange programs, including relevant statistics on blood-borne infections.

This bill would require the report to also include the use of public funds for these purposes.

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

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

(a) The continuing spread of the acquired immunodeficiency syndrome (AIDS) epidemic and the spread of blood-borne hepatitis pose two of the gravest public health threats in California.

(b) Injection drug users are the second largest group at risk of becoming infected with the human immunodeficiency virus (HIV) and developing AIDS, and they have been the primary source of heterosexual, female, and perinatal transmission in California, the United States, and Europe.

(c) According to the Office of AIDS within the State Department of Public Health, injection drug use continues to be one of the most prevalent risk factors for new HIV and AIDS cases in California. Injection drug users continue to be at high risk of HIV/AIDS and hepatitis infection in California. According to an annual report issued by the Office of AIDS, sharing of contaminated syringes and other injection equipment is linked to 20 percent of all reported AIDS cases in the state through 2003. State data suggests that over 1,500 new syringe-sharing HIV infections occur annually. According to recent studies, researchers estimate that an American infected with HIV can expect to live about 24 years, on average, and that the cost of his or her health care during this time period is more than \$600,000.

(d) Injection drug users are also highly likely to become infected with hepatitis as a result of hypodermic needle and syringe sharing practices.

(e) The Legislature has responded to the spread of HIV and hepatitis among injection drug users by adopting Assembly Bill 136 (Ch. 762, Stats. 1999), that permits localities to determine whether or not to operate clean needle and syringe exchange programs. As a result of that legislation, many localities are now operating these programs.

(f) These programs have been shown to significantly reduce the transmission of HIV and hepatitis among injection drug users, their sexual partners, and children. Moreover, these programs have been effective in moving individuals into substance abuse treatment programs and in reducing the number of used hypodermic needles and syringes disposed of in public places, which pose a threat to public health and safety.

(g) The United States government prohibits the use of federal funds to support the purchase of sterile hypodermic needles and syringes by clean needle and syringe exchange programs. Moreover, the state has not heretofore permitted the use of its funds for the purchase of sterile hypodermic needles and syringes, although current state policy allows state HIV prevention and education funds to be used for costs associated with authorized clean needle and syringe exchange programs, except for the purchase of sterile hypodermic needles and syringes.

(h) The ability of clean needle and syringe exchange programs to purchase an adequate supply of sterile hypodermic needles and syringes is essential to California's ability to further reduce the transmission of HIV and hepatitis and to relieve the public cost for the care and treatment of HIV disease and hepatitis.

SEC. 2. Chapter 1.5 (commencing with Section 120780) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION FUNDS

120780. For purposes of this chapter, "public entity" includes the state, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

120780.1. A public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education may use that money to support clean needle and syringe exchange programs authorized pursuant to existing law. The money may be used for, but is not limited to, the purchase of sterile hypodermic needles and syringes as part of a clean needle and syringe exchange program only if all of the following conditions are met:

(a) The General Fund money used for purchasing the sterile hypodermic needles and syringes does not supplant any other public or private funds or other resources for this purpose.

(b) The amount of the General Fund money used for purchasing the sterile hypodermic needles and syringes does not exceed 7.5 percent of the total amount of the General Fund money received by the public entity for HIV prevention and education.

(c) Each dollar of General Fund money used for purchasing the sterile hypodermic needles and syringes is matched by forty-three cents (\$0.43) of moneys from nonstate public funds or private funds.

(d) The allocation of General Fund money for the purchase of sterile hypodermic needles and syringes is based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS within the department.

SEC. 3. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. The health officer of the participating jurisdiction shall present annually at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to assure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

## CHAPTER \_\_\_\_\_

An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 249, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

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

SECTION 1. Section 809.10 is added to the Business and Professions Code, to read:

809.10. (a) No person who is licensed, certified, or registered by a board under this division, nor an entity or person acting as an authorized agent of that person, shall include or permit to be included any of the following provisions in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action:

(1) A provision that prohibits the other party in that dispute from contacting or cooperating with the department or board.

(2) A provision that prohibits the other party in that dispute from filing a complaint with the department or board.

(3) A provision that requires the other party in that dispute to withdraw a complaint from the department or board. This type of provision is void as against public policy.

(b) A licensed, certified, or registered person who violates this section is subject to disciplinary action by the appropriate board.

SEC. 2. Section 2220.7 of the Business and Professions Code is repealed.

BILL NUMBER: AB 249  
VETOED DATE: 10/13/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 249 without my signature.

I have previously vetoed similar legislation because of the negative effect it would have had on the California economy. This bill erodes the ability to do business in California by creating more uncertainty regarding litigation. It prohibits any licensee or professional overseen by the Department of Consumer Affairs from including in a civil settlement agreement a provision that prohibits the other party from contacting or filing a complaint with the regulatory agency. When parties who are in dispute agree to settle, there should be some assurances that the dispute has been resolved in a satisfactory and final manner for both parties.

For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

## CHAPTER \_\_\_\_\_

An act to amend Section 4190 of the Business and Professions Code, and to add Section 1212.5 to the Health and Safety Code, relating to health clinics.

## LEGISLATIVE COUNSEL'S DIGEST

AB 543, Plescia. Surgical clinics: licensure.

Existing law, with certain exceptions, provides for the licensure and regulation of health facilities and clinics, including specialty clinics, by the State Department of Public Health. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime.

This bill would require, on or after January 1, 2008, any person, firm, association, partnership, or corporation desiring a license for a surgical clinic, except specified surgical clinics and ambulatory surgical centers, in addition to other prescribed licensing requirements, to meet prescribed operational, staffing, and procedural standards. The bill would require the department to perform initial inspections of a surgical clinic within 45 calendar days of an application approval, and to perform periodic inspections at least once every 3 years thereafter.

The bill would require the department, until January 1, 2015, contingent upon an appropriation in the annual Budget Act, to establish a program for the training of ambulatory surgical center inspection personnel, and would require the department to prepare a comprehensive report on the training program, as provided. By imposing new licensure requirements on surgical clinics, a violation of which would be a crime, the bill would impose a state-mandated local program.

Existing law provides that a surgical clinic may not operate and is not entitled to the benefits of specified provisions of the Pharmacy Law without a license issued by the California State Board of Pharmacy. Existing law authorizes the board to inspect a clinic at any time.

This bill would, instead, provide that a surgical clinic that is licensed by the State Department of Public Health, accredited by an accreditation agency, or certified to participate in the Medicare Program is not entitled to the above-described benefits without a license issued by the board. It would also specify inspection requirements for the accredited or certified surgical clinics.

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

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

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

SECTION 1. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) Notwithstanding any provision of this chapter, a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 and Section 1212.5 of the Health and Safety Code, accredited by an accreditation agency as defined in Section 1248 of the Health and Safety Code, or certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic, as provided in subdivision (b). The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) The drug distribution service of a surgical clinic shall be limited to the use of drugs for administration to the patients of the surgical clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.

(c) No surgical clinic shall be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each clinic location. A clinic shall notify the board of any change in the clinic's address on a form furnished by the board.

(d) Any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.

(e) The board shall inspect a surgical clinic that is accredited by an accreditation agency or is certified to participate in the Medicare Program as specified in subdivision (a), but is not licensed pursuant to Sections 1204 and 1212.5 of the Health and Safety Code, within 120 days of the issuance of a clinic licensed pursuant to this article, and at least annually thereafter.

(f) Every surgical clinic issued a license pursuant to this article shall complete a self-assessment within 30 days of opening and at least 30 days before each license renewal pursuant to this article. The completed self-assessment form shall be retained at the licensed premises for a period of three years.

SEC. 2. Section 1212.5 is added to the Health and Safety Code, to read:

1212.5. (a) In addition to other licensing requirements of this chapter, any person, firm, association, partnership, or corporation desiring a license for a surgical clinic shall meet the following standards:

(1) Comply with the Medicare conditions of coverage for ambulatory surgical centers, as set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, including interpretive guidelines issued by the Centers for Medicare and Medicaid Services as it pertains to Subpart C of Part 416 of Title 42 of the Code of Federal Regulations.

(2) Limit surgical procedures to those that:

(A) Do not result in extensive blood loss.

(B) Do not require major or prolonged invasion of body cavities.

(C) Do not directly involve major blood vessels.

(D) Are not emergency or life threatening in nature.

(3) Establish and implement policies and procedures consistent with the Medicare conditions of coverage set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, including interpretive guidelines issued by the Centers for Medicare and Medicaid Services as it pertains to Subpart C of Part 416 of Title 42 of the code of Federal Regulations, including, but not limited to:

(A) Physician services policies and procedures, including surgical and anesthesia services.

(B) Nursing services policies and procedures.

(C) Infection control policies and procedures.

(D) Pharmaceutical services policies and procedures.

(E) Housekeeping services policies and procedures that include provisions for maintenance of a safe and clean environment.

(F) Laboratory and radiology services.

(G) Patient health records policies and procedures, which shall be developed with the assistance of a person skilled in records maintenance and preservation.

(H) Personnel policies and procedures.

(b) Notwithstanding subdivision (c) of Section 1228, the department shall perform initial inspections of a surgical clinic within 45 calendar days of the date the completed application is received and approved by the department. Periodic inspections shall occur at least once every three years thereafter.

(c) The department may contract with licensed physicians and surgeons to serve as surveyors to perform inspections of surgical clinics for compliance with the licensure requirements of this chapter and in a manner that is consistent with department inspections pursuant to Section 1279.

(d) Contingent upon an appropriation in the annual Budget Act, the department shall until January 1, 2015, establish a program for training of surgical clinic inspection personnel. The goal of this program shall be to provide a sufficient number of qualified persons to facilitate the timely performance of the department's duties and responsibilities relating to initial and periodic licensing inspections of surgical clinics, in order to ensure compliance with this chapter.

(e) (1) The department shall prepare a comprehensive report on the training program setting forth its goals, objectives, and structure. The report shall assess processing time for initial and

periodic licensing inspections of surgical clinics and include information on all of the following:

(A) The number of surgical clinic inspection personnel to be trained annually.

(B) A timeline for completion of training.

(C) A process for gathering information to evaluate the training programs efficiency that includes dropout and retention rates.

(D) A mechanism to annually assess the need for the training program to continue.

(2) The report required by paragraph (1) shall be submitted to the Joint Legislative Budget Committee no later than July 1, 2008, and no later than July 1 of each year thereafter, through July 1, 2014.

(f) (1) This section shall not apply to any surgical clinic that is any of the following:

(A) Accredited by an accreditation agency as defined in Section 1248.

(B) Certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act.

(C) Exempt from state licensure pursuant to Section 1206.

(2) An entity exempt from the requirements of this section pursuant to paragraph (1) may, at its option, apply for licensure as a surgical clinic.

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

BILL NUMBER: AB 543  
VETOED DATE: 10/14/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 543 without my signature.

While I support the intent of this legislation, I am unable to sign it as it lacks critical patient safety protections. This bill doesn't establish appropriate time limits for performing surgery under general anesthesia. Further, it inappropriately restricts administrative flexibility and creates state fiscal pressure during ongoing budget challenges.

I am directing the Department of Public Health to pursue legislation that establishes licensure standards for these facilities that are consistent with federal requirements and protect the health and safety of patients.

For these reasons, I am returning AB 543 without my signature.

Sincerely,

Arnold Schwarzenegger

## CHAPTER \_\_\_\_\_

An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1025, Bass. Professions and vocations: licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensee with certain information upon doing so.

This bill would provide that a person may not be denied licensure based solely on a criminal conviction if the person has been rehabilitated, as specified. The bill would also provide that a person may not be denied licensure or have his or her license suspended or revoked solely based on a criminal conviction that has been dismissed on certain grounds, unless the board provides substantial evidence, as specified, justifying the denial, suspension, or revocation. The bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of his or her criminal history record, as specified. The bill would require the board to maintain certain information pertaining to the

provision of criminal history records and to make that information available upon request by the Department of Justice or the Federal Bureau of Investigation. The bill would require the department to prepare annual reports to the Legislature documenting the board's denial, suspension, or revocation of licenses based on the bill's provisions.

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

SECTION 1. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has done one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code:

(1) No person shall be denied a license solely on the basis that he or she has been convicted of a felony if either of the following apply:

(A) He or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) The felony conviction has been dismissed pursuant to Section 1203.4 of the Penal Code, which creates a presumption of rehabilitation for purposes of this paragraph, unless the board

provides substantial evidence to the contrary in writing to the person justifying the board's denial of the license based solely on his or her dismissed felony conviction that is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(2) No person shall be denied a license solely on the basis that he or she has been convicted of a misdemeanor if either of the following apply:

(A) He or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(B) The misdemeanor conviction has been dismissed pursuant to either Section 1203.4 or 1203.4a of the Penal Code, which creates a presumption of rehabilitation for purposes of this paragraph, unless the board provides substantial evidence to the contrary in writing to the person justifying the board's denial of the license based solely on his or her dismissed misdemeanor conviction that is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

(d) The department shall annually prepare a report, to be submitted to the Legislature on October 1, that documents board denials of licenses based solely on dismissed felony or misdemeanor convictions as specified in subdivision (b).

SEC. 2. Section 485 of the Business and Professions Code is amended to read:

485. (a) Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(1) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notify the applicant that the application is denied, stating (A) the reason for the denial, and (B) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if a written request for a hearing is made within 60 days after

service of the notice of denial. Unless a written request for a hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

(b) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall include with the information provided pursuant to paragraph (1) or (2) of subdivision (a) a copy of the applicant's criminal history record.

(1) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(2) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record, and the criminal history record shall not be made available by the board to any employer.

(3) The board shall record and maintain the name of the applicant, the applicant's address, and the date the criminal history record was provided by the board to the applicant pursuant to this section. The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

SEC. 3. Section 490 of the Business and Professions Code is amended to read:

490. (a) A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence.

(b) No license shall be suspended or revoked based solely on any criminal conviction that has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code, since that dismissal creates a presumption of rehabilitation for purposes of this section, unless the board provides substantial evidence to the contrary in writing to the person justifying the board's suspension or revocation of the license based solely on his or her dismissed conviction that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was made.

(c) The department shall annually prepare a report, to be submitted to the Legislature on October 1, that documents board suspensions or revocations of licenses based solely on dismissed criminal convictions as specified in subdivision (b).

SEC. 4. Section 491 of the Business and Professions Code is amended to read:

491. (a) Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall do both of the following:

(1) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(2) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

(b) If the suspension or revocation of a license is due at least in part to the ex-licensee's state or federal criminal history record, the board shall include with the information provided pursuant to subdivision (a) a copy of the ex-licensee's criminal history record.

(1) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(2) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the ex-licensee's criminal history record, and the criminal history record shall not be made available by the board to any employer.

(3) The board shall record and maintain the name of the ex-licensee, the ex-licensee's address, and the date the criminal history record was provided by the board to an ex-licensee pursuant to this section. The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

BILL NUMBER: AB 1025  
VETOED DATE: 10/13/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 1025 without my signature.

This bill could jeopardize the public health, safety, and welfare in a well-intentioned but flawed attempt to permit individuals convicted of crimes to work in a regulated profession. I am concerned that this bill goes too far in taking away a licensing entity's discretion to deny a license or take other licensing actions, even if it is in the best interest of the state's consumers. The State of California licenses various professions in order to protect consumers from unqualified, dangerous, or unscrupulous individuals. All statutes establishing licensing programs mandate that the protection of the public is the highest priority and that "whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

AB 1025 creates a presumption of rehabilitation based on an expungement of a conviction. This is problematic for two reasons. First, expungement is not intended to be indicative of rehabilitation. Second, this provision places the burden of proof on state licensing bodies to show that an individual is not rehabilitated, which would result in increased litigation and extensive investigations.

For this reason, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger

## CHAPTER \_\_\_\_\_

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

## LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

Existing law establishes in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy students and to repay qualifying educational loans of pharmacists who agree to serve in areas of the state where unmet priority needs exist, as specified. Existing law requires the office to administer the program utilizing the same general guidelines applicable to specified federal programs, with the exception that no matching funds shall be required from any entity in the practice site area.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy technician students and to repay qualifying educational loans of pharmacy technicians who agree to serve in areas of the state where unmet priority needs exist, as specified. The bill would require the Health Professions

Education Foundation to administer this program in the same manner as the program for pharmacists, including that no matching funds shall be required from any entity in the practice site area.

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

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

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

SECTION 1. Section 4410 is added to the Business and Professions Code, to read:

4410. At the time a pharmacy technician license is renewed pursuant to subdivision (r) of Section 4400, the board shall collect an additional fee of ten dollars (\$10) for the sole purpose of funding the California Pharmacy Technician Scholarship and Loan Repayment Program established pursuant to Article 6 (commencing with Section 128560) of Chapter 5 of Part 3 of Division 107 of the Health and Safety Code. The fee submitted pursuant to this section shall be paid into the State Treasury and credited to the California Pharmacy Technician Scholarship and Loan Repayment Program Fund established pursuant to Section 128199.5 of the Health and Safety Code.

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

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

(a) Solicit and receive funds from business, industry, foundations, and other private or public sources for the purpose of providing financial assistance in the form of scholarships or loans to African-American students, Native American students, Hispanic-American students, and other students from underrepresented groups. These funds shall be expended by the

office after transfer to the Health Professions Education Fund, created pursuant to Section 128355.

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

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

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

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

(f) Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

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

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

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

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

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

Article 6. California Pharmacy Technician Scholarship and Loan Repayment Program

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

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

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

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

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

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

128561. The California Pharmacy Technician Scholarship and Loan Repayment Program Fund is hereby established in the State

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

BILL NUMBER: SB 615  
VETOED DATE: 10/13/2007

To the Members of the California State Senate:

I am returning Senate Bill 615 without my signature.

While I share the author's goal of improving access to healthcare in underserved areas, I cannot sign this bill as it duplicates existing efforts. A similar scholarship program already exists and is available to pharmacy technician students. Specifically, the Healthcare Professional Education Foundation administers the Allied Healthcare Scholarship Program which is available to qualified individuals who apply for the scholarship. In addition, the shortage of pharmacy technicians is not well documented by current workforce data. I am directing the California Health and Human Services Agency to review the potential shortage in the pharmacy technician workforce and consider including this profession in healthcare workforce discussions and activities underway.

For this reason, I am returning SB 615 without my signature.

Sincerely,

Arnold Schwarzenegger

## Attachment 3

# FIRST QUARTERLY REPORT ON COMMITTEE GOALS FOR 2007/08

# 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"> <li>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> </li> <li>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"> <li>(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&amp;P 4073).</li> <li>(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&amp;P 4104).</li> <li>(c) Establish the authority to issue a temporary sterile injectable compounding license following a change in ownership (B&amp;P 4127.8).</li> <li>(d) Exempt government-owned wholesalers from having to post a \$100,000 bond (B&amp;P 4162).</li> <li>(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&amp;P 4162.5).</li> <li>(f) Make technical changes in the licensure requirements for clinics (B&amp;P 4180 - 4182, 4190 - 4192).</li> </ol>   <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"> <li>(a) Revise section to include schedule IV controlled substances to the CURES reporting requirements for hospitals. (B&amp;P 4068)</li> <li>(b) Allow board inspectors to embargo a prescription drug when the inspector has probable cause that it is misbranded. (B&amp;P 4084)</li> <li>(c) Change the term "exemptee" to "designated representative." (B&amp;P) 4101</li> <li>(d) Revise section to specify temporary license fee of \$550. Current law does not specify the temporary fee. (B&amp;P 4160 (f) &amp; 4161 (k))</li> <li>(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&amp;P 4162 &amp; 4162.5)</li> <li>(f) Change in the name of the exam to more accurately reflect the requirements described in B&amp;P 4200.2. The new name will be the "California Practice Standards and Jurisprudence Examination for Pharmacists" (CPJE). (B &amp; P 4200, 4200.1 &amp; 4200.2)</li> <li>(g) Revise requirements for intern licenses to allow the board the discretion to extend the duration of an intern license. (B&amp;P 4208)</li> </ol> </li> </ol>

(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)

October 2007: Governor signs SB 1048 (Chapter 588, Statutes of 2007) containing board omnibus provisions.

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.

Oct. 2007: Governor signs the following:

AB 110 (Chapter 707, Statutes of 2007) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects.

SB 472 (Chapter 470, Statutes of 2007) Prescription Drugs: Labeling Requirements.

SB 966 (Chapter 542, Statutes of 2007) Pharmaceutical Drug Disposal.

	<p><i>Oct. 2007: Governor vetoes the following:  AB 249 (Eng) Healing Arts: Settlement Agreements.  AB 543 (Plescia) Ambulatory Surgical Centers: Licensure.  AB 1025 (Bass) Professions and Vocations: Denial of Licensure.  SB 615 (Oropeza) Pharmacy Technicians: Scholarship Fund.</i></p> <p>7. Expand the conditions under which a pharmacist may administer an immunization independent of physician protocol.</p> <p><i>March 2007: Licensing Committee considers and approves concept. More work is required.</i></p> <p><i>June 2007: Licensing Committee considers draft language and requests additional refinements to proposal for consideration at September 2007 committee meeting.</i></p> <p><i>Sept. 2007: Licensing Committee forwards to full board legislative proposal.</i></p> <p>8. Advocate the board's role as an advocate for consumers by redesigning prescription label for all medicines dispensed to California patients.</p> <p><i>Oct. 2007: Governor signs SB 472 (Chapter 470, Statutes of 2007) Prescription Drugs: Labeling Requirements.</i></p>
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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"> <li>1. Authorize technicians to check technicians in inpatient pharmacies with clinical pharmacist programs (sections 1793.7-1793.8). <ul style="list-style-type: none"> <li><i>Aug. 2006: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i></li> <li><i>Nov. 2006: Rulemaking file submitted to the Office of Administrative Law .</i></li> <li><i>Jan. 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></li> </ul> </li> <li>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"> <li><i>Aug. 2006: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i></li> <li><i>Jan. 2007: Regulation takes effect following approval by the Office of Administrative Law.</i></li> </ul> </li> <li>3. Make technical changes in pharmacy regulations to keep the code updated. <ul style="list-style-type: none"> <li><i>Dec. 2006: Board notices regulation for 45 days of public comment.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files</li> <li><i>Jan. 2007: Board adopts regulations.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files</li> <li><i>Feb. 2007: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files</li> <li><i>April 2007: 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></li> <li><i>June 2007: Changes to 1706.2 take effect following approval by the Office of Administrative Law.</i></li> </ul> </li> <li>4. Repeal the requirement to post a notice regarding electronic files (section 1717.2). <ul style="list-style-type: none"> <li><i>July 2006: Regulation released for 45 days of public comment. Action to be taken at the October Board Meeting.</i></li> <li><i>Oct. 2006: Board approves regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration review.</i></li> <li><i>March 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></li> </ul> </li> <li>5. Revise and update Disciplinary Guidelines revision and update (section 1760). <ul style="list-style-type: none"> <li><i>Aug. 2006: Final changes to Disciplinary Guidelines being compiled by staff.</i></li> <li><i>Dec. 2006: Disciplinary Guidelines is being reformatted into strikeout and underscore version for eventual release for public comment.</i></li> <li><i>June 2007: Enforcement Committee reviews Disciplinary Guidelines and requests additional time to review before being submitted to the board.</i></li> <li><i>Sept. 2007: Enforcement Committee approves Disciplinary Guidelines and recommends board approval.</i></li> </ul> </li> </ol>

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.*  
*July 2007: Board adopts regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration Review.*  
*Sept. 2007: File submitted to the Office of Administrative Law for review.*
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.

	<p>11. Increase fees to keep the board's contingency fund solvent and maintain operations.  <i>March 2007: Organization Development Committee reviews proposals and recommends approval.</i>  <i>April 2007: Board approves the proposal.</i>  <i>May 2007: Board releases language for the 45-day public comment period.</i>  <i>July 2007: Board adopts proposed changes for a 15-day comment period and if no negative comments are received board adopts regulations.</i>  <i>Aug. 2007: File submitted to the Department of Consumer Affairs to initiate Administration Review.</i>  <i>Oct. 2007: File submitted to the Office of Administrative Law for review.</i></p> <p>12. Secure regulatory standards for pharmacies that compound.  <i>Dec. 2006: Licensing Committee evaluates proposed compounding regulations developed in 2004. Some modifications may be needed.</i>  <i>March 2007: Licensing Committee convenes discussion of amendments to compounding regulations. More work is required.</i>  <i>May 2007: Licensing Committee holds detailed discussion on compounding regulations.</i>  <i>Sept. 2007: Licensing Committee forwards regulation proposal to the board for review.</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:	1. Initiate review of the pharmacist-in-charge requirement.