

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: AB 2756**

**VERSION: As amended June 23, 2008**

**AUTHOR: Duvall**

**SPONSOR: California Retailers Association**

**BOARD POSITION: Support**

**SUBJECT: Pharmacists: furnishing drugs during an emergency**

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**EXISTING LAW**

Authorizes a pharmacist to, in good faith, furnish a dangerous drug or dangerous device in reasonable quantities without a prescription during a federal, state or local emergency, to further the health and safety of the public.

**THIS BILL WOULD**

Clarify the emergency conditions under which pharmacists may furnish dangerous drugs and devices without a prescription.

**AUTHOR'S INTENT**

This bill clarifies that a natural disaster is an appropriate emergency in which pharmacists are able to dispense drugs or devices without a prescription to ensure that a delay in a declaration of a state of emergency will not interfere with the ability of patients to receive necessary medications in accordance with board regulations.

**FISCAL IMPACT:**

The board does not anticipate any substantial fiscal impact to its operations.

**SUPPORT/OPPOSITION**

Support

California Retailers Association (sponsor)  
California Pharmacists Association  
National Association of Chain Drug Stores  
Walgreens

Oppose  
None on file

**HISTORY:**

| <b>Dates</b> | <b>Actions</b>  |
|--------------|---|
| 06/23/08     | June 23 Read second time, amended, and to third reading.  |
| 06/19/08     | June 19 From committee: Amend, and do pass as amended. (Ayes 9. Noes 0.) .  |
| 06/12/08     | June 12 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D. |
| 05/29/08     | May 29 Referred to Com. on B., P. & E.D.  |
| 05/22/08     | May 22 In Senate. Read first time. To Com. on RLS. for assignment.  |
| 05/22/08     | May 22 Read third time, passed, and to Senate. (Ayes 76. Noes 0. Page 5273.)  |
| 05/19/08     | May 19 Read second time. To Consent Calendar.   |
| 05/15/08     | May 15 From committee: Do pass. To Consent Calendar. (May 14).  |
| 04/29/08     | Apr. 29 From committee: Do pass, and re-refer to Com. on APPR. with recommendation: To Consent Calendar. Re-referred. (Ayes 10. Noes 0.) (April 29).          |
| 04/22/08     | Apr. 22 Re-referred to Com. on B. & P.  |
| 04/21/08     | Apr. 21 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.                                  |
| 04/03/08     | Apr. 3 Referred to Com. on B. & P.  |
| 02/25/08     | Feb. 25 Read first time.  |
| 02/24/08     | Feb. 24 From printer. May be heard in committee March 25.   |
| 02/22/08     | Feb. 22 Introduced. To print.   |

AMENDED IN ASSEMBLY JULY 1, 2008  
AMENDED IN ASSEMBLY JUNE 25, 2007  
AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 963**

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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~~An act to amend Sections 22, 102.3, 107, 108, 312, 313.1, 321, 1601.1, 1632.5, 1634.2, 1638.1, 1638.7, 1742, 1751, 2001, 2460, 2531, 2570.19, 2602, 2701, 2841, 2920, 3010.5, 3502.1, 3504, 3685, 3710, 4001, 4003, 4200.1, 4200.3, 4501, 4800, 4928, 4990, 5000, 5510, 5621, 5810, 5811, 6510, 6511, 6710, 7000.5, 7200, 7303, 7810, 8000, 8520, 8710, 9882, 18602, 18602.5, 18824, and 18882 of, to add Sections 27.5, 36, 37, 38, 101.5, 117, 117.5, 127.5, 156.7, and 450.1 to, to add Chapter 4.5 (commencing with Section 360) to Division 1 of, to add Division 1.3 (commencing with Section 474.20) to, to repeal Sections 2569, 4989, 4990.24, 7304, and 22259 of, to repeal Division 1.2 (commencing with Section 473) of, and to repeal and add Section 101.1 of, the Business and Professions Code, and to amend Sections 9148.8 and 9148.51 of, and to repeal Section 9148.52 of, the Government Code, relating to regulatory entities, and making an appropriation therefor. An act to amend Sections 22, 107, 108, 473.1, 473.2, 473.3, 473.4, and 473.5 of, to add Sections 27.5, 36, 37, 38, 127.5, 473.12, and 473.7 to, and to repeal and add Section 101.1 of, the Business and Professions Code, relating to regulatory boards.~~

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs ~~and makes their funds separate accounts within the Professions and Vocations Fund. Under existing law, the revenue in certain of these accounts is continuously appropriated to the board, other than fine and penalty revenues, with board members serving specified terms of office. Existing law authorizes each board to appoint a person, exempt from Civil Service, who shall be designated as an executive officer.~~

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

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

~~report annually to the Governor and the Legislature, as specified, on the office's operations.~~

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

~~*This bill would, notwithstanding any other provision of law, terminate the term of office of each board member of certain boards within the department on specified and unspecified dates. The bill would subject boards that are scheduled to have their board membership so reconstituted to review by the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would also require the appropriate standing policy committee of the Legislature to investigate board deficiencies and to hold specified public hearings.*~~

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

~~The bill would allow a person to serve as the public member of more than one of these boards and would require all members of these boards, as well as bureau chiefs, to report annually to their appointing authority on their goals and objectives and success in achieving them, which would be posted on the board's Internet Web site *executive officer or registrar of more than one board and would make all appointments of an executive officer or registrar subject to approval by the Director of Consumer Affairs and confirmation by the Senate.* The bill would require the department to report to the Legislature and Governor if a board was unable to meet because of a lack of a quorum or vacancy. The bill would require members of these boards and other state boards to report ex parte communications, as defined, in the board's minutes *and would require the department to develop a common method of making boards'*~~

*minutes available to the public.* The bill would ~~require~~ *authorize* boards within the department, the State Bar, the Office of Real Estate Appraisers, and other state boards that license professions or businesses to adopt regulations to provide incentives to licensees to provide services on a pro bono basis and to adopt regulations prior to June 30, 2009, establishing regulatory board staffing requirements.

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

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

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

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

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

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

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

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

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

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

1 ~~(b) Notwithstanding any other provision of law, if a board is~~  
2 ~~deemed deficient and its members removed, as described in Section~~  
3 ~~474.21~~

4 *101.1. Notwithstanding any other provision of law, if the terms*  
5 *of office of the members of a board are terminated in accordance*  
6 *with the act that added this section or by subsequent acts, a*  
7 *successor board shall be appointed that shall succeed to, and be*  
8 *vested with, all the duties, powers, purposes, responsibilities, and*  
9 *jurisdiction not otherwise repealed or made inoperative of the*  
10 *board that it is succeeding. The successor board shall have the*  
11 *same number of members and composition as the board that it is*  
12 *succeeding, and those members shall be appointed by the same*  
13 *appointing authorities, for the same term, and with the same*  
14 *membership requirements as the members of the board it is*  
15 *succeeding. The successor board shall have the same authority to*  
16 *appoint an executive officer as the board that it is succeeding as*  
17 *of the date that board was found deficient. The successor board*  
18 *members shall be appointed within 10 business days of receipt by*  
19 *the Joint Committee on Rules of the deficiency report, as described*  
20 *in Section 474.21.*

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

23 ~~101.5.—(a) Each board within the department shall enter into~~  
24 ~~an agreement with the department for the department to provide~~  
25 ~~administrative and ministerial functions and services, including,~~  
26 ~~but not limited to, personnel services, information technology, the~~  
27 ~~administration of call centers, and the administration of~~  
28 ~~examinations. The Legislature intends that these agreements shall~~  
29 ~~achieve cost savings resulting from economies of scale and a more~~  
30 ~~consistent delivery of services to California consumers and~~  
31 ~~licensees.~~

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

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

37 ~~102.3.—(a) The director may enter into an interagency~~  
38 ~~agreement with an appropriate entity within the Department of~~  
39 ~~Consumer Affairs as provided for in Section 101 to delegate the~~  
40 ~~duties, powers, purposes, responsibilities, and jurisdiction that~~

1 have been succeeded and vested with the department, of a board  
2 that became inoperative and was repealed in accordance with  
3 Chapter 908 of the Statutes of 1994.

4 (b) (1) If, pursuant to subdivision (a), an interagency agreement  
5 is entered into between the director and that entity, the entity  
6 receiving the delegation of authority may establish a technical  
7 committee to regulate, as directed by the entity, the profession  
8 subject to the authority that has been delegated. The entity may  
9 delegate to the technical committee only those powers that it  
10 received pursuant to the interagency agreement with the director.  
11 The technical committee shall have only those powers that have  
12 been delegated to it by the entity.

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

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

21 (c) An interagency agreement entered into, pursuant to  
22 subdivision (a), shall continue until the licensing program  
23 administered by the technical committee has undergone a review  
24 by the Office of the Consumer Advocate to evaluate and determine  
25 whether the highest priority of the licensing program is the  
26 protection of the public. Thereafter, at the discretion of the chief  
27 of that office, the interagency agreement may be renewed.

28 ~~SEC. 10.~~

29 *SEC. 8.* Section 107 of the Business and Professions Code is  
30 amended to read:

31 107. (a) Pursuant to subdivision (e) of Section 4 of Article VII  
32 of the California Constitution, each board may appoint a person  
33 exempt from civil service and may fix his or her salary, with the  
34 approval of the Department of Personnel Administration pursuant  
35 to Section 19825 of the Government Code, who shall be designated  
36 as an executive officer unless the licensing act of the particular  
37 board designates the person as a registrar. A person may be  
38 appointed as an executive officer or registrar for more than one  
39 board if approved by each of those boards and may serve in those

1 capacities at the same time if practical and consistent with law and  
2 the respective board functions and duties.

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

6 ~~SEC. 11.~~

7 *SEC. 9.* Section 108 of the Business and Professions Code is  
8 amended to read:

9 108. (a) Each of the boards comprising the department exists  
10 as a separate unit, and has the functions of setting standards,  
11 holding meetings, and setting dates thereof, preparing and  
12 conducting examinations, passing upon applicants, conducting  
13 investigations of violations of laws under its jurisdiction, issuing  
14 citations and holding hearings for the revocation of licenses, and  
15 the imposing of penalties following those hearings, insofar as these  
16 powers are given by statute to each respective board.

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

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

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

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

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

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

39 (4) ~~The board's description of its licensing process including~~  
40 ~~the time and costs required to implement and administer its~~

1 ~~licensing examination, ownership of the license examination,~~  
2 ~~relevancy and validity of the licensing examination, and passage~~  
3 ~~rate and areas of examination.~~

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

7 ~~(b) Each board within the department shall report to the director~~  
8 ~~and the chief of the Office of the Consumer Advocate its~~  
9 ~~performance measures and data relating to those measures on a~~  
10 ~~quarterly basis. Each board shall post quarterly on its Internet Web~~  
11 ~~site the information it reported pursuant to this subdivision and~~  
12 ~~provide the information annually to the Department of Finance,~~  
13 ~~the Legislative Analyst's Office, and the Legislature.~~

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

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

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

23 ~~117.5. (a) Each member of a board within the department and~~  
24 ~~the chief of any bureau within the board shall annually report, on~~  
25 ~~or before December 31 of each year, to the authority that appointed~~  
26 ~~him or her the extent to which the member or chief achieved his~~  
27 ~~or her goals and objectives that year and shall also report the goals~~  
28 ~~and objectives he or she expects to achieve during the following~~  
29 ~~calendar year.~~

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

33 ~~SEC. 14.~~

34 ~~SEC. 10. Section 127.5 is added to the Business and Professions~~  
35 ~~Code, to read:~~

36 ~~127.5. The department shall report to the Legislature and the~~  
37 ~~Governor when a board within the department has been unable to~~  
38 ~~schedule or convene a meeting of the board because of a lack of~~  
39 ~~a quorum caused by the absence of its members or by a vacancy~~  
40 ~~in its membership.~~

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

3     ~~156.7. (a) Prior to January 1, 2010, the director, in consultation~~  
4     ~~with the State Chief Information Officer, shall replace the~~  
5     ~~department's existing information technology system with a system~~  
6     ~~that meets the requirements of the department and of the boards~~  
7     ~~within the department.~~

8     ~~(b) The director shall charge each of the boards on a pro rata~~  
9     ~~share basis for the costs of replacing the information technology~~  
10    ~~system. The charge shall be an administrative expense that may~~  
11    ~~be levied in advance against the funds of any of the boards pursuant~~  
12    ~~to Section 201.~~

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

17    ~~SEC. 11. Section 473.1 of the Business and Professions Code~~  
18    ~~is amended to read:~~

19    ~~473.1. This chapter shall apply to all of the following:~~

20    ~~(a) Every board, as defined in Section 22, that is scheduled to~~  
21    ~~become inoperative and to be repealed have its membership~~  
22    ~~reconstituted on a specified date as provided by the specific act~~  
23    ~~relating to the board Section 473.12.~~

24    ~~(b) The Bureau for Postsecondary and Vocational Education.~~  
25    ~~For purposes of this chapter, "board" includes the bureau.~~

26    ~~(c) The Cemetery and Funeral Bureau.~~

27    ~~SEC. 12. Section 473.12 is added to the Business and~~  
28    ~~Professions Code, to read:~~

29    ~~473.12. Notwithstanding any other provision of law, the term~~  
30    ~~of office of each member of the following boards in the department~~  
31    ~~shall terminate on the date listed:~~

32    ~~(a) The Dental Board of California: January 1, 2012.~~

33    ~~(b) The Medical Board of California: January 1, 2011.~~

34    ~~(c) The State Board of Optometry: January 1, 2011.~~

35    ~~(d) The California State Board of Pharmacy: January 1, 2011.~~

36    ~~(e) The Veterinary Medical Board: January 1, 2012.~~

37    ~~(f) The California Board of Accountancy: January 1, 2012.~~

38    ~~(g) The California Architects Board: January 1, 2012.~~

39    ~~(h) The State Board of Barbering and Cosmetology: January~~  
40    ~~1, 2012.~~

- 1 (i) *The Board for Professional Engineers and Land Surveyors:*  
2 *January 1, 2012.*
- 3 (j) *The Contractors' State License Board: January 1, 2010.*
- 4 (k) *The Bureau for Private Postsecondary Education: \_\_\_\_.*
- 5 (l) *The Structural Pest Control Board: January 1, 2012.*
- 6 (m) *The Bureau of Home Furnishings and Thermal Insulation:*  
7 *\_\_\_\_.*
- 8 (n) *The Board of Registered Nursing: January 1, 2011.*
- 9 (o) *The Board of Behavioral Sciences: January 1, 2010.*
- 10 (p) *The State Athletic Commission: January 1, 2010.*
- 11 (q) *The Cemetery and Funeral Bureau: \_\_\_\_.*
- 12 (r) *The State Board of Guide Dogs for the Blind: January 1,*  
13 *2012.*
- 14 (s) *The Bureau of Security and Investigative Services: \_\_\_\_.*
- 15 (t) *The Court Reporters Board of California: January 1, 2010.*
- 16 (u) *The Board of Vocational Nursing and Psychiatric*  
17 *Technicians: January 1, 2012.*
- 18 (v) *The Landscape Architects Technical Committee: January*  
19 *1, 2012.*
- 20 (w) *The Bureau of Electronic and Appliance Repair: \_\_\_\_.*
- 21 (x) *The Division of Investigation, Department of Consumer*  
22 *Affairs: \_\_\_\_.*
- 23 (y) *The Bureau of Automotive Repair: \_\_\_\_.*
- 24 (z) *The Board for Geologists and Geophysicists: January 1,*  
25 *2010.*
- 26 (aa) *The Respiratory Care Board of California: January 1,*  
27 *2011.*
- 28 (ab) *The Acupuncture Board: January 1, 2010.*
- 29 (ac) *The Board of Psychology: January 1, 2010.*
- 30 (ad) *The California Board of Podiatric Medicine: January 1,*  
31 *2011.*
- 32 (ae) *The Physical Therapy Board of California: January 1,*  
33 *2014.*
- 34 (af) *The Arbitration Review Program: \_\_\_\_.*
- 35 (ag) *The Dental Hygiene Committee of California: \_\_\_\_.*
- 36 (ah) *The Hearing Aid Dispensers Bureau: \_\_\_\_.*
- 37 (ai) *The Physician Assistant Committee, Medical Board of*  
38 *California: January 1, 2012.*
- 39 (aj) *The Speech-Language Pathology and Audiology Board:*  
40 *January 1, 2012.*

1 (ak) *The California Board of Occupational Therapy: January*  
2 *1, 2014.*

3 (al) *The Osteopathic Medical Board of California: \_\_\_\_.*

4 (am) *The Bureau of Naturopathic Medicine: \_\_\_\_.*

5 SEC. 13. *Section 473.2 of the Business and Professions Code*  
6 *is amended to read:*

7 473.2. All boards to which this chapter applies shall, with the  
8 assistance of the Department of Consumer Affairs, prepare an  
9 analysis and submit a report to the Joint Committee on Boards,  
10 Commissions, and Consumer Protection no later than 22 months  
11 before that ~~board shall become inoperative~~ *board's membership*  
12 *shall be reconstituted pursuant to Section 473.12.* The analysis  
13 and report shall include, at a minimum, all of the following:

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

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

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

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

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

32 SEC. 14. *Section 473.3 of the Business and Professions Code*  
33 *is amended to read:*

34 473.3. (a) Prior to the ~~termination, continuation, or~~  
35 ~~reestablishment of any board or any of the board's functions~~  
36 *reconstitution of the membership of any board described in Section*  
37 *473.12,* the Joint Committee on Boards, Commissions, and  
38 Consumer Protection shall, during the interim recess preceding  
39 the date upon which a ~~board becomes inoperative~~ *board's*  
40 *membership is to be reconstituted,* hold public hearings to receive

1 testimony from the Director of Consumer Affairs, the board  
2 involved, and the public and regulated industry. In that hearing,  
3 each board shall have the burden of demonstrating a compelling  
4 public need for the continued existence of the ~~board or~~ regulatory  
5 program, and that its licensing function is the least restrictive  
6 regulation consistent with the public health, safety, and welfare.

7 (b) In addition to subdivision (a), in 2002 and every four years  
8 thereafter, the committee, in cooperation with the California  
9 Postsecondary Education Commission, shall hold a public hearing  
10 to receive testimony from the Director of Consumer Affairs, the  
11 Bureau for Private Postsecondary and Vocational Education,  
12 private postsecondary educational institutions regulated by the  
13 bureau, and students of those institutions. In those hearings, the  
14 bureau shall have the burden of demonstrating a compelling public  
15 need for the continued existence of the bureau and its regulatory  
16 program, and that its function is the least restrictive regulation  
17 consistent with the public health, safety, and welfare.

18 (c) The committee, in cooperation with the California  
19 Postsecondary Education Commission, shall evaluate and review  
20 the effectiveness and efficiency of the Bureau for Private  
21 Postsecondary and Vocational Education, based on factors and  
22 minimum standards of performance that are specified in Section  
23 473.4. The committee shall report its findings and  
24 recommendations as specified in Section 473.5. The bureau shall  
25 prepare an analysis and submit a report to the committee as  
26 specified in Section 473.2.

27 (d) In addition to subdivision (a), in 2003 and every four years  
28 thereafter, the committee shall hold a public hearing to receive  
29 testimony from the Director of Consumer Affairs and the Bureau  
30 of Automotive Repair. In those hearings, the bureau shall have the  
31 burden of demonstrating a compelling public need for the continued  
32 existence of the bureau and its regulatory program, and that its  
33 function is the least restrictive regulation consistent with the public  
34 health, safety, and welfare.

35 (e) The committee shall evaluate and review the effectiveness  
36 and efficiency of the Bureau of Automotive Repair based on factors  
37 and minimum standards of performance that are specified in  
38 Section 473.4. The committee shall report its findings and  
39 recommendations as specified in Section 473.5. The bureau shall

1 prepare an analysis and submit a report to the committee as  
2 specified in Section 473.2.

3 *SEC. 15. Section 473.4 of the Business and Professions Code*  
4 *is amended to read:*

5 473.4. (a) The Joint Committee on Boards, Commissions, and  
6 Consumer Protection shall evaluate and determine whether a board  
7 or regulatory program has demonstrated a public need for the  
8 continued existence of the ~~board or~~ regulatory program and for  
9 the degree of regulation the board or regulatory program  
10 implements based on the following factors and minimum standards  
11 of performance:

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

14 (2) Whether the basis or facts that necessitated the initial  
15 licensing or regulation of a practice or profession have changed.

16 (3) Whether other conditions have arisen that would warrant  
17 increased, decreased, or the same degree of regulation.

18 (4) If regulation of the profession or practice is necessary,  
19 whether existing statutes and regulations establish the least  
20 restrictive form of regulation consistent with the public interest,  
21 considering other available regulatory mechanisms, and whether  
22 the board rules enhance the public interest and are within the scope  
23 of legislative intent.

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

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

31 (7) Whether the composition of the board adequately represents  
32 the public interest and whether the board encourages public  
33 participation in its decisions rather than participation only by the  
34 industry and individuals it regulates.

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

39 (9) Whether complaint, investigation, powers to intervene, and  
40 disciplinary procedures adequately protect the public and whether

1 final dispositions of complaints, investigations, restraining orders,  
2 and disciplinary actions are in the public interest; or if it is, instead,  
3 self-serving to the profession, industry or individuals being  
4 regulated by the board.

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

8 (11) Whether administrative and statutory changes are necessary  
9 to improve board operations to enhance the public interest.

10 (b) The Joint Committee on Boards, Commissions, and  
11 Consumer Protection shall consider alternatives to placing  
12 responsibilities and jurisdiction of the board under the Department  
13 of Consumer Affairs.

14 (c) Nothing in this section precludes any board from submitting  
15 other appropriate information to the Joint Committee on Boards,  
16 Commissions, and Consumer Protection.

17 *SEC. 16. Section 473.5 of the Business and Professions Code*  
18 *is amended to read:*

19 473.5. The Joint Committee on Boards, Commissions, and  
20 Consumer Protection shall report its findings and preliminary  
21 recommendations to the department for its review, and, within 90  
22 days of receiving the report, the department shall report its findings  
23 and recommendations to the Joint Committee on Boards,  
24 Commissions, and Consumer Protection during the next year of  
25 the regular session that follows the hearings described in Section  
26 473.3. The committee shall then meet to vote on final  
27 recommendations. A final report shall be completed by the  
28 committee and made available to the public and the Legislature.  
29 The report shall include final recommendations of the department  
30 and the committee and whether ~~each board or function scheduled~~  
31 ~~for repeal shall be terminated, continued, or reestablished, the~~  
32 ~~board's membership should be reconstituted~~ and whether its  
33 functions should be revised. If the committee or the department  
34 deems it advisable, the report may include proposed bills to carry  
35 out its recommendations.

36 *SEC. 17. Section 473.7 is added to the Business and Professions*  
37 *Code, to read:*

38 473.7. *The appropriate standing policy committee of the*  
39 *Legislature shall, through its oversight function, investigate the*  
40 *perceived deficiencies in the operation of a board to which this*

1 *chapter applies and hold public hearings on any matter subject to*  
2 *public hearing under Section 473.3.*

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

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

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

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

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

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

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

26 ~~313.1. (a) Notwithstanding any other provision of law to the~~  
27 ~~contrary, no rule or regulation, except those relating to~~  
28 ~~examinations and qualifications for licensure, and no fee change~~  
29 ~~proposed or promulgated by any of the boards, commissions, or~~  
30 ~~committees within the department, shall take effect pending~~  
31 ~~compliance with this section.~~

32 ~~(b) The director and the chief of the Office of the Consumer~~  
33 ~~Advocate shall be formally notified of and shall be provided a full~~  
34 ~~opportunity to review, in accordance with the requirements of~~  
35 ~~Article 5 (commencing with Section 11346) of Chapter 3.5 of Part~~  
36 ~~1 of Division 3 of Title 2 of the Government Code, and this section;~~  
37 ~~all of the following:~~

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

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

4 ~~(3) Final rulemaking records.~~

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

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

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

28 ~~(1) If the one-year notice period lapses during the 30-day review~~  
29 ~~period, or within 60 days following the notice of disapproval, it~~  
30 ~~may be extended for a maximum of 90 days.~~

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

36 ~~(3) If the director or the chief disapproves a rule or regulation,~~  
37 ~~it shall have no force or effect unless, within 60 days of the notice~~  
38 ~~of disapproval, (A) the disapproval is overridden by a unanimous~~  
39 ~~vote of the members of the board, commission, or committee, and~~  
40 ~~(B) the board, commission, or committee files the final rulemaking~~

1 record with the Office of Administrative Law in compliance with  
 2 this section and the procedures required by Chapter 3.5  
 3 (commencing with Section 11340) of Part 1 of Division 3 of Title  
 4 2 of the Government Code.

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

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

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

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

26  
 27 CHAPTER 4.5. OFFICE OF THE CONSUMER ADVOCATE

28  
 29 Article 1. General Provisions

30  
 31 360. This chapter shall be known and may be cited as the Office  
 32 of the Consumer Advocate Act.

33 361. It is the intent of the Legislature and the purpose of this  
 34 chapter to promote the efficiency of each of the boards that  
 35 comprise the department by ensuring that each board properly  
 36 discharges its regulatory and disciplinary functions to protect the  
 37 interests of consumers.

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

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

1 ~~(b) “Chief” means the chief of the Office of the Consumer~~  
2 ~~Advocate.~~

3 ~~(c) “Interests of consumers” means the protection of the health,~~  
4 ~~welfare, and safety of consumers by a board.~~

5 ~~(d) “Office” means the Office of the Consumer Advocate.~~

6  
7 ~~Article 2. Administration~~  
8

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

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

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

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

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

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

34 ~~374. The chief may contract for the services of experts and~~  
35 ~~consultants if necessary to carry out the provisions of this chapter~~  
36 ~~and may provide compensation and reimbursement of expenses~~  
37 ~~for those experts and consultants in accordance with state law.~~

## Article 3. Powers and Duties

1  
2  
3 ~~380. (a) The office shall serve as an independent monitor~~  
4 ~~pursuant to Section 474.22.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11  
12 ~~Article 4. Revenue~~  
13

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

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

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

26 ~~450.1. A person may serve as a public member of more than~~  
27 ~~one board at the same time if not prohibited by any other law.~~

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

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

32  
33 ~~DIVISION 1.3. LEGISLATIVE REVIEW OF STATE~~  
34 ~~BOARDS AND BOARDS WITHIN THE DEPARTMENT OF~~  
35 ~~CONSUMER AFFAIRS~~  
36

37 ~~474.20. (a) A Member of the Legislature or the chief of the~~  
38 ~~Office of the Consumer Advocate may submit a written request~~  
39 ~~to the appropriate standing policy committee of the Legislature to~~  
40 ~~conduct an analysis to evaluate any of the following entities:~~

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

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

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

9 474.21. (a) (1) The appropriate standing policy committee of  
10 the Legislature shall, through its oversight function, investigate  
11 the perceived deficiencies described in the request submitted  
12 pursuant to Section 474.20 and hold public hearings on the matter.  
13 The committee may request the Office of the Consumer Advocate  
14 to assist in the investigation. The committee shall complete these  
15 functions within a 60-day period during the regular legislative  
16 session, with the period commencing on the date of the committee's  
17 receipt of the request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~(d) The standing policy committee shall determine if a board is~~  
38 ~~deficient. The committee shall report its deficiency determination~~  
39 ~~to the Joint Committee on Rules. Notwithstanding any other~~  
40 ~~provision of law, if a board is found deficient, each incumbent~~

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

~~6 474.22. (a) Within 10 business days of the date the Joint  
7 Committee on Rules receives the deficiency report described in  
8 Section 474.21, the Office of the Consumer Advocate shall assume  
9 the duties of an independent monitor for the board.~~

~~10 (b) Within one year of the date it assumes the duties of an  
11 independent monitor, the Office of the Consumer Advocate shall  
12 report its findings to the Governor, and the Legislature may make  
13 recommendations for required reforms of the board.~~

~~14 SEC. 23. Section 1601.1 of the Business and Professions Code  
15 is amended to read:~~

~~16 1601.1. (a) There shall be in the Department of Consumer  
17 Affairs the Dental Board of California in which the administration  
18 of this chapter is vested. The board shall consist of eight practicing  
19 dentists, one registered dental hygienist, one registered dental  
20 assistant, and four public members. Of the eight practicing dentists,  
21 one shall be a member of a faculty of any California dental college  
22 and one shall be a dentist practicing in a nonprofit community  
23 clinic. The appointing powers, described in Section 1603, may  
24 appoint to the board a person who was a member of the prior board.  
25 The board shall be organized into standing committees dealing  
26 with examinations, enforcement, and other subjects as the board  
27 deems appropriate.~~

~~28 (b) For purposes of this chapter, any reference in this chapter  
29 to the Board of Dental Examiners shall be deemed to refer to the  
30 Dental Board of California.~~

~~31 (c) The board shall have all authority previously vested in the  
32 existing board under this chapter. The board may enforce all  
33 disciplinary actions undertaken by the previous board.~~

~~34 SEC. 24. Section 1632.5 of the Business and Professions Code  
35 is amended to read:~~

~~36 1632.5. (a) Prior to implementation of paragraph (2) of  
37 subdivision (c) of Section 1632, the department's Office of  
38 Examination Resources shall review the Western Regional  
39 Examining Board examination to assure compliance with the  
40 requirements of Section 139 and to certify that the examination~~

1 process meets those standards. If the department determines that  
2 the examination process fails to meet those standards, paragraph  
3 (2) of subdivision (c) of Section 1632 shall not be implemented.  
4 The review of the Western Regional Examining Board examination  
5 shall be conducted during or after the Dental Board of California's  
6 occupational analysis scheduled for the 2004-05 fiscal year, but  
7 not later than September 30, 2005. However, an applicant who  
8 successfully completes the Western Regional Examining Board  
9 examination on or after January 1, 2005, shall be deemed to have  
10 met the requirements of subdivision (c) of Section 1632 if the  
11 department certifies that the Western Regional Examining Board  
12 examination meets the standards set forth in this subdivision.

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

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

19 (d) The Dental Board of California shall report on or before  
20 July 1, 2008, to the department and the Office of the Consumer  
21 Advocate on the pass rates of applicants who sat for the Western  
22 Regional Examining Board examination, compared with the pass  
23 rates of applicants who sat for the state clinical and written  
24 examination administered by the Dental Board of California. This  
25 report shall be a component of the evaluation of the examination  
26 process that is based on psychometrically sound principles for  
27 establishing minimum qualifications and levels of competency.

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

30 1634.2. (a) An advanced education program's compliance  
31 with subdivision (c) of Section 1634.1 shall be regularly reviewed  
32 by the department pursuant to Section 139.

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

36 (c) The clinical residency program completion certification  
37 required by subdivision (c) of Section 1634.1 shall include a list  
38 of core competencies commensurate to those found in the board's  
39 examinations. The board, together with the department's Office  
40 of Examination Resources, shall ensure the alignment of the

1 competencies stated in the clinical residency program completion  
2 certification with the board's current occupational analysis. The  
3 board shall implement use of the clinical residency program  
4 completion certification form and use of the core competency list  
5 through the adoption of emergency regulations by January 1, 2008.

6 (d) The board shall report to the department and the Office of  
7 the Consumer Advocate on or before January 1, 2010, the number  
8 of complaints received for those dentists who have obtained  
9 licensure by passing the state clinical examination and for those  
10 dentists who have obtained licensure through an advanced  
11 education program. The report shall also contain tracking  
12 information on these complaints and their disposition. This report  
13 shall be a component of the evaluation of the examination process  
14 that is based on psychometrically sound principles for establishing  
15 minimum qualifications and levels of competency.

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

18 1638.1. (a) (1) A person licensed pursuant to Section 1634  
19 who wishes to perform elective facial cosmetic surgery shall first  
20 apply for and receive a permit to perform elective facial cosmetic  
21 surgery from the board.

22 (2) A permit issued pursuant to this section shall be valid for a  
23 period of two years and must be renewed by the permitholder at  
24 the time his or her license is renewed. Every six years, prior to  
25 renewal of the permitholder's license and permit, the permitholder  
26 shall submit evidence acceptable to the credentialing committee  
27 that he or she has maintained continued competence to perform  
28 the procedures authorized by the permit. The credentialing  
29 committee may limit a permit consistent with paragraph (1) of  
30 subdivision (c) if it is not satisfied that the permitholder has  
31 established continued competence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (e) (1) The board shall appoint a credentialing committee to  
37 review the qualifications of each applicant for a permit. Upon  
38 completion of the review of an applicant, the committee shall make  
39 a recommendation to the board on whether to issue or not issue a  
40 permit to the applicant. The permit may be unqualified, entitling

1 the permitholder to perform any facial cosmetic surgical procedure  
2 authorized by this section, or it may contain limitations if the  
3 credentialing committee is not satisfied that the applicant has the  
4 training or competence to perform certain classes of procedures,  
5 or if the applicant has not requested to be permitted for all  
6 procedures authorized by this section.

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

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

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

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

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

27 (A) The Medical Board of California.

28 (B) The California Dental Association.

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

31 (D) The California Medical Association.

32 (E) The California Society of Plastic Surgeons.

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

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

38 (f) A licensee may not perform any elective, facial cosmetic  
39 surgical procedure except at a general acute care hospital, a licensed  
40 outpatient surgical facility, or an outpatient surgical facility

1 accredited by the Joint Commission on Accreditation of Healthcare  
2 Organizations (JCAHO), the American Association for Ambulatory  
3 Health Care (AAAHIC), the Medicare program, or an accreditation  
4 agency approved by the Medical Board of California pursuant to  
5 subdivision (g) of Section 1248.1 of the Health and Safety Code.

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

8 (1) “Elective cosmetic surgery” means any procedure defined  
9 as cosmetic surgery in subdivision (d) of Section 1367.63 of the  
10 Health and Safety Code, and excludes any procedure that  
11 constitutes reconstructive surgery, as defined in subdivision (e) of  
12 Section 1367.63 of the Health and Safety Code.

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

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

21 (i) A holder of a permit shall comply with the requirements of  
22 subparagraph (D) of paragraph (2) of subdivision (a) of Section  
23 1248.15 of the Health and Safety Code, and the reporting  
24 requirements specified in Section 2240, with respect to any surgical  
25 procedure authorized by this section, in the same manner as a  
26 physician and surgeon.

27 (j) Any violation of this section constitutes unprofessional  
28 conduct and is grounds for the revocation or suspension of the  
29 person’s permit, license, or both, or the person may be reprimanded  
30 or placed on probation. Proceedings initiated by the board under  
31 this section shall be conducted in accordance with Chapter 5  
32 (commencing with Section 11500) of Part 1 of Division 3 of Title  
33 2 of the Government Code, and the board shall have all the powers  
34 granted therein.

35 (k) On or before January 1, 2009, and every four years thereafter,  
36 the board shall report to the Legislature and the Office of the  
37 Consumer Advocate on all of the following:

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

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

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

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

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

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

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

17 ~~1638.7. The next occupational analysis of dental licensees and~~  
18 ~~oral and maxillofacial facial surgeons pursuant to Section 139 shall~~  
19 ~~include a survey of the training and practices of oral and~~  
20 ~~maxillofacial surgeons and, upon completion of that analysis, a~~  
21 ~~report shall be made to the Legislature and the Office of the~~  
22 ~~Consumer Advocate regarding the findings.~~

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

25 ~~1742. (a) There is within the jurisdiction of the board a~~  
26 ~~Committee on Dental Auxiliaries.~~

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

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

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

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

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

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

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

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

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

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

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

18 ~~(D) Shall issue auxiliary licenses in all cases, except where there~~  
19 ~~is a question as to a licensing requirement. The board retains final~~  
20 ~~authority to interpret any licensing requirement. If a question arises~~  
21 ~~in the area of interpreting any licensing requirement, it shall be~~  
22 ~~presented by the committee to the board for resolution.~~

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

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

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

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

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

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

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

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

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

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

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

16 ~~(7) The committee shall advise the board as to appropriate~~  
17 ~~standards of conduct for auxiliaries, the proper ordering of~~  
18 ~~enforcement priorities, and any other enforcement-related matters~~  
19 ~~that the board may, in the future, delegate to the committee. The~~  
20 ~~board shall retain all authority with respect to the enforcement~~  
21 ~~actions, including, but not limited to, complaint resolution,~~  
22 ~~investigation, and disciplinary action against auxiliaries.~~

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

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

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

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

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

37 ~~1751. (a) The board, upon recommendation of the committee,~~  
38 ~~shall adopt regulations governing the procedures that dental~~  
39 ~~assistants, registered orthodontic assistants, registered surgery~~  
40 ~~assistants, registered restorative assistants, registered dental~~

1 assistants, registered restorative assistants in extended functions,  
2 and registered dental assistants in extended functions are authorized  
3 to perform consistent with and necessary to implement the  
4 provisions of this article, and the settings within which each may  
5 practice.

6 (b) The board shall conduct an initial review of the procedures,  
7 supervision level, settings under which they may be performed,  
8 and utilization of extended functions dental auxiliaries by January  
9 1, 2012. The board shall submit the results of its review to the  
10 Legislature and the Office of the Consumer Advocate. After the  
11 initial review, a review shall be conducted at least once every five  
12 to seven years thereafter, and the board shall update regulations  
13 as necessary to keep them current with the state of dental practice.

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

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

17 2001. There is in the Department of Consumer Affairs a  
18 Medical Board of California that consists of 21 members, nine of  
19 whom shall be public members.

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

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

28 2460. There is created within the jurisdiction of the Medical  
29 Board of California and its divisions the California Board of  
30 Podiatric Medicine.

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

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

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

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

3 ~~2570.19. (a) There is hereby created a California Board of~~  
4 ~~Occupational Therapy, hereafter referred to as the board. The board~~  
5 ~~shall enforce and administer this chapter.~~

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

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

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

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

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

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

25 ~~(e) The public members may not be or have ever been~~  
26 ~~occupational therapists or occupational therapy assistants or in~~  
27 ~~training to become occupational therapists or occupational therapy~~  
28 ~~assistants. The public members may not be related to, or have a~~  
29 ~~household member who is, an occupational therapist or an~~  
30 ~~occupational therapy assistant, and may not have had, within two~~  
31 ~~years of the appointment, a substantial financial interest in a person~~  
32 ~~regulated by the board.~~

33 ~~(f) The Governor shall appoint two board members for a term~~  
34 ~~of one year, two board members for a term of two years, and one~~  
35 ~~board member for a term of three years. Appointments made~~  
36 ~~thereafter shall be for four-year terms, but no person shall be~~  
37 ~~appointed to serve more than two consecutive terms. Terms shall~~  
38 ~~begin on the first day of the calendar year and end on the last day~~  
39 ~~of the calendar year or until successors are appointed, except for~~  
40 ~~the first appointed members who shall serve through the last~~

1 ~~calendar day of the year in which they are appointed, before~~  
2 ~~commencing the terms prescribed by this section. Vacancies shall~~  
3 ~~be filled by appointment for the unexpired term. The board shall~~  
4 ~~annually elect one of its members as president.~~

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

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

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

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

22 ~~(k) A loan is hereby authorized from the General Fund to the~~  
23 ~~Occupational Therapy Fund on or after July 1, 2000, in an amount~~  
24 ~~of up to one million dollars (\$1,000,000) to fund operating,~~  
25 ~~personnel, and other startup costs of the board. Six hundred ten~~  
26 ~~thousand dollars (\$610,000) of this loan amount is hereby~~  
27 ~~appropriated to the board to use in the 2000-01 fiscal year for the~~  
28 ~~purposes described in this subdivision. In subsequent years, funds~~  
29 ~~from the Occupational Therapy Fund shall be available to the board~~  
30 ~~upon appropriation by the Legislature in the annual Budget Act.~~  
31 ~~The loan shall be repaid to the General Fund over a period of up~~  
32 ~~to five years, and the amount paid shall also include interest at the~~  
33 ~~rate accruing to moneys in the Pooled Money Investment Account.~~  
34 ~~The loan amount and repayment period shall be minimized to the~~  
35 ~~extent possible based upon actual board financing requirements~~  
36 ~~as determined by the Department of Finance.~~

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

39 ~~2602. The Physical Therapy Board of California, hereafter~~  
40 ~~referred to as the board, shall enforce and administer this chapter.~~

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

3     ~~2701. There is in the Department of Consumer Affairs the~~  
4     ~~Board of Registered Nursing consisting of nine members.~~

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

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

12    ~~2841. There is in the Department of Consumer Affairs a Board~~  
13    ~~of Vocational Nursing and Psychiatric Technicians of the State of~~  
14    ~~California, consisting of 11 members.~~

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

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

20    ~~2920. The Board of Psychology shall enforce and administer~~  
21    ~~this chapter. The board shall consist of nine members, four of~~  
22    ~~whom shall be public members.~~

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

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

29    ~~Six members of the board shall constitute a quorum.~~

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

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

37    ~~3502.1. (a) In addition to the services authorized in the~~  
38    ~~regulations adopted by the board, and except as prohibited by~~  
39    ~~Section 3502, while under the supervision of a licensed physician~~  
40    ~~and surgeon or physicians and surgeons authorized by law to~~

1 ~~supervise a physician assistant, a physician assistant may~~  
2 ~~administer or provide medication to a patient, or transmit orally,~~  
3 ~~or in writing on a patient's record or in a drug order, an order to a~~  
4 ~~person who may lawfully furnish the medication or medical device~~  
5 ~~pursuant to subdivisions (c) and (d).~~

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

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

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

34 ~~(c) A drug order for any patient cared for by the physician~~  
35 ~~assistant that is issued by the physician assistant shall either be~~  
36 ~~based on the protocols described in subdivision (a) or shall be~~  
37 ~~approved by the supervising physician before it is filled or carried~~  
38 ~~out.~~

39 ~~(1) A physician assistant shall not administer or provide a drug~~  
40 ~~or issue a drug order for a drug other than for a drug listed in the~~

1 ~~formulary without advance approval from a supervising physician~~  
2 ~~and surgeon for the particular patient. At the direction and under~~  
3 ~~the supervision of a physician and surgeon, a physician assistant~~  
4 ~~may hand to a patient of the supervising physician and surgeon a~~  
5 ~~properly labeled prescription drug prepackaged by a physician and~~  
6 ~~surgeon, manufacturer as defined in the Pharmacy Law, or a~~  
7 ~~pharmacist.~~

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

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

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

33 ~~(e) The medical record of any patient cared for by a physician~~  
34 ~~assistant for whom the supervising physician and surgeon's~~  
35 ~~Schedule II drug order has been issued or carried out shall be~~  
36 ~~reviewed and countersigned and dated by a supervising physician~~  
37 ~~and surgeon within seven days.~~

38 ~~(f) All physician assistants who are authorized by their~~  
39 ~~supervising physicians to issue drug orders for controlled~~

1 substances shall register with the United States Drug Enforcement  
2 Administration (DEA):

3 ~~(g) The committee shall consult with the Medical Board of~~  
4 ~~California and report to the Legislature and the Office of the~~  
5 ~~Consumer Advocate periodically, as necessary, on the impacts of~~  
6 ~~exempting Schedule III and Schedule IV drug orders from the~~  
7 ~~requirement for a physician and surgeon to review and countersign~~  
8 ~~the affected medical record of a patient.~~

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

11 3504. There is established a Physician Assistant Committee  
12 of the Medical Board of California. The committee consists of  
13 nine members.

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

16 3685. The provisions of Article 8 (commencing with Section  
17 3680) shall become operative on January 1, 2004, but the remaining  
18 provisions of this chapter shall become operative on July 1, 2004.  
19 It is the intent of the Legislature that the initial implementation of  
20 this chapter be administered by fees collected in advance from  
21 applicants. Therefore, the bureau shall have the power and authority  
22 to establish fees and receive applications for licensure or intents  
23 to file application statements on and after January 1, 2004. The  
24 department shall certify that sufficient funds are available prior to  
25 implementing this chapter. Funds from the General Fund may not  
26 be used for the purpose of implementing this chapter.

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

29 3710. The Respiratory Care Board of California, hereafter  
30 referred to as the board, shall enforce and administer this chapter.

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

33 4001. (a) There is in the Department of Consumer Affairs a  
34 California State Board of Pharmacy in which the administration  
35 and enforcement of this chapter is vested. The board consists of  
36 13 members.

37 (b) The Governor shall appoint seven competent pharmacists  
38 who reside in different parts of the state to serve as members of  
39 the board. The Governor shall appoint four public members, and  
40 the Senate Committee on Rules and the Speaker of the Assembly

1 shall each appoint a public member who shall not be a licensee of  
2 the board, any other board under this division, or any board referred  
3 to in Section 1000 or 3600.

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

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

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

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

29 ~~4003. (a) The board may appoint a person exempt from civil~~  
30 ~~service who shall be designated as an executive officer and who~~  
31 ~~shall exercise the powers and perform the duties delegated by the~~  
32 ~~board and vested in him or her by this chapter. The executive~~  
33 ~~officer may or may not be a member of the board as the board may~~  
34 ~~determine.~~

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

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

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

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

12 ~~4200.1. (a) Notwithstanding Section 135, an applicant may~~  
13 ~~take the North American Pharmacist Licensure Examination four~~  
14 ~~times, and may take the Multi-State Pharmacy Jurisprudence~~  
15 ~~Examination for California four times.~~

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

22 ~~(c) The applicant shall comply with the requirements of Section~~  
23 ~~4200 for each application for reexamination made pursuant to~~  
24 ~~subdivision (b).~~

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

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

34 ~~(f) From January 1, 2004, to July 1, 2008, inclusive, the board~~  
35 ~~shall collect data on the applicants who are admitted to, and take,~~  
36 ~~the licensure examinations required by Section 4200. The board~~  
37 ~~shall report to the Legislature and the Office of the Consumer~~  
38 ~~Advocate before September 1, 2008, regarding the impact on those~~  
39 ~~applicants of the examination limitations imposed by this section.~~

- 1 The report shall include, but not be limited to, the following  
2 information:
- 3 ~~(1) The number of applicants taking the examination and the~~  
4 ~~number who fail the examination for the fourth time.~~
- 5 ~~(2) The number of applicants who, after failing the examination~~  
6 ~~for the fourth time, complete a pharmacy studies program in~~  
7 ~~California or another state to satisfy the requirements of this section~~  
8 ~~and who apply to take the licensure examination required by~~  
9 ~~Section 4200.~~
- 10 ~~(3) To the extent possible, the school from which the applicant~~  
11 ~~graduated and the school's location and the pass/fail rates on the~~  
12 ~~examination for each school.~~
- 13 ~~(g) This section shall remain in effect only until January 1, 2010,~~  
14 ~~and as of that date is repealed, unless a later enacted statute, that~~  
15 ~~is enacted before January 1, 2010, deletes or extends that date.~~
- 16 ~~SEC. 47. Section 4200.3 of the Business and Professions Code~~  
17 ~~is amended to read:~~
- 18 ~~4200.3. (a) The examination process shall be regularly~~  
19 ~~reviewed pursuant to Section 139.~~
- 20 ~~(b) The examination process shall meet the standards and~~  
21 ~~guidelines set forth in the Standards for Educational and~~  
22 ~~Psychological Testing and the Federal Uniform Guidelines for~~  
23 ~~Employee Selection Procedures. The board shall work with the~~  
24 ~~Office of Examination Resources of the department or with an~~  
25 ~~equivalent organization who shall certify at minimum once every~~  
26 ~~five years that the examination process meets these national testing~~  
27 ~~standards. If the department determines that the examination~~  
28 ~~process fails to meet these standards, the board shall terminate its~~  
29 ~~use of the North American Pharmacy Licensure Examination and~~  
30 ~~shall use only the written and practical examination developed by~~  
31 ~~the board.~~
- 32 ~~(c) The examination shall meet the mandates of subdivision (a)~~  
33 ~~of Section 12944 of the Government Code.~~
- 34 ~~(d) The board shall work with the Office of Examination~~  
35 ~~Resources or with an equivalent organization to develop the state~~  
36 ~~jurisprudence examination to ensure that applicants for licensure~~  
37 ~~are evaluated on their knowledge of applicable state laws and~~  
38 ~~regulations.~~
- 39 ~~(e) The board shall annually publish the pass and fail rates for~~  
40 ~~the pharmacist's licensure examination administered pursuant to~~

1 Section 4200, including a comparison of historical pass and fail  
2 rates before utilization of the North American Pharmacist Licensure  
3 Examination.

4 ~~(f) The board shall annually report to the Legislature, the Office  
5 of the Consumer Advocate, and the department, the pass rates of  
6 applicants who sat for the national examination compared with  
7 the pass rates of applicants who sat for the prior state examination.  
8 This report shall be a component of the evaluation of the  
9 examination process that is based on psychometrically sound  
10 principles for establishing minimum qualifications and levels of  
11 competency.~~

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

14 4501. "Board," as used in this chapter, means the Board of  
15 Vocational Nursing and Psychiatric Technicians.

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

18 4800. There is in the Department of Consumer Affairs a  
19 Veterinary Medical Board in which the administration of this  
20 chapter is vested. The board consists of seven members, three of  
21 whom shall be public members.

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

24 4928. The Acupuncture Board, which consists of seven  
25 members, shall enforce and administer this chapter. The appointing  
26 powers, as described in Section 4929, may appoint to the board a  
27 person who was a member of the prior board prior to the repeal of  
28 that board on January 1, 2006.

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

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

33 4990. (a) There is in the Department of Consumer Affairs, a  
34 Board of Behavioral Sciences that consists of 11 members  
35 composed as follows:

- 36 (1) Two state licensed clinical social workers.
- 37 (2) One state licensed educational psychologist.
- 38 (3) Two state licensed marriage and family therapists.
- 39 (4) Six public members.

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

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

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

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

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

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

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

26 ~~SEC. 53.—Section 4990.24 of the Business and Professions~~  
27 ~~Code is repealed.~~

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

30 ~~5000.—There is in the Department of Consumer Affairs the~~  
31 ~~California Board of Accountancy, which consists of 15 members,~~  
32 ~~seven of whom shall be licensees, and eight of whom shall be~~  
33 ~~public members who shall not be licentiates of the board or~~  
34 ~~registered by the board. The board has the powers and duties~~  
35 ~~conferred by this chapter.~~

36 ~~The Governor shall appoint four of the public members, and the~~  
37 ~~seven licensee members as provided in this section. The Senate~~  
38 ~~Committee on Rules and the Speaker of the Assembly shall each~~  
39 ~~appoint two public members. In appointing the seven licensee~~  
40 ~~members, the Governor shall appoint members representing a cross~~

1 section of the accounting profession with at least two members  
2 representing a small public accounting firm. For the purposes of  
3 this chapter, a small public accounting firm shall be defined as a  
4 professional firm that employs a total of no more than four  
5 licensees as partners, owners, or full-time employees in the practice  
6 of public accountancy within the State of California.

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

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

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

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

15 5621.— (a) ~~There is hereby created within the jurisdiction of the~~  
16 ~~board, a Landscape Architects Technical Committee, hereinafter~~  
17 ~~referred to in this chapter as the landscape architects committee.~~

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

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

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

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

37 5810.— ~~This chapter shall be subject to the process described in~~  
38 ~~Division 1.3 (commencing with Section 474.20).~~

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

1     ~~5811.— An interior design organization issuing stamps under~~  
2     ~~Section 5801 shall provide to the Legislature and the Office of the~~  
3     ~~Consumer Advocate by September 1, 2008, a report that reviews~~  
4     ~~and assesses the costs and benefits associated with the California~~  
5     ~~Code and Regulations Examination and explores feasible~~  
6     ~~alternatives to that examination.~~

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

9     ~~6510.— (a) There is within the jurisdiction of the department~~  
10    ~~the Professional Fiduciaries Bureau. The bureau is under the~~  
11    ~~supervision and control of the director. The duty of enforcing and~~  
12    ~~administering this chapter is vested in the chief of the bureau, who~~  
13    ~~is responsible to the director. Every power granted or duty imposed~~  
14    ~~upon the director under this chapter may be exercised or performed~~  
15    ~~in the name of the director by a deputy director or by the chief,~~  
16    ~~subject to conditions and limitations as the director may prescribe.~~

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

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

24    ~~6511.— (a) There is within the bureau a Professional Fiduciaries~~  
25    ~~Advisory Committee. The committee shall consist of seven~~  
26    ~~members; three of whom shall be licensees actively engaged as~~  
27    ~~professional fiduciaries in this state, and four of whom shall be~~  
28    ~~public members. One of the public members shall be a member~~  
29    ~~of a nonprofit organization advocating on behalf of the elderly,~~  
30    ~~and one of the public members shall be a probate court investigator.~~

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

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

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

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

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

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

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

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

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

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

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

25 ~~6710. (a) There is in the Department of Consumer Affairs a~~  
26 ~~Board for Professional Engineers and Land Surveyors, which~~  
27 ~~consists of 13 members.~~

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

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

34 ~~7000.5. There is in the Department of Consumer Affairs a~~  
35 ~~Contractors' State License Board, which consists of 15 members.~~

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

38 ~~7200. There is in the Department of Consumer Affairs a State~~  
39 ~~Board of Guide Dogs for the Blind in whom enforcement of this~~  
40 ~~chapter is vested. The board shall consist of seven members~~

1 appointed by the Governor. One member shall be the Director of  
2 Rehabilitation or his or her designated representative. The  
3 remaining members shall be persons who have shown a particular  
4 interest in dealing with the problems of the blind, and at least two  
5 of them shall be blind persons who use guide dogs.

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

8 7303. (a) Notwithstanding Article 8 (commencing with Section  
9 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the  
10 Government Code, there is in the Department of Consumer Affairs  
11 the State Board of Barbering and Cosmetology in which the  
12 administration of this chapter is vested.

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

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

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

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

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

39 7810. The Board for Geologists and Geophysicists is within  
40 the department and is subject to the jurisdiction of the department.

1 Except as provided in this section, the board shall consist of eight  
2 members, five of whom shall be public members, two of whom  
3 shall be geologists, and one of whom shall be a geophysicist.

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

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

14 The Governor shall appoint three of the public members and the  
15 three members qualified as provided in Section 7811. The Senate  
16 Committee on Rules and the Speaker of the Assembly shall each  
17 appoint a public member, and their initial appointment shall be  
18 made to fill, respectively, the first and second public member  
19 vacancies that occurred on or after January 1, 1983.

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

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

29 8000. There is in the Department of Consumer Affairs a Court  
30 Reporters Board of California, which consists of five members,  
31 three of whom shall be public members and two of whom shall be  
32 holders of certificates issued under this chapter who have been  
33 actively engaged as shorthand reporters within this state for at least  
34 five years immediately preceding their appointment.

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

37 8520. (a) There is in the Department of Consumer Affairs a  
38 Structural Pest Control Board, which consists of seven members.

39 (b) Subject to the jurisdiction conferred upon the director by  
40 Division 1 (commencing with Section 100) of this code, the board

1 is vested with the power to and shall administer the provisions of  
2 this chapter.

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

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

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

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

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

20 9882. There is in the Department of Consumer Affairs a Bureau  
21 of Automotive Repair under the supervision and control of the  
22 director. The duty of enforcing and administering this chapter is  
23 vested in the chief who is responsible to the director. The director  
24 may adopt and enforce those rules and regulations that he or she  
25 determines are reasonably necessary to carry out the purposes of  
26 this chapter and declaring the policy of the bureau, including a  
27 system for the issuance of citations for violations of this chapter  
28 as specified in Section 125.9. These rules and regulations shall be  
29 adopted pursuant to Chapter 3.5 (commencing with Section 11340)  
30 of Part 1 of Division 3 of Title 2 of the Government Code:

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

33 18602. (a) Except as provided in this section, there is in the  
34 Department of Consumer Affairs the State Athletic Commission,  
35 which consists of seven members. Five members shall be appointed  
36 by the Governor, one member shall be appointed by the Senate  
37 Committee on Rules, and one member shall be appointed by the  
38 Speaker of the Assembly.

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

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

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

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

16 ~~(2) Financial management.~~

17 ~~(3) Public safety.~~

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

21 ~~(c) Each member of the commission shall be appointed for a~~  
22 ~~term of four years. All terms shall end on January 1. Vacancies~~  
23 ~~occurring prior to the expiration of the term shall be filled by~~  
24 ~~appointment for the unexpired term. No commission member may~~  
25 ~~serve more than two consecutive terms.~~

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

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

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

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

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

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

39 ~~18602.5. (a) The commission shall adopt and submit a strategic~~  
40 ~~plan to the Governor and the Legislature on or before September~~

1 30, 2008. The commission shall also submit a report to the  
2 Governor and the Legislature on the status of the adoption of the  
3 strategic plan on or before March 1, 2008. The strategic plan shall  
4 include, but shall not be limited to, efforts to resolve prior State  
5 Athletic Commission deficiencies in the following areas:

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

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

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

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

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

16 (6) Outdated information technology.

17 (7) Unorganized and improper accounting.

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

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

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

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

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

32 18824. (a) Except as provided in Sections 18646 and 18832,  
33 every person who conducts a contest or wrestling exhibition shall,  
34 within five working days after the determination of every contest  
35 or wrestling exhibition for which admission is charged and  
36 received, furnish to the commission the following:

37 (1) A written report executed under penalty of perjury by one  
38 of the officers, showing the amount of the gross receipts, not to  
39 exceed two million dollars (\$2,000,000), and the gross price for  
40 the contest or wrestling exhibition charged directly or indirectly

1 and no matter by whom received, for the sale, lease, or other  
2 exploitation of broadcasting and television rights of the contest or  
3 wrestling exhibition, and without any deductions, except for  
4 expenses incurred for one broadcast announcer, telephone line  
5 connection, and transmission mobile equipment facility, which  
6 may be deducted from the gross taxable base when those expenses  
7 are approved by the commission.

8 (2) A fee of 5 percent, exclusive of any federal taxes paid  
9 thereon, of the amount paid for admission to the contest or  
10 wrestling exhibition, except that for any one contest, the fee shall  
11 not exceed the amount of one hundred thousand dollars (\$100,000).  
12 The commission shall report to the Legislature and the Office of  
13 the Consumer Advocate on the fiscal impact of the one hundred  
14 thousand dollar (\$100,000) limit on fees collected by the  
15 commission for admissions revenues.

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

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

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

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

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

1 for each complimentary ticket or pass that exceeds the numerical  
2 total of 33 percent of the total number of spectators.

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

5 ~~(3) A fee of up to 5 percent, to be established by the commission~~  
6 ~~through regulations to become operative on or before July 1, 2008,~~  
7 ~~and updated periodically as needed, of the gross price, exclusive~~  
8 ~~of any federal taxes paid thereon, for the sale, lease, or other~~  
9 ~~exploitation of broadcasting or television rights thereof, except~~  
10 ~~that in no case shall the fee be less than one thousand dollars~~  
11 ~~(\$1,000) or more than twenty-five thousand dollars (\$25,000).~~

12 ~~(b) As used in this section, "person" includes a promoter, club,~~  
13 ~~individual, corporation, partnership, association, or other~~  
14 ~~organization, and "wrestling exhibition" means a performance of~~  
15 ~~wrestling skills and techniques by two or more individuals, to~~  
16 ~~which admission is charged or which is broadcast or televised, in~~  
17 ~~which the participating individuals are not required to use their~~  
18 ~~best efforts in order to win, and for which the winner may have~~  
19 ~~been selected before the performance commences.~~

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

22 ~~18882. (a) At the time of payment of the fee required by~~  
23 ~~Section 18824, a promoter shall pay to the commission all amounts~~  
24 ~~scheduled for contribution to the pension plan. If the commission,~~  
25 ~~in its discretion, requires pursuant to Section 18881, that~~  
26 ~~contributions to the pension plan be made by the boxer and his or~~  
27 ~~her manager, those contributions shall be made at the time and in~~  
28 ~~the manner prescribed by the commission.~~

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

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

39 ~~(d) The commission has exclusive control of all funds in the~~  
40 ~~Boxers' Pension Fund. No transfer or disbursement in any amount~~

1 from this fund shall be made except upon the authorization of the  
2 commission and for the purpose and administration of the pension  
3 plan.

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

14 ~~(f) The administrative costs associated with investing, managing,~~  
15 ~~and distributing the Boxers' Pension Fund shall be limited to no~~  
16 ~~more than 20 percent of the average annual contribution made to~~  
17 ~~the fund in the previous two years, not including any investment~~  
18 ~~income derived from the corpus of the fund. Diligence shall be~~  
19 ~~exercised by administrators in order to lower the fund's expense~~  
20 ~~ratio as far below 20 percent as feasible and appropriate. The~~  
21 ~~commission shall report to the Legislature and the Office of the~~  
22 ~~Consumer Advocate on the impact of this provision on or before~~  
23 ~~March 1, 2008.~~

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

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

28 ~~9148.8. (a) The Office of the Consumer Advocate, acting~~  
29 ~~pursuant to a request from the chairperson of the appropriate policy~~  
30 ~~committee, shall evaluate a plan prepared pursuant to Section~~  
31 ~~9148.4 or 9148.6.~~

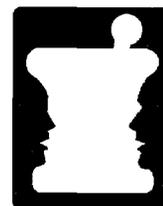
32 ~~(b) Evaluations prepared by the Office of the Consumer~~  
33 ~~Advocate pursuant to this section shall be provided to the respective~~  
34 ~~policy and fiscal committees of the Legislature pursuant to rules~~  
35 ~~adopted by each committee for this purpose.~~

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

38 ~~9148.51. (a) It is the intent of the Legislature that all existing~~  
39 ~~and proposed state boards be subject to review upon request by a~~  
40 ~~Member of the Legislature or the chief of the Office of the~~

- 1 ~~Consumer Advocate, as provided in Division 1.3 (commencing~~  
2 ~~with Section 474.20) of the Business and Professions Code, to~~  
3 ~~evaluate and determine whether the highest priority of each board~~  
4 ~~is the protection of the public.~~  
5 ~~(b) If any state board is determined to be deficient pursuant to~~  
6 ~~Section 474.21 of the Business and Professions Code, the~~  
7 ~~incumbent members of the board shall be removed from office~~  
8 ~~without a hearing as described in Section 474.21 of the Business~~  
9 ~~and Professions Code, and a successor board shall be appointed~~  
10 ~~pursuant to Section 101.1 of the Business and Professions Code.~~  
11 ~~SEC. 78. Section 9148.52 of the Government Code is repealed.~~

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 963**                      **VERSION: As Amended on July 1, 2008**

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

**BOARD POSITION: None**

**SUBJECT: Regulatory boards: Operations**

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**EXISTING LAW**

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

**THIS BILL WOULD**

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

5. Provide that if the terms of office of the members of the board are terminated, a successor board shall be appointed that shall succeed to, and be vested with, all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed. Specify that the number of board members will remain the same and designates the appointing authorities for new members.
6. Make subject to approval of the DCA director as well as confirmation of the Senate, the appointment of an executive officer.
7. Require the board to post on its Web site minutes from public meetings within 10 days of the date of the meeting.
8. Require the department to report to the Legislature and the Governor when a board has been unable to schedule or convene a meeting because of a lack of a quorum caused by the absence of its members or by a vacancy in its membership.
9. Specify that the term of office of each board member of the Board of Pharmacy shall terminate on January 1, 2011.
10. Require the board to submit a report to the Joint Committee on Boards, Commissions and Consumer Protection (Committee) no later than 22 months before the board membership is reconstituted and require public hearings before reconstitution of the board.
11. Require the Committee to recommend if the board's membership should be reconstituted.
12. Require the appropriate standing policy committee to investigate perceived deficiencies in the operation of the board and hold public hearings.

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

According to the author's office, the intent of this legislation is to develop a more effective method of continuing state licensing and regulation when the Legislature reconstitutes a licensing board.

#### **FISCAL IMPACT**

The Board will incur a fiscal impact to complete the report and secure additional staff as allowed through regulation.

#### **COMMENTS**

Board staff recently attended a meeting with committee staff and stakeholders on the provisions contained in this proposal. It is our understanding that additional amendments will be incorporated to further define the process to reconstitute the board, should it occur.

In addition, there are a couple of items that could be of concern:

1. The board could lose its ability to hire the executive officer of its choice, and rather this process could become very political in nature. Given the role of the executive officer, the board may want sole discretion in making this hiring decision.
2. A legislative mandate to allow the board adopt by regulation the personnel needed to complete all investigatory and disciplinary functions. The ratio suggested in the legislation is one staff per 1,000 persons regulated. These regulations would be required by June 30, 2009.
3. Concern over disclosing all ex parte communication.
4. Requiring standardized minutes from all boards and bureaus within the Department.

## HISTORY

| <b>Dates</b> | <b>Actions</b>  |
|--------------|---|
| 07/01/08     | July 1 Read second time. Amended. Re-referred to Com. on APPR.  |
| 06/30/08     | June 30 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 7. Noes 3.)                        |
| 06/25/07     | June 25 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & P.                          |
| 06/21/07     | June 21 To Com. on B. & P.  |
| 06/06/07     | June 6 In Assembly. Read first time. Held at Desk.  |
| 06/06/07     | June 6 Read third time. Passed. (Ayes 26. Noes 13. Page 1279.) To Assembly.   |
| 05/31/07     | May 31 From committee: Do pass. (Ayes 10. Noes 4. Page 1224.) Read second time. To third reading.                                   |
| 05/25/07     | May 25 Set for hearing May 31.  |
| 05/07/07     | May 7 Placed on APPR. suspense file.  |
| 04/25/07     | Apr. 25 Set for hearing May 7.  |
| 04/24/07     | Apr. 24 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 6. Noes 2. Page 706.) Re-referred to Com. on APPR. |
| 04/16/07     | Apr. 16 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B., P. & E.D.                    |
| 03/29/07     | Mar. 29 Set for hearing April 23.   |
| 03/15/07     | Mar. 15 To Com. on B., P. & E.D.  |
| 02/26/07     | Feb. 26 Read first time.  |
| 02/25/07     | Feb. 25 From print. May be acted upon on or after March 27.   |
| 02/23/07     | Feb. 23 Introduced. To Com. on RLS. for assignment. To print.   |

Revised July 16, 2008

AMENDED IN ASSEMBLY JUNE 9, 2008  
AMENDED IN SENATE MAY 19, 2008  
AMENDED IN SENATE MAY 6, 2008  
AMENDED IN SENATE APRIL 22, 2008  
AMENDED IN SENATE APRIL 10, 2008  
AMENDED IN SENATE MARCH 27, 2008

**SENATE BILL**

**No. 1270**

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**Introduced by Senator Cedillo**

February 19, 2008

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An act to add and repeal Section 4014 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1270, as amended, Cedillo. Pharmacy: Electronic Pedigree Task Force.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy and the sale of dangerous drugs or dangerous devices by the California State Board of Pharmacy, in the Department of Consumer Affairs. On and after January 1, 2009, existing law requires a pedigree, as defined, to accompany each distribution of a dangerous drug, and prohibits a wholesaler or pharmacy from selling, trading, transferring, or acquiring a dangerous drug without a pedigree. Existing law authorizes the board to extend the compliance date for these pedigree requirements to January 1, 2011, in specified circumstances.

This bill would require the board to establish the Electronic Pedigree Task Force, with a specified membership, and would require the staff of the board to support the needs of the task force. The bill would impose specified duties on the task force, including the duty to submit an annual report regarding task force findings to the board and specified legislative committees. The bill would make the provisions regarding the task force inoperative on the later of July 1, 2012, or the date upon which requirements for a pedigree become effective, and would repeal those provisions as of January 1 of the next year.

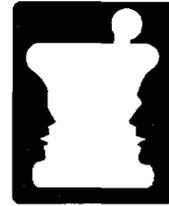
Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 4014 is added to the Business and  
2 Professions Code, to read:  
3 4014. (a) The board shall establish the Electronic Pedigree  
4 Task Force. The task force shall be comprised of the following  
5 members, who shall serve voluntarily and without compensation:  
6 (1) One member from the California Retailers Association.  
7 (2) One member from the Health Systems Pharmacists  
8 Association.  
9 (3) One member from the California Pharmacists Association.  
10 (4) One member from the California Primary Care Association.  
11 (5) One member from the California Hospital Association.  
12 (6) One member from the California State Association of  
13 Counties.  
14 (7) One member from ~~an animal veterinary association~~ *the*  
15 *California Veterinary Medical Association.*  
16 (8) One member from the Pharmaceutical Research and  
17 Manufacturers of America.  
18 (9) One member from the California Healthcare Institute, Inc.  
19 (10) Two members from the Generic Pharmaceutical  
20 Association.  
21 (11) One member from the Healthcare Distribution Management  
22 Association.  
23 (12) One member from the Medical Device Manufacturers  
24 Association.  
25 (13) One member from the National Coalition of Pharmaceutical  
26 Distributors.

- 1 (14) One member from the National Association of Chain Drug  
2 Stores.
- 3 (15) One member from the American Electronics Association.
- 4 (16) One member from BIOCUM.
- 5 (17) One member from the Biotechnology Industry  
6 Organization.
- 7 (b) Each group listed in subdivision (a) shall submit to the board,  
8 on or before February 1, 2009, the name of the member  
9 representing it on the task force.
- 10 (c) The task force shall hold no fewer than two public meetings  
11 per year at various locations within the state. A majority of  
12 members shall be present in order to conduct a meeting of the task  
13 force.
- 14 (d) The task force shall elect a chairperson and a vice  
15 chairperson.
- 16 (e) The task force shall have the following duties:
- 17 (1) To provide the board with updates regarding the status of  
18 task force member organizations with regard to implementing the  
19 statutory electronic pedigree requirements, including, but not  
20 limited to, providing the board with updates regarding the readiness  
21 of the entire pharmaceutical drug delivery supply chain.
- 22 (2) To notify the board of implementation challenges regarding  
23 electronic pedigree law.
- 24 (3) To submit an annual report to the board and to the Senate  
25 Committee on Business, Professions and Economic Development  
26 and the Assembly Committee on Business and Professions  
27 regarding task force findings.
- 28 (f) The staff of the board shall support the needs of the task  
29 force.
- 30 (g) This section shall become inoperative on either July 1, 2012,  
31 or the date upon which the requirements for a pedigree set forth  
32 in Sections 4034 and 4163 become effective, as determined by the  
33 board, whichever is later, and, as of January 1 of the next year  
34 shall be repealed.

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 1270**

**VERSION: As Amended June 9, 2008**

**AUTHOR: Cedillo**

**SPONSOR: Pharmaceutical industry**

**BOARD POSITION: None**

**SUBJECT: Pharmacy: dangerous drug and devices pedigree**

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**EXISTING LAW:**

1. On and after January 1, 2011 requires an electronic pedigree to accompany each distribution of a dangerous drug.
2. Prohibits a wholesaler or pharmacy from selling, trading, transferring, or acquiring a dangerous drug without a pedigree.
3. Provides exceptions from the pedigree requirements for certain transactions.

**THIS BILL WOULD:**

1. Would create an Electronic Pedigree Taskforce, consisting of specified representatives from the pharmaceutical industry drug supply chain, to provide the board with updates regarding industry readiness of the implementation on the pedigree requirement and the challenges thereof.
2. It also requires the task force to provide an annual report to the board and the Senate and Assembly policies committees with jurisdiction over the issue.

**COMMENTS:**

The board has held quarterly committee meetings and board meetings to provide a forum for industry to submit comments on implementation of this pedigree requirement.

This bill has been amended several times to clarify the membership of the task force.

**SUPPORT/OPPOSITION**

Support  
Abbott

California Healthcare Institute  
California Hospital Association  
Pfizer, Inc.  
Pharmaceutical Research and Manufacturers of America  
Rite Aid  
Teva Pharmaceuticals USA

Oppose

None on file

**HISTORY:**

**Dates Actions**

06/25/08 June 25 From committee: Do pass, but first be re-referred to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 9. Noes 0.) Re-referred to Com. on APPR.

06/17/08 June 17 Set, first hearing. Hearing canceled at the request of author.

06/09/08 June 9 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & P.

05/28/08 May 28 To Com. on B. & P.

05/22/08 May 22 In Assembly. Read first time. Held at Desk.

05/22/08 May 22 Read third time. Passed. (Ayes 24. Noes 14. Page 3861.) To Assembly.

05/20/08 May 20 Read second time. To third reading.

05/19/08 May 19 Read third time. Amended. To second reading.

05/14/08 May 14 Read second time. To third reading.

05/13/08 May 13 From committee: Do pass. (Ayes 8. Noes 6. Page 3766.)

05/06/08 May 6 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on APPR.

05/02/08 May 2 Set for hearing May 12.

04/22/08 Apr. 22 Read second time. Amended. Re-referred to Com. on APPR.

04/21/08 Apr. 21 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 5. Noes 3. Page 3425.)

04/10/08 Apr. 10 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B., P. & E.D.

04/07/08 Apr. 7 Set, first hearing. Hearing canceled at the request of author. Set for hearing April 14.

03/27/08 Mar. 27 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B., P. & E.D.

03/13/08 Mar. 13 Set for hearing April 7.

02/28/08 Feb. 28 To Com. on B., P. & E.D.

02/20/08 Feb. 20 From print. May be acted upon on or after March 21.

02/19/08 Feb. 19 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Revised June 30, 2008

AMENDED IN ASSEMBLY JULY 3, 2008  
AMENDED IN ASSEMBLY JUNE 16, 2008  
AMENDED IN SENATE MAY 7, 2008  
AMENDED IN SENATE APRIL 7, 2008

**SENATE BILL**

**No. 1441**

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**Introduced by Senator Ridley-Thomas**

February 21, 2008

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An act to amend Sections 1695.1, 1695.5, 1695.6, 1697, 1698, 2361, 2365, 2366, 2367, 2369, 2663, 2665, 2666, 2770.1, 2770.8, 2770.11, 2770.12, 3501, 3534.1, 3534.3, 3534.4, *and* 3534.9 of, and to add Article 3.6 (commencing with Section 315) to Chapter 4 of Division 1 of, the Business and Professions Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1441, as amended, Ridley-Thomas. Healing arts practitioners: substance abuse.

Existing law requires various healing arts licensing boards, including the Dental Board of California, the Board of Registered Nursing, the Physical Therapy Board of California, the Physician Assistant Committee, and the Osteopathic Medical Board of California, to establish and administer diversion programs or diversion evaluation committees for the rehabilitation of healing arts practitioners whose competency is impaired due to the abuse of drugs or alcohol, and gives the diversion evaluation committees certain duties related to termination of a license from the diversion program and reporting termination, designing treatment programs, denying participation in the program, reviewing activities and performance of contractors, determining

completion of the program, and purging and destroying records, as specified.

This bill would establish in the Department of Consumer Affairs the Substance Abuse Coordination Committee, which would be comprised of the executive officers of the department's healing arts licensing boards, as specified. The bill would require the committee to formulate, no later than January 1, 2010, uniform and specific standards in specified areas that each healing arts board would be required to use in dealing with substance-abusing licensees. The bill would specify that the program managers of the diversion programs for the Dental Board of California, the Board of Registered Nursing, the Physical Therapy Board of California, the Physician Assistant Committee, and the Osteopathic Medical Board of California, as designated by the executive officers of those entities, are responsible for certain duties previously assigned to the diversion evaluation committees under those programs, including, as specified, duties related to termination of a licensee from the diversion program and reporting termination, designing treatment programs, denying participation in the program, reviewing activities and performance of contractors, determining completion of the program, and purging and destroying records. The bill would also provide that diversion evaluation committees created by any of the specified boards or committees operate in an advisory role to the program manager of the diversion program, and would require those diversion evaluation committees to make certain recommendations to the program managers.

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

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

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

3 (a) Substance abuse is an increasing problem in the health care  
4 professions, where the impairment of a health care practitioner for  
5 even one moment can mean irreparable harm to a patient.

6 (b) Several health care licensing boards have "diversion  
7 programs" designed to identify substance-abusing licensees, direct  
8 them to treatment and monitoring, and return them to practice in  
9 a manner that will not endanger the public health and safety.

1 (c) Substance abuse monitoring programs, particularly for health  
2 care professionals, must operate with the highest level of integrity  
3 and consistency. Patient protection is paramount.

4 (d) The diversion program of the Medical Board of California,  
5 created in 1981, has been subject to five external performance  
6 audits in its 27-year history and has failed all five audits, which  
7 uniformly concluded that the program has inadequately monitored  
8 substance-abusing physicians and has failed to promptly terminate  
9 from the program, and appropriately refer for discipline, physicians  
10 who do not comply with the terms and conditions of the program,  
11 thus placing patients at risk of harm.

12 (e) The medical board's diversion program has failed to protect  
13 patients from substance-abusing physicians, and the medical board  
14 has properly decided to cease administering the program effective  
15 June 30, 2008.

16 (f) The administration of diversion programs created at other  
17 health care boards has been contracted to a series of private  
18 vendors, and none of those vendors has ever been subject to a  
19 performance audit, such that it is not possible to determine whether  
20 those programs are effective in monitoring substance-abusing  
21 licensees and assisting them to recover from their addiction in the  
22 long term.

23 (g) Various health care licensing boards have inconsistent or  
24 nonexistent standards that guide the way they deal with  
25 substance-abusing licensees.

26 (h) Patients would be better protected from substance-abusing  
27 licensees if their regulatory boards agreed to and enforced  
28 consistent and uniform standards and best practices in dealing with  
29 substance-abusing licensees.

30 SEC. 2. It is the intent of the Legislature that:

31 (a) Pursuant to Section 156.1 of the Business and Professions  
32 Code and Section 8546.7 of the Government Code, that the  
33 Department of Consumer Affairs conduct a thorough audit of the  
34 effectiveness, efficiency, and overall performance of the vendor  
35 chosen by the department to manage diversion programs for  
36 substance-abusing licensees of health care licensing boards created  
37 in the Business and Professions Code, and make recommendations  
38 regarding the continuation of the programs and any changes or  
39 reforms required to ensure that individuals participating in the  
40 programs are appropriately monitored, and the public is protected

1 from health care practitioners who are impaired due to alcohol or  
2 drug abuse or mental or physical illness.

3 (b) The audit shall identify, by type of board licensee, the  
4 percentage of self-referred participants, board-referred participants,  
5 and board-ordered participants. The audit shall describe in detail  
6 the diversion services provided by the vendor, including all aspects  
7 of bodily fluids testing, including, but not limited to, frequency of  
8 testing, randomness, method of notice to participants, number of  
9 hours between the provision of notice and the test, standards for  
10 specimen collectors, procedures used by specimen collectors, such  
11 as whether the collection process is observed by the collector,  
12 location of testing, and average timeframe from the date of the test  
13 to the date the result of the test becomes available; group meeting  
14 attendance requirements, including, but not limited to, required  
15 qualifications for group meeting facilitators, frequency of required  
16 meeting attendance, and methods of documenting and reporting  
17 attendance or nonattendance by program participants; standards  
18 used in determining whether inpatient or outpatient treatment is  
19 necessary; and, if applicable, worksite monitoring requirements  
20 and standards. The audit shall review the timeliness of diversion  
21 services provided by the vendor; the thoroughness of  
22 documentation of treatment, aftercare, and monitoring services  
23 received by participants; and the thoroughness of documentation  
24 of the effectiveness of the treatment and aftercare services received  
25 by participants. In determining the effectiveness and efficiency of  
26 the vendor, the audit shall evaluate the vendor's approval process  
27 for providers or contractors that provide diversion services,  
28 including specimen collectors, group meeting facilitators, and  
29 worksite monitors; the vendor's disapproval of providers or  
30 contractors that fail to provide effective or timely diversion  
31 services; and the vendor's promptness in notifying the boards when  
32 a participant fails to comply with the terms of his or her diversion  
33 contract or the rules of the board's program. The audit shall also  
34 recommend whether the vendor should be more closely monitored  
35 by the department, including whether the vendor should provide  
36 the department with periodic reports demonstrating the timeliness  
37 and thoroughness of documentation of noncompliance with  
38 diversion program contracts and regarding its approval and  
39 disapproval of providers and contractors that provide diversion  
40 services.

1 (c) The vendor and its staff shall cooperate with the department  
2 and shall provide data, information, and case files as requested by  
3 the department to perform all of his or her duties. The provision  
4 of confidential data, information, and case files from health  
5 care-related boards and the vendor to the department shall not  
6 constitute a waiver of any exemption from disclosure or discovery  
7 or of any confidentiality protection or privilege otherwise provided  
8 by law that is applicable to the data, information, or case files. It  
9 is the Legislature's intent that the audit be completed by June 30,  
10 2010, and on subsequent years thereafter as determined by the  
11 department.

12 SEC. 3. Article 3.6 (commencing with Section 315) is added  
13 to Chapter 4 of Division 1 of the Business and Professions Code,  
14 to read:

15  
16 Article 3.6. Uniform Standards Regarding Substance-Abusing  
17 Healing Arts Licensees  
18

19 315. (a) For the purpose of determining uniform standards  
20 that will be used by healing arts boards in dealing with  
21 substance-abusing licensees, there is established in the Department  
22 of Consumer Affairs the Substance Abuse Coordination  
23 Committee. The committee shall be comprised of the executive  
24 officers of the department's healing arts boards established pursuant  
25 to Division 2 (commencing with Section 500), the State Board of  
26 Chiropractic Examiners, and the Osteopathic Medical Board of  
27 California. The Director of Consumer Affairs shall chair the  
28 committee.

29 (b) The committee shall be subject to the Bagley-Keene Open  
30 Meeting Act (Article 9 (commencing with Section 11120) of  
31 Division 3 of Title 2 of the Government Code).

32 (c) By January 1, 2010, the committee shall formulate uniform  
33 and specific standards in each of the following areas that each  
34 healing arts board shall use in dealing with substance-abusing  
35 licensees, whether or not a board chooses to have a formal  
36 diversion program:

37 (1) Specific requirements for a clinical diagnostic evaluation of  
38 the licensee, including, but not limited to, required qualifications  
39 for the providers evaluating the licensee.

1 (2) Specific requirements for the temporary removal of the  
2 licensee from practice, in order to enable the licensee to undergo  
3 the clinical diagnostic evaluation described in subdivision (a) and  
4 any treatment recommended by the evaluator described in  
5 subdivision (a) and approved by the board, and specific criteria  
6 that the licensee must meet before being permitted to return to  
7 practice on a full-time or part-time basis.

8 (3) Specific requirements that govern the ability of the licensing  
9 board to communicate with the licensee's employer about the  
10 licensee's status and condition.

11 (4) Standards governing all aspects of required testing, including,  
12 but not limited to, frequency of testing, randomness, method of  
13 notice to the licensee, number of hours between the provision of  
14 notice and the test, standards for specimen collectors, procedures  
15 used by specimen collectors, the permissible locations of testing,  
16 whether the collection process must be observed by the collector,  
17 back-up testing requirements when the licensee is on vacation or  
18 otherwise unavailable for local testing, requirements for the  
19 laboratory that analyzes the specimens, and the required maximum  
20 timeframe from the test to the receipt of the result of the test.

21 (5) Standards governing all aspects of group meeting attendance  
22 requirements, including, but not limited to, required qualifications  
23 for group meeting facilitators, frequency of required meeting  
24 attendance, and methods of documenting and reporting attendance  
25 or nonattendance by licensees.

26 (6) Standards used in determining whether inpatient, outpatient,  
27 or other type of treatment is necessary.

28 (7) Worksite monitoring requirements and standards, including,  
29 but not limited to, required qualifications of worksite monitors,  
30 required methods of monitoring by worksite monitors, and required  
31 reporting by worksite monitors.

32 (8) Procedures to be followed when a licensee tests positive for  
33 a banned substance.

34 (9) Procedures to be followed when a licensee is confirmed to  
35 have ingested a banned substance.

36 (10) Specific consequences for major violations and minor  
37 violations. In particular, the committee shall consider the use of a  
38 "deferred prosecution" stipulation similar to the stipulation  
39 described in Section 1000 of the Penal Code, in which the licensee  
40 admits to self-abuse of drugs or alcohol and surrenders his or her

1 license. That agreement is deferred by the agency unless or until  
2 the licensee commits a major violation, in which case it is revived  
3 and the license is surrendered.

4 (11) Criteria that a licensee must meet in order to petition for  
5 return to practice on a full-time basis.

6 (12) Criteria that a licensee must meet in order to petition for  
7 reinstatement of a full and unrestricted license.

8 (13) If a board uses a private-sector vendor that provides  
9 diversion services, standards for immediate reporting by the vendor  
10 to the board of any and all noncompliance with any term of the  
11 diversion contract or probation; standards for the vendor's approval  
12 process for providers or contractors that provide diversion services,  
13 including, but not limited to, specimen collectors, group meeting  
14 facilitators, and worksite monitors; standards requiring the vendor  
15 to disapprove and discontinue the use of providers or contractors  
16 that fail to provide effective or timely diversion services; and  
17 standards for a licensee's termination from the program and referral  
18 to enforcement.

19 (14) If a board uses a private-sector vendor that provides  
20 diversion services, the extent to which licensee participation in  
21 that program shall be kept confidential from the public.

22 (15) If a board uses a private-sector vendor that provides  
23 diversion services, a schedule for external independent audits of  
24 the vendor's performance in adhering to the standards adopted by  
25 the committee.

26 (16) Measurable criteria and standards to determine whether  
27 each board's method of dealing with substance-abusing licensees  
28 protects patients from harm and is effective in assisting its licensees  
29 in recovering from substance abuse in the long term.

30 SEC. 4. Section 1695.1 of the Business and Professions Code  
31 is amended to read:

32 1695.1. As used in this article:

33 (a) "Board" means the Board of Dental Examiners of California.

34 (b) "Committee" means a diversion evaluation committee  
35 created by this article.

36 (c) "Program manager" means the staff manager of the diversion  
37 program, as designated by the executive officer of the board. *The*  
38 *program manager shall have background experience in dealing*  
39 *with substance abuse issues.*

1 SEC. 5. Section 1695.5 of the Business and Professions Code  
2 is amended to read:

3 1695.5. (a) The board shall establish criteria for the acceptance,  
4 denial, or termination of licentiates in a diversion program. Unless  
5 ordered by the board as a condition of licentiate disciplinary  
6 probation, only those licentiates who have voluntarily requested  
7 diversion treatment and supervision by a committee shall  
8 participate in a diversion program.

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

12 (c) A licentiate under current investigation by the board may  
13 also request entry into the diversion program by contacting the  
14 board's Diversion Program Manager. The Diversion Program  
15 Manager may refer the licentiate requesting participation in the  
16 program to a diversion evaluation committee for evaluation of  
17 eligibility. Prior to authorizing a licentiate to enter into the  
18 diversion program, the Diversion Program Manager may require  
19 the licentiate, while under current investigation for any violations  
20 of the Dental Practice Act or other violations, to execute a  
21 statement of understanding that states that the licentiate understands  
22 that his or her violations of the Dental Practice Act or other statutes  
23 that would otherwise be the basis for discipline, may still be  
24 investigated and the subject of disciplinary action.

25 (d) If the reasons for a current investigation of a licentiate are  
26 based primarily on the self-administration of any controlled  
27 substance or dangerous drugs or alcohol under Section 1681 of  
28 the Business and Professions Code, or the illegal possession,  
29 prescription, or nonviolent procurement of any controlled substance  
30 or dangerous drugs for self-administration that does not involve  
31 actual, direct harm to the public, the board shall close the  
32 investigation without further action if the licentiate is accepted  
33 into the board's diversion program and successfully completes the  
34 requirements of the program. If the licentiate withdraws or is  
35 terminated from the program by the program manager, the  
36 investigation shall be reopened and disciplinary action imposed,  
37 if warranted, as determined by the board.

38 (e) Neither acceptance nor participation in the diversion program  
39 shall preclude the board from investigating or continuing to  
40 investigate, or taking disciplinary action or continuing to take

1 disciplinary action against, any licentiate for any unprofessional  
2 conduct committed before, during, or after participation in the  
3 diversion program.

4 (f) All licentiates shall sign an agreement of understanding that  
5 the withdrawal or termination from the diversion program at a time  
6 when the program manager determines the licentiate presents a  
7 threat to the public's health and safety shall result in the utilization  
8 by the board of diversion treatment records in disciplinary or  
9 criminal proceedings.

10 (g) Any licentiate terminated from the diversion program for  
11 failure to comply with program requirements is subject to  
12 disciplinary action by the board for acts committed before, during,  
13 and after participation in the diversion program. A licentiate who  
14 has been under investigation by the board and has been terminated  
15 from the diversion program by the program manager shall be  
16 reported by the program manager to the board.

17 SEC. 6. Section 1695.6 of the Business and Professions Code  
18 is amended to read:

19 1695.6. A committee created under this article operates in an  
20 advisory role to the diversion program manager. Each committee  
21 shall have the following duties and responsibilities:

22 (a) To evaluate those licentiates who request to participate in  
23 the diversion program according to the guidelines prescribed by  
24 the board and to make recommendations to the program manager.  
25 In making the recommendations, a committee shall consider the  
26 recommendations of any licentiates designated by the board to  
27 serve as consultants on the admission of the licentiate to the  
28 diversion program.

29 (b) To review and designate those treatment facilities to which  
30 licentiates in a diversion program may be referred, and make  
31 recommendations to the program manager.

32 (c) To receive and review information concerning a licentiate  
33 participating in the program.

34 (d) To consider in the case of each licentiate participating in a  
35 program whether he or she may with safety continue or resume  
36 the practice of dentistry, and make recommendations to the  
37 program manager.

38 (e) To perform such other related duties, in an advisory capacity,  
39 as the board may by regulation require.

1 SEC. 7. Section 1697 of the Business and Professions Code is  
2 amended to read:

3 1697. Each licentiate who requests participation in a diversion  
4 program shall agree to cooperate with the treatment program  
5 designed by the program manager and to bear all costs related to  
6 the program, unless the cost is waived by the board. Any failure  
7 to comply with the provisions of a treatment program may result  
8 in termination of the licentiate's participation in a program.

9 SEC. 8. Section 1698 of the Business and Professions Code is  
10 amended to read:

11 1698. (a) After the program manager in his or her discretion  
12 has determined that a licentiate has been rehabilitated and the  
13 diversion program is completed, the program manager shall purge  
14 and destroy all records pertaining to the licentiate's participation  
15 in a diversion program.

16 (b) Except as authorized by subdivision (f) of Section 1695.5,  
17 all board and committee records and records of proceedings  
18 pertaining to the treatment of a licentiate in a program shall be  
19 kept confidential and are not subject to discovery or subpoena.

20 SEC. 9. Section 2361 of the Business and Professions Code is  
21 amended to read:

22 2361. As used in this article:

23 (a) "Board" means the Osteopathic Medical Board of California.

24 (b) "Diversion program" means a treatment program created  
25 by this article for osteopathic physicians and surgeons whose  
26 competency may be threatened or diminished due to abuse of drugs  
27 or alcohol.

28 (c) "Committee" means a diversion evaluation committee  
29 created by this article.

30 (d) "Participant" means a California licensed osteopathic  
31 physician and surgeon.

32 (e) "Program manager" means the staff manager of the diversion  
33 program, as designated by the executive officer of the board. *The*  
34 *program manager shall have background experience in dealing*  
35 *with substance abuse issues.*

36 SEC. 10. Section 2365 of the Business and Professions Code  
37 is amended to read:

38 2365. (a) The board shall establish criteria for the acceptance,  
39 denial, or termination of participants in the diversion program.  
40 Unless ordered by the board as a condition of disciplinary

1 probation, only those participants who have voluntarily requested  
2 diversion treatment and supervision by a committee shall  
3 participate in the diversion program.

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

7 (c) A participant under current investigation by the board may  
8 also request entry into the diversion program by contacting the  
9 board's Diversion Program Manager. The Diversion Program  
10 Manager may refer the participant requesting participation in the  
11 program to a diversion evaluation committee for evaluation of  
12 eligibility. Prior to authorizing a licentiate to enter into the  
13 diversion program, the Diversion Program Manager may require  
14 the licentiate, while under current investigation for any violations  
15 of the Medical Practice Act or other violations, to execute a  
16 statement of understanding that states that the licentiate understands  
17 that his or her violations of the Medical Practice Act or other  
18 statutes that would otherwise be the basis for discipline may still  
19 be investigated and the subject of disciplinary action.

20 (d) If the reasons for a current investigation of a participant are  
21 based primarily on the self-administration of any controlled  
22 substance or dangerous drugs or alcohol under Section 2239, or  
23 the illegal possession, prescription, or nonviolent procurement of  
24 any controlled substance or dangerous drugs for self-administration  
25 that does not involve actual, direct harm to the public, the board  
26 may close the investigation without further action if the licentiate  
27 is accepted into the board's diversion program and successfully  
28 completes the requirements of the program. If the participant  
29 withdraws or is terminated from the program by the program  
30 manager, the investigation may be reopened and disciplinary action  
31 imposed, if warranted, as determined by the board.

32 (e) Neither acceptance nor participation in the diversion program  
33 shall preclude the board from investigating or continuing to  
34 investigate, or taking disciplinary action or continuing to take  
35 disciplinary action against, any participant for any unprofessional  
36 conduct committed before, during, or after participation in the  
37 diversion program.

38 (f) All participants shall sign an agreement of understanding  
39 that the withdrawal or termination from the diversion program at  
40 a time when the program manager determines the licentiate presents

1 a threat to the public's health and safety shall result in the  
2 utilization by the board of diversion treatment records in  
3 disciplinary or criminal proceedings.

4 (g) Any participant terminated from the diversion program for  
5 failure to comply with program requirements is subject to  
6 disciplinary action by the board for acts committed before, during,  
7 and after participation in the diversion program. A participant who  
8 has been under investigation by the board and has been terminated  
9 from the diversion program by the program manager shall be  
10 reported by the program manager to the board.

11 SEC. 11. Section 2366 of the Business and Professions Code  
12 is amended to read:

13 2366. A committee created under this article operates in an  
14 advisory role to the diversion program manager. Each committee  
15 shall have the following duties and responsibilities:

16 (a) To evaluate those licensees who request participation in the  
17 program according to the guidelines prescribed by the board, and  
18 to make recommendations to the program manager.

19 (b) To review and designate those treatment facilities and  
20 services to which a participant in the program may be referred,  
21 and to make recommendations to the program manager.

22 (c) To receive and review information concerning participants  
23 in the program.

24 (d) To consider whether each participant in the treatment  
25 program may safely continue or resume the practice of medicine,  
26 and to make recommendations to the program manager.

27 (e) To prepare quarterly reports to be submitted to the board,  
28 which include, but are not limited to, information concerning the  
29 number of cases accepted, denied, or terminated with compliance  
30 or noncompliance and a cost analysis of the program.

31 (f) To promote the program to the public and within the  
32 profession, including providing all current licentiates with written  
33 information concerning the program.

34 (g) To perform such other related duties as the board may by  
35 regulation require.

36 SEC. 12. Section 2367 of the Business and Professions Code  
37 is amended to read:

38 2367. (a) Each licensee who requests participation in a  
39 treatment program shall agree to cooperate with the treatment  
40 program designed by the program manager. The committee shall

1 inform each participant in the program of the procedures followed,  
2 the rights and responsibilities of the participant, and the possible  
3 results of noncompliance with the program. Any failure to comply  
4 with the treatment program may result in termination of  
5 participation.

6 (b) Participation in a program under this article shall not be a  
7 defense to any disciplinary action which may be taken by the board.  
8 Further, no provision of this article shall preclude the board from  
9 commencing disciplinary action against a licensee who is  
10 terminated from a program established pursuant to this article.

11 SEC. 13. Section 2369 of the Business and Professions Code  
12 is amended to read:

13 2369. (a) After the program manager, in his or her discretion,  
14 has determined that a participant has been rehabilitated and the  
15 program is completed, the program manager shall purge and  
16 destroy all records pertaining to the participation in a treatment  
17 program.

18 (b) Except as authorized by subdivision (f) of Section 2365, all  
19 board and committee records and records of proceedings pertaining  
20 to the treatment of a participant in a program shall be confidential  
21 and are not subject to discovery or subpoena except in the case of  
22 discovery or subpoena in any criminal proceeding.

23 SEC. 14. Section 2663 of the Business and Professions Code  
24 is amended to read:

25 2663. The board shall establish and administer a diversion  
26 program for the rehabilitation of physical therapists and physical  
27 therapist assistants whose competency is impaired due to the abuse  
28 of drugs or alcohol. The board may contract with any other state  
29 agency or a private organization to perform its duties under this  
30 article. The board may establish one or more diversion evaluation  
31 committees to assist it in carrying out its duties under this article.  
32 Any diversion evaluation committee established by the board shall  
33 operate in an advisory role to the diversion program manager, as  
34 designated by the executive officer of the board.

35 SEC. 15. Section 2665 of the Business and Professions Code  
36 is amended to read:

37 2665. Each diversion evaluation committee has the following  
38 duties and responsibilities:

39 (a) To evaluate physical therapists and physical therapist  
40 assistants who request participation in the program and to make

1 recommendations to the program manager. In making  
2 recommendations, the committee shall consider any  
3 recommendations from professional consultants on the admission  
4 of applicants to the diversion program.

5 (b) To review and designation of treatment facilities to which  
6 physical therapists and physical therapist assistants in the diversion  
7 program may be referred, and to make recommendations to the  
8 program manager.

9 (c) The receipt and review of information concerning physical  
10 therapists and physical therapist assistants participating in the  
11 program.

12 (d) Calling meetings as necessary to consider the requests of  
13 physical therapists and physical therapist assistants to participate  
14 in the diversion program, to consider reports regarding participants  
15 in the program, and to consider any other matters referred to it by  
16 the board.

17 (e) To consider whether each participant in the diversion  
18 program may with safety continue or resume the practice of  
19 physical therapy, and to make recommendations to the program  
20 manager.

21 (f) To make recommendations to the program manager regarding  
22 the terms and conditions of the diversion agreement for each  
23 physical therapist and physical therapist assistant participating in  
24 the program, including treatment, supervision, and monitoring  
25 requirements.

26 (g) Holding a general meeting at least twice a year, which shall  
27 be open and public, to evaluate the diversion program's progress,  
28 to prepare reports to be submitted to the board, and to suggest  
29 proposals for changes in the diversion program.

30 (h) For the purposes of Division 3.6 (commencing with Section  
31 810) of Title 1 of the Government Code, any member of a diversion  
32 evaluation committee shall be considered a public employee. No  
33 board or diversion evaluation committee member, contractor, or  
34 agent thereof, shall be liable for any civil damage because of acts  
35 or omissions which may occur while acting in good faith in a  
36 program established pursuant to this article.

37 SEC. 16. Section 2666 of the Business and Professions Code  
38 is amended to read:

39 2666. (a) Criteria for acceptance into the diversion program  
40 shall include all of the following:

1 (1) The applicant shall be licensed as a physical therapist or  
2 approved as a physical therapist assistant by the board and shall  
3 be a resident of California.

4 (2) The applicant shall be found to abuse dangerous drugs or  
5 alcoholic beverages in a manner which may affect his or her ability  
6 to practice physical therapy safely or competently.

7 (3) The applicant shall have voluntarily requested admission to  
8 the program or shall be accepted into the program in accordance  
9 with terms and conditions resulting from a disciplinary action.

10 (4) The applicant shall agree to undertake any medical or  
11 psychiatric examination ordered to evaluate the applicant for  
12 participation in the program.

13 (5) The applicant shall cooperate with the program by providing  
14 medical information, disclosure authorizations, and releases of  
15 liability as may be necessary for participation in the program.

16 (6) The applicant shall agree in writing to cooperate with all  
17 elements of the treatment program designed for him or her.

18 Any applicant may be denied participation in the program if the  
19 board or the program manager determines that the applicant will  
20 not substantially benefit from participation in the program or that  
21 the applicant's participation in the program creates too great a risk  
22 to the public health, safety, or welfare.

23 (b) A participant may be terminated from the program for any  
24 of the following reasons:

25 (1) The participant has successfully completed the treatment  
26 program.

27 (2) The participant has failed to comply with the treatment  
28 program designated for him or her.

29 (3) The participant fails to meet any of the criteria set forth in  
30 subdivision (a) or (c).

31 (4) It is determined that the participant has not substantially  
32 benefited from participation in the program or that his or her  
33 continued participation in the program creates too great a risk to  
34 the public health, safety, or welfare. Whenever an applicant is  
35 denied participation in the program or a participant is terminated  
36 from the program for any reason other than the successful  
37 completion of the program, and it is determined that the continued  
38 practice of physical therapy by that individual creates too great a  
39 risk to the public health, safety, and welfare, that fact shall be  
40 reported to the executive officer of the board and all documents

1 and information pertaining to and supporting that conclusion shall  
2 be provided to the executive officer. The matter may be referred  
3 for investigation and disciplinary action by the board. Each physical  
4 therapist or physical therapy assistant who requests participation  
5 in a diversion program shall agree to cooperate with the recovery  
6 program designed for him or her. Any failure to comply with that  
7 program may result in termination of participation in the program.

8 The diversion evaluation committee shall inform each participant  
9 in the program of the procedures followed in the program, of the  
10 rights and responsibilities of a physical therapist or physical  
11 therapist assistant in the program, and the possible results of  
12 noncompliance with the program.

13 (c) In addition to the criteria and causes set forth in subdivision  
14 (a), the board may set forth in its regulations additional criteria for  
15 admission to the program or causes for termination from the  
16 program.

17 SEC. 17. Section 2770.1 of the Business and Professions Code  
18 is amended to read:

19 2770.1. As used in this article:

20 (a) "Board" means the Board of Registered Nursing.

21 (b) "Committee" means a diversion evaluation committee  
22 created by this article.

23 (c) "Program manager" means the staff manager of the diversion  
24 program, as designated by the executive officer of the board. *The*  
25 *program manager shall have background experience in dealing*  
26 *with substance abuse issues.*

27 SEC. 18. Section 2770.8 of the Business and Professions Code  
28 is amended to read:

29 2770.8. A committee created under this article operates in an  
30 advisory role to the diversion program manager. Each committee  
31 shall have the following duties and responsibilities:

32 (a) To evaluate those registered nurses who request participation  
33 in the program according to the guidelines prescribed by the board,  
34 and to make recommendations to the program manager.

35 (b) To review and designate those treatment services to which  
36 registered nurses in a diversion program may be referred, and to  
37 make recommendations to the program manager.

38 (c) To receive and review information concerning a registered  
39 nurse participating in the program.

1 (d) To consider in the case of each registered nurse participating  
2 in a program whether he or she may with safety continue or resume  
3 the practice of nursing, and to make recommendations to the  
4 program manager.

5 (e) To call meetings as necessary to consider the requests of  
6 registered nurses to participate in a diversion program, and to  
7 consider reports regarding registered nurses participating in a  
8 program.

9 (f) To make recommendations to the program manager regarding  
10 the terms and conditions of the diversion agreement for each  
11 registered nurse participating in the program, including treatment,  
12 supervision, and monitoring requirements.

13 SEC. 19. Section 2770.11 of the Business and Professions  
14 Code is amended to read:

15 2770.11. (a) Each registered nurse who requests participation  
16 in a diversion program shall agree to cooperate with the  
17 rehabilitation program designed by the program manager. Any  
18 failure to comply with the provisions of a rehabilitation program  
19 may result in termination of the registered nurse's participation in  
20 a program. The name and license number of a registered nurse  
21 who is terminated for any reason, other than successful completion,  
22 shall be reported to the board's enforcement program.

23 (b) If the program manager determines that a registered nurse,  
24 who is denied admission into the program or terminated from the  
25 program, presents a threat to the public or his or her own health  
26 and safety, the program manager shall report the name and license  
27 number, along with a copy of all diversion records for that  
28 registered nurse, to the board's enforcement program. The board  
29 may use any of the records it receives under this subdivision in  
30 any disciplinary proceeding.

31 SEC. 20. Section 2770.12 of the Business and Professions  
32 Code is amended to read:

33 2770.12. (a) After the program manager in his or her discretion  
34 has determined that a registered nurse has successfully completed  
35 the diversion program, all records pertaining to the registered  
36 nurse's participation in the diversion program shall be purged.

37 (b) All board and committee records and records of a proceeding  
38 pertaining to the participation of a registered nurse in the diversion  
39 program shall be kept confidential and are not subject to discovery

1 or subpoena, except as specified in subdivision (b) of Section  
2 2770.11 and subdivision (c).

3 (c) A registered nurse shall be deemed to have waived any rights  
4 granted by any laws and regulations relating to confidentiality of  
5 the diversion program, if he or she does any of the following:

6 (1) Presents information relating to any aspect of the diversion  
7 program during any stage of the disciplinary process subsequent  
8 to the filing of an accusation, statement of issues, or petition to  
9 compel an examination pursuant to Article 12.5 (commencing with  
10 Section 820) of Chapter 1. The waiver shall be limited to  
11 information necessary to verify or refute any information disclosed  
12 by the registered nurse.

13 (2) Files a lawsuit against the board relating to any aspect of  
14 the diversion program.

15 (3) Claims in defense to a disciplinary action, based on a  
16 complaint that led to the registered nurse's participation in the  
17 diversion program, that he or she was prejudiced by the length of  
18 time that passed between the alleged violation and the filing of the  
19 accusation. The waiver shall be limited to information necessary  
20 to document the length of time the registered nurse participated in  
21 the diversion program.

22 *SEC. 21. Section 3501 of the Business and Professions Code*  
23 *is amended to read:*

24 3501. As used in this chapter:

25 (a) "Board" means the ~~Division of Licensing of the Medical~~  
26 Board of California.

27 (b) "Approved program" means a program for the education of  
28 physician assistants ~~which~~ *that* has been formally approved by the  
29 committee.

30 (c) "Trainee" means a person who is currently enrolled in an  
31 approved program.

32 (d) "Physician assistant" means a person who meets the  
33 requirements of this chapter and is licensed by the committee.

34 (e) "Supervising physician" means a physician and surgeon  
35 licensed by the board or by the Osteopathic Medical Board of  
36 California who supervises one or more physician assistants, who  
37 possesses a current valid license to practice medicine, and who is  
38 not currently on disciplinary probation for improper use of a  
39 physician assistant.

1 (f) "Supervision" means that a licensed physician and surgeon  
2 oversees the activities of, and accepts responsibility for, the medical  
3 services rendered by a physician assistant.

4 (g) "Committee" or "examining committee" means the Physician  
5 Assistant Committee.

6 (h) "Regulations" means the rules and regulations as contained  
7 in Chapter 13.8 (commencing with Section 1399.500) of Title 16  
8 of the California Code of Regulations.

9 (i) "Routine visual screening" means uninvasive  
10 nonpharmacological simple testing for visual acuity, visual field  
11 defects, color blindness, and depth perception.

12 (j) "*Program manager*" means the staff manager of the  
13 diversion program, as designated by the executive officer of the  
14 board. The program manager shall have background experience  
15 in dealing with substance abuse issues.

16 ~~SEC. 21.~~

17 SEC. 22. Section 3534.1 of the Business and Professions Code  
18 is amended to read:

19 3534.1. The examining committee shall establish and  
20 administer a diversion program for the rehabilitation of physician  
21 assistants whose competency is impaired due to the abuse of drugs  
22 or alcohol. The examining committee may contract with any other  
23 state agency or a private organization to perform its duties under  
24 this article. The examining committee may establish one or more  
25 diversion evaluation committees to assist it in carrying out its  
26 duties under this article. As used in this article, "committee" means  
27 a diversion evaluation committee. A committee created under this  
28 article operates in an advisory role to the diversion program  
29 manager, as designated by the executive officer of the examining  
30 committee.

31 ~~SEC. 22.~~

32 SEC. 23. Section 3534.3 of the Business and Professions Code  
33 is amended to read:

34 3534.3. Each committee has the following duties and  
35 responsibilities:

36 (a) To evaluate physician assistants who request participation  
37 in the program and to make recommendations to the program  
38 manager. In making recommendations, a committee shall consider  
39 any recommendations from professional consultants on the  
40 admission of applicants to the diversion program.

1 (b) To review and designate treatment facilities to which  
2 physician assistants in the diversion program may be referred, and  
3 to make recommendations to the program manager.

4 (c) The receipt and review of information concerning physician  
5 assistants participating in the program.

6 (d) To call meetings as necessary to consider the requests of  
7 physician assistants to participate in the diversion program, to  
8 consider reports regarding participants in the program, and to  
9 consider any other matters referred to it by the examining  
10 committee.

11 (e) To consider whether each participant in the diversion  
12 program may with safety continue or resume the practice of  
13 medicine, and to make recommendations to the program manager.

14 (f) To make recommendations to the program manager regarding  
15 the terms and conditions of the diversion agreement for each  
16 physician assistant participating in the program, including  
17 treatment, supervision, and monitoring requirements.

18 (g) To hold a general meeting at least twice a year, which shall  
19 be open and public, to evaluate the diversion program's progress,  
20 to prepare reports to be submitted to the examining committee,  
21 and to suggest proposals for changes in the diversion program.

22 (h) For the purposes of Division 3.6 (commencing with Section  
23 810) of Title 1 of the Government Code, any member of a  
24 committee shall be considered a public employee. No examining  
25 committee or committee member, contractor, or agent thereof,  
26 shall be liable for any civil damage because of acts or omissions  
27 which may occur while acting in good faith in a program  
28 established pursuant to this article.

29 ~~SEC. 23.~~

30 *SEC. 24.* Section 3534.4 of the Business and Professions Code  
31 is amended to read:

32 3534.4. Criteria for acceptance into the diversion program shall  
33 include all of the following: (a) the applicant shall be licensed as  
34 a physician assistant by the examining committee and shall be a  
35 resident of California; (b) the applicant shall be found to abuse  
36 dangerous drugs or alcoholic beverages in a manner which may  
37 affect his or her ability to practice medicine safely or competently;  
38 (c) the applicant shall have voluntarily requested admission to the  
39 program or shall be accepted into the program in accordance with  
40 terms and conditions resulting from a disciplinary action; (d) the

1 applicant shall agree to undertake any medical or psychiatric  
2 examination ordered to evaluate the applicant for participation in  
3 the program; (e) the applicant shall cooperate with the program  
4 by providing medical information, disclosure authorizations, and  
5 releases of liability as may be necessary for participation in the  
6 program; and (f) the applicant shall agree in writing to cooperate  
7 with all elements of the treatment program designed for him or  
8 her.

9 An applicant may be denied participation in the program if the  
10 examining committee or the program manager determines that the  
11 applicant will not substantially benefit from participation in the  
12 program or that the applicant's participation in the program creates  
13 too great a risk to the public health, safety, or welfare.

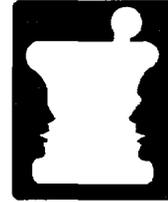
14 ~~SEC. 24.~~

15 *SEC. 25.* Section 3534.9 of the Business and Professions Code  
16 is amended to read:

17 3534.9. If the examining committee contracts with any other  
18 entity to carry out this section, the executive officer of the  
19 examining committee or the program manager shall review the  
20 activities and performance of the contractor on a biennial basis.  
21 As part of this review, the examining committee shall review files  
22 of participants in the program. However, the names of participants  
23 who entered the program voluntarily shall remain confidential,  
24 except when the review reveals misdiagnosis, case  
25 mismanagement, or noncompliance by the participant.

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**

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**BILL NUMBER: SB 1441**

**VERSION: As Amended July 3, 2008**

**AUTHOR: Ridley-Thomas**

**SPONSOR:**

**BOARD POSITION:**

**SUBJECT: Healing Arts Practitioners: substance abuse**

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**EXISTING LAW**

1. Establishes boards and bureaus within the Department of Consumer Affairs (DCA) to license and regulate various professions
2. Requires several healing arts boards to establish and administer diversion programs for the rehabilitation of healing arts practitioners whose competency is impaired due to the abuse of drugs or alcohol.

**THIS BILL WOULD**

1. Make a number of findings and declarations regarding substance abuse and diversion programs.
2. State that it is the intent of the Legislature to require the Department of Consumer Affairs to conduct a thorough audit of the effectiveness, efficiency, and overall performance of the vendor chosen by the department to manage diversion programs for substance-abusing licensees of healthcare licensing boards and specify areas that must be covered during the audit.
3. Establish the Substance Abuse Coordination Committee within the Department of Consumer Affairs comprised of Executive Officers from each healing arts board and require the committee to formulate uniform and specific standards in specified areas that each healing arts board shall use in dealing with substance-abusing licensees including:
  - Clinical diagnostic evaluation
  - Temporary license removal
  - Communication between the licensee and the licensee's employer
  - Required testing
  - Group meeting attendance
  - Treatment
  - Worksite monitoring
  - Positive tests

- Ingestion of banned substances
  - Consequences for major and minor violations
  - Returning to practice
  - License reinstatement
4. Require the committee to establish standards using a private-sector vendor for services.
  5. Require the committee to develop measurable criteria and standards to determine whether each board's method of dealing with affected licensees protects patients from harm and is effective in assisting the licensee in recovery.
  6. Transfer responsibilities from Diversion Evaluation Committees currently used by several boards to the program manager for each board.

### **AUTHOR'S INTENT**

According to the author's office, "The intent of this bill is to protect the public by ensuring that, at minimum, a set of best practices or standards are adopted by health care related boards to deal with practitioners with alcohol or drug problems."

"SB 1441 is not attempting to dictate to [health-related boards] how to run their diversion programs, but instead sets parameters for the boards."

### **FISCAL IMPACT**

The board would seek permanent funding for a part-time program manager.

### **COMMENTS**

This bill stems from concerns over the Medical Board's diversion program that has since been sunsetted.

### **SUPPORT/OPPOSITION**

Support

Center for Public Interest Law

Oppose

None on file

## HISTORY:

| <b>Dates</b> | <b>Actions</b> |
|--------------|----------------|
|--------------|----------------|

|          |  |
|----------|--|
| 06/25/08 | June 25 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 9. Noes 0.) Re-referred to Com. on APPR.            |
| 06/16/08 | June 16 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & P.                           |
| 06/09/08 | June 9 Re-referred to Com. on B. & P.  |
| 05/22/08 | May 22 To Com. on HEALTH.  |
| 05/13/08 | May 13 In Assembly. Read first time. Held at Desk.   |
| 05/12/08 | May 12 Read third time. Passed. (Ayes 33. Noes 2. Page 3752.) To Assembly.   |
| 05/07/08 | May 7 Read second time. Amended. To third reading.   |
| 05/06/08 | May 6 From committee: Be placed on second reading file pursuant to Senate Rule 28.8 and be amended.                                  |
| 04/28/08 | Apr. 28 Set for hearing May 5.   |
| 04/15/08 | Apr. 15 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 8. Noes 0. Page 3425.) Re-referred to Com. on APPR. |
| 04/07/08 | Apr. 7 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B., P. & E.D.                      |
| 04/01/08 | Apr. 1 Set for hearing April 14.   |
| 03/06/08 | Mar. 6 To Com. on B., P. & E.D.  |
| 02/22/08 | Feb. 22 From print. May be acted upon on or after March 23.  |
| 02/21/08 | Feb. 21 Introduced. Read first time. To Com. on RLS. for assignment. To print.   |