The Legislation and Regulation Committee met on April 19, 2006. The following up are action items and comments from the meeting. Minutes from the meeting are located after copies of the 2005 Watch Bills.

1. Board Sponsored Legislation Update

**AB 595 (Negrete McLeod) Pharmacy: compounding of prescription drugs.**
Status: Senate Floor.
This bill is sponsored by the board to establish standards for pharmacies that compound and to provide direction for regulations that will follow later this year. The board approved this legislative proposal at its January 2005 meeting.

**AB 2408 (Negrete McLeod) Pharmacists, pharmacies, and nonresident pharmacies.**
Status: Assembly Appropriations Committee.
This bill is sponsored by the board and would update the definition of a pharmacy, nonresident pharmacy, and the professional practice of pharmacy. The board approved draft legislation at its February 2006 meeting.

Steve Gray, representing Kaiser Permanente, had a number of questions regarding this bill. One item the committee directed for board discussion at this meeting is whether the policy outlined in AB 2408 conforms to board recommendations adopted at the January Board Meeting regarding Licensing Committee recommendations for regulating pharmacists who provide services to Californians from outside California.

In section 4051(c), if a pharmacist outside California provides cognitive services to Californians in this state, the pharmacist either needs to be licensed by California as a pharmacist, or work/be associated with a nonresident pharmacy that is licensed in California.

**SB 1475 (Senate Business and Professions and Economic Development Committee) Omnibus Bill.**
Status: Senate Business, Professions And Economic Development Committee – Hearing April 24, 2006.
The board approved eight proposals for the omnibus legislation, however only three of the eight proposals are currently in the bill.
Approved Proposals in SB 1475
B&P 4162 Wholesalers Surety Bond Requirements.
B&P 4180-4182 and 4190-4192 Nonprofit or Free Clinics.

Approved Proposals NOT in SB 1475
B&P 4084 Adulterated or Counterfeit Drug or Dangerous Device.
B&P 4160 Wholesaler License.
B&P 4127.1 Injectable Sterile Drug Products.
B&P 4073 Substitution of Generic Drug, Check off Box on Electronic Prescriptions.

Addition to the Omnibus Bill: A request from MedImmune, Inc. to amend B&P § 4162.5(a)(4) related to surety bond requirements. On March 21, 2006 the board received a letter from Colleen Chawla, Government Affairs Manager for MedImmune, Inc.. MedImmune Inc. is requesting the board sponsor legislation for a technical amendment to B&P Section 4162.5(a)(4), Submission of Surety Bond for the Issuance or Renewal of Nonresident Wholesaler License; Exemption. A copy of the letter from MedImmune Inc. and proposed language follows the copy of the Omnibus bill in this section.

SB 1476 (Figueroa) Board Sunset Extension Bill.
Status: Senate Business, Professions And Economic Development Committee – Hearing April 24, 2006
Note: The board needs to support this bill.
This bill will extend the board’s sunset date two years, from 2008 to 2010. The board’s sunset report to the Legislature will be due September 2008. Additionally the measure would repeal B&P section 4163.5, effectively moving the implementation date of electronic pedigree requirement from January 1, 2007 to January 1, 2008.

2. 2006 Bills of Interest

AB 2198 (Houston) Health care: controlled substances and dangerous drugs.
Status: Assembly Health Committee.
Committee Recommendation: None.

AB 2308 (Plescia) Ambulatory surgical centers: licensure.
Committee Recommendation: None.

AB 2583 (Nation) Dispensing prescription drugs and devices: refusal to dispense.
Status: Assembly Appropriations Committee.
Committee Recommendation: Oppose Unless Amended.
Proposed Amendments: (1) Specify in law the exact wording of the sign. (2) Require pharmacies, rather than the board, to print the sign. (3) Why is the sign needed if the point it for patients to get their medications due to protocol in B&P 733 (b)(3)(A)?

AB 2743 (Matthews) Pharmacists: ancillary personnel.
Committee Recommendation: No Position.

AB 2986 (Mullin) Controlled substances: prescription requirements.
Committee Recommendation: No Position.

SB 1366 (Aanestad) Controlled substances.
Committee Recommendation: Neutral.

3. 2006 Watch Bills

AB 1908 (Karnette) Medi-Cal: pharmacy reimbursement.

AB 2057 (Cogdill) Controlled substances.
Status: Assembly Appropriations Committee.

AB 2373 (Plescia) Automated drug delivery system.
Status: Assembly Business and Professions Committee.

AB 2730 (Nation) Medi-Cal: contract drug list: advertising.

AB 2856 (Hancock) Informed consent: prescription medication off-label use.

AB 2877 (Frommer) Prescription drugs: importation: procurement.
Status: Assembly Business and Professions Committee.

AB 2911 (Nunez) California Discount Prescription Drug Program.

AJR 40 (Chan) Medicare Prescription Drugs.
Status: Senate.
AJR 49 (Nation) Direct-To-Consumer Prescription Drug Advertisements  

SB 1305 (Figueroa) The Medical Waste Management Act.  
Status: Senate Environmental Quality Committee – Hearing April 24, 2006.

Status: Senate Floor.

SB 1683 (Scott) Pharmaceutical information: clinical trial data.  

4. 2005 Watch Bills

AB 651 (Berg) California Compassionate Choices Act.  
Status: Senate Rules Committee.  
This bill would enact the California Compassionate Choices Act, which would authorize an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease to make a request for medication for the purpose of ending his or her life in a humane and dignified manner. The bill would establish procedures for making these requests.

Note: The following list of bills is included for your information. The board does not have a position on any of these bills and most are likely inactive or dead. Copies of the bills can be found on the Internet at http://www.leginfo.ca.gov/bilinfo.html.

AB 21 (Levine) Pharmacists: contraceptive devices.  
Status: Senate Health Committee - Hearing Cancelled.

Status: Senate Health Committee - Hearing Cancelled.

AB 75 (Frommer) Pharmaceutical assistance program.  
Status: Senate Health Committee - Hearing Cancelled.

AB 225 (Negrete McLeod) Electronic prescription information.  
Status: Senate Business, Professions, and Economic Development Committee - Hearing Cancelled.

AB 283 (Koretz) Pseudoephedrine: retail sale.  
Status: Senate Business, Professions, and Economic Development Committee - Hearing Cancelled.
AB 657 (Karnette) Pharmacies: prescription containers.
Status: Senate Business, Professions, and Economic Development Committee - Hearing Cancelled.

SB 380 (Alquist) Drugs: adverse event reporting.

SB 592 (Aanestad) Acute care hospitals: inpatient pharmacy technician services.
Status: Assembly Health Committee - Failed passage in committee. Reconsideration granted.
Board Sponsored

Legislation
An act to amend Section 4051 of, to add Section 4019.5 to, to repeal Section 4033 of, and to repeal and add Section 4123 of, the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 595, as amended, Negrete McLeod. Pharmacy: compounding of prescription drugs.

Existing law, the Pharmacy Law, provides for the licensing and regulation by the California State Board of Pharmacy of pharmacists, pharmacies, and other related practices and makes a violation of that law a crime. The Pharmacy Law defines various terms for its purposes, including “manufacturer.”

This bill would delete the definition of manufacturer. The bill would define compounding of a prescription drug for the purposes of the Pharmacy Law and would make other related changes in that regard. Because the bill would specify requirements for compounded drug products under the Pharmacy Law, it would impose a state-mandated local program.

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

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


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

SECTION 1. Section 4019.5 is added to the Business and Professions Code, to read:

4019.5. (a) "Compounding" means any of the following activities occurring in a pharmacy pursuant to a prescription:
   (1) Altering the dosage form or delivery system of a drug.
   (2) Altering the strength of a drug.
   (3) Combining components or active ingredients.
   (4) Preparing a drug product from bulk chemicals.
   (b) "Compounding" shall not include the reconstitution of a drug pursuant to the manufacturer’s direction for oral, rectal, or topical administration.
   (c) This section shall not apply to over-the-counter drugs or nonprescription drugs.

SEC. 2. Section 4033 of the Business and Professions Code is repealed.

SEC. 3. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) Except as otherwise provided in this chapter, it is unlawful for any person to compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter.
   (b) Notwithstanding any other law, a pharmacist may authorize the initiation of a prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or patient consultation if all of the following conditions are met:
   (1) The clinical advice or information or patient consultation is provided to a health care professional or to a patient.
   (2) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.
(3) Access to the information described in paragraph (2) is secure from unauthorized access and use.

SEC. 4. Section 4123 of the Business and Professions Code is repealed.

SEC. 5. Section 4123 is added to the Business and Professions Code, to read:

4123. (a) A compounded drug product shall only be dispensed or furnished to a patient pursuant to a prescription meeting the requirements of Section 4040.

(b) A compounded drug product shall only be dispensed or furnished to a patient where the prescription has been generated solely within an established professional relationship between the prescriber, patient, and dispensing pharmacy.

(c) A pharmacy may conduct anticipatory compounding of a drug product in limited quantity, as defined by regulation of the board, before receipt of a prescription order for that drug product, where the quantity of each drug product compounded in anticipation of receipt of prescription orders is based on a documented history of receipt of prescription orders generated solely within an established professional relationship between prescribers, patients of the pharmacy, and the pharmacy.

(d) A pharmacy may contract with another pharmacy to compound drug products on behalf of its patients.

(e) A pharmacy may only base its anticipatory compounding on a documented history of prescription orders received for its own patients or customers, and not those patients or customers of pharmacies with which it has a contractual relationship.

(f) Notwithstanding any other provision of this chapter, a pharmacist may do both of the following:

1. Compound a drug product pursuant to a prescription, for delivery to another pharmacy pursuant to a contract for the purpose of dispensing or furnishing the drug product to the patient named in the prescription, provided that the drug is not compounded prior to the receipt of the prescription.

2. Repackage a drug previously dispensed to the patient at the request of the patient or the patient’s agent.

(g) This section shall not apply to over-the-counter drugs or nonprescription drugs.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
An act to amend Section 10153.4 of, to amend, repeal, and add Sections 10156.6, 10156.7, and 10215 of, to add and repeal Section 10153.10 of, and to repeal Section 10154 of, the Business and Professions Code, relating to real estate salespersons. An act to amend Sections 4036, 4037, 4050, 4051, 4052, 4112, 4120, 4201, 4207, 4301, and 4306.5 of, to amend, renumber, and add Section 4052.1 of, to add Sections 4052.2 and 4052.3 to, and to repeal and add Section 4302 of, the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST


Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists and pharmacies by the Board of Pharmacy in the Department of Consumer Affairs. A violation of the Pharmacy Law is a crime.

Existing law defines a pharmacist and a pharmacy, requires pharmacists and pharmacies to be licensed by the board, and authorizes a licensee to engage in certain activities. Existing law also sets forth activities that constitute unprofessional conduct for a pharmacist to engage in.

This bill would require a pharmacist to be a natural person, and would entitle a licensed pharmacist to practice pharmacy within or outside of a licensed pharmacy. The bill would revise the activities in
which a pharmacist may engage, including the adjustment of prescriptions and provisions of cognitive services, would revise the pharmacist’s responsibilities and requirements with regard to certain activities, and would make certain additional acts or omissions unprofessional conduct. The bill would revise the definition of a pharmacy to include, among other things, all pharmacies in which the profession of pharmacy is practiced. The bill would list different types of pharmacies and would require a pharmacy or nonresident pharmacy to specify its type in its application for licensure and to update the board if that information changes. The bill would make it unlawful for an unlicensed person to perform any prescription review, consultation, drug utilization review, medication therapy management, or other cognitive services for, pertaining to, or at the request of, patients, prescribers, or other health care providers.

Existing law defines a nonresident pharmacy and requires a nonresident pharmacy to meet certain criteria, including registration with the board. Existing law prohibits an unregistered nonresident pharmacy from engaging in certain activities, including selling or distributing dangerous drugs or dangerous devices in this state through any person or media other than a licensed wholesaler. Existing law requires a nonresident pharmacy to disclose to the board the location, names, and titles of specified persons, including all pharmacists dispensing controlled substances, dangerous drugs, or dangerous devices to residents of California. Existing law authorizes the board to deny, revoke, or suspend a nonresident registration for failure to comply with specified requirements or for conduct that causes serious bodily or psychological injury to a California resident, in specified circumstances.

This bill would revise the definition of a nonresident pharmacy to require shipping, mailing, or delivering directly to patients in California, and to include a pharmacy located outside of the state that performs prescription review, patient consultation, drug utilization review, medication therapy management, or other cognitive pharmacy services for patients in this state. The bill would delete the requirement that a nonresident pharmacy must disclose the location, names, and titles of pharmacists, and the prohibition against a nonresident pharmacy selling or distributing dangerous drugs or devices in California through any person or media other than a licensed wholesaler. This bill would also delete the authorization for the board to deny, revoke, or suspend a nonresident registration for
failure to comply with specified requirements or for conduct causing serious bodily harm or psychological injury to a California resident, and would instead authorize the board to deny, revoke, or suspend a nonresident pharmacy registration, issue a citation or letter of admonishment, or take any other action against a nonresident pharmacy that it may take against a resident pharmacy. The bill would also authorize the board to report violations of laws or regulations by a nonresident pharmacy to its regulatory or licensing agency.

This bill would revise and recast related provisions of the Pharmacy Law. Because this bill would create new requirements and prohibitions under the Pharmacy Law, the violation of which would be a crime, it would impose a state-mandated local program.

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

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

Existing law, the Real Estate Law, provides for the licensure and regulation of real estate salespersons by the Department of Real Estate. Under that law, an applicant for licensure as a real estate salesperson is required to submit to the Real Estate Commissioner evidence of the successful completion of specified courses in real estate either prior to issuance of the license or within 18 months after its issuance.

This bill would, for persons who apply for licensure on or after January 1, 2007, delete the provisions from the Real Estate Law that allow an applicant to submit evidence of his or her completion of the real estate courses within 18 months after issuance of the license.


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

1 SECTION 1. Section 4036 of the Business and Professions Code is amended to read:
2 4036. "Pharmacist" means a natural person to whom a license has been issued by the board, under Section 4200, except
as specifically provided otherwise in this chapter. The holder of
an unexpired and active pharmacist license issued by the board
is entitled to practice pharmacy as defined by this chapter, within
or outside of a licensed pharmacy as authorized by this chapter.
SEC. 2. Section 4037 of the Business and Professions Code is
amended to read:
4037. (a) “Pharmacy” means an area, place, or premises
licensed by the board in which the profession of pharmacy is
practiced and where prescriptions are compounded. Only a
“dispensing pharmacy,” as defined in subdivision (b), may
possess, prepare, manufacture, derive, compound, repackage,
furnish, sell, or dispense controlled substances, dangerous drugs,
or dangerous devices. In all other respects, whenever the term
“pharmacy” is used in this chapter, it shall be deemed to refer to
all of the types of pharmacies listed in subdivision (b).
Pharmacy
(b) “Pharmacy” includes, but is not limited to, any all of the
following:
(1) A “dispensing pharmacy,” which is any area, place, or
premises described in a license issued by the board wherein
controlled substances, dangerous drugs, or dangerous devices are
stored, possessed, prepared, manufactured, derived, compounded,
or repackaged, and from which the controlled substances,
dangerous drugs, or dangerous devices are furnished, sold, or
dispensed at retail.
(b)
(2) A “prescription processing pharmacy,” which is any area,
place, or premises described in a license issued by the board
wherein personnel licensed by the board engage in or supervise
drug order or prescription review by performing functions
including, but not limited to, data entry, drug utilization review,
patient or prescriber contact, patient profile review, and allergy
and drug-interaction review.
(3) An “advice/clinical center pharmacy,” which is any area,
place, or premises described in a license issued by the board
wherein personnel licensed by the board provide cognitive
pharmacy services including, but not limited to, clinical advice
or information, telephonic or in-person patient consultation,
drug utilization review, and medication therapy management.
(c) "Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of dangerous drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

(d) "Pharmacy" shall not include a clinic licensed under Section 4180 or Section 4190.

SEC. 3. Section 4050 of the Business and Professions Code is amended to read:

SEC. 4. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) The holder of an unexpired and active pharmacist license issued by the board is vested with the authority and responsibility to perform the following functions inherent to pharmacy practice:

1. Interpreting, verifying, and implementing drug orders and prescriptions.
2. Dispensing pursuant to legitimate drug orders and prescriptions.
3. Ensuring proper drug storage, documentation, inventory, labeling, and record-keeping.
4. Maintaining accurate, complete, and confidential patient profiles and records.
5. Supervising pharmacy technicians and other ancillary personnel in the pharmacy.
(7) Compounding drug products pursuant to prescription and for prescriber office use.
(8) Maintaining safe, secure, and sanitary conditions in licensed premises.
(9) Performing cognitive services, including drug utilization reviews and management, medication therapy reviews and management, and patient counseling and consultation.
(10) Collaborating with prescribers and other health care providers regarding patient care.
(11) Implementing standardized procedures and protocols regarding patient care.
(12) Administering or furnishing drugs or biologicals, where permitted by law.
(13) Initiating, adjusting, or implementing patient drug regimens where permitted by law.
(14) Any other pharmacy functions authorized by this chapter.

(b) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist licensed under this chapter.

(c) Except as otherwise provided in this chapter, it is unlawful for any person to perform any prescription review, consultation, drug utilization review, medication therapy management, or other cognitive services for, pertaining to, or at the request of, patients, prescribers, or other care providers in this state, unless he or she is a pharmacist licensed under this chapter.

(d) Notwithstanding any other law, a pharmacist licensed under this chapter may authorize the initiation or adjustment of a prescription, pursuant to Section 4052, and otherwise provide cognitive services, clinical advice or information, or patient consultation if all of the following conditions are met:
(1) The cognitive service, clinical advice, or information or patient consultation is provided to a health care professional or to a patient.
(2) The pharmacist has access to prescription records, patient profiles, or other relevant medical information for purposes of cognitive services, patient and clinical consultation,
and advice, and appropriately reviews that information before performing any of these functions.

(3) Access to the information described in paragraph (2) is secure from unauthorized access and use.

(4) The pharmacist authorizing initiation or adjustment of a prescription, or cognitive services such as clinical advice, information, or patient consultation, sets forth a complete log and description of all patient records and other patient-specific information, including any test results or other pertinent data, used, consulted, or relied on by the pharmacist during the performance of the function. The board may by regulation further define the required content of the log and description. This log and description shall be maintained in a readily retrievable form, and provided to the board upon request, for a period of at least three years from the date of performance of the function. The underlying patient records and other patient-specific information used, consulted, or relied on by the pharmacist during the performance of the function may be maintained elsewhere and not kept with the log and description, as long as those records and that information are readily retrievable and provided to the board upon request for a period of at least three years from the date of performance of the function. Otherwise, a duplicate copy of the patient records and patient-specific information used, consulted or relied on shall become part of the records maintained. Where the function to which the log and description pertains is performed on the premises of a licensed pharmacy, the obligation to keep and maintain the foregoing records extends to the pharmacy and its pharmacist-in-charge, and to the pharmacist performing the function. Where the function to which the log and description pertains is performed outside of the premises of a licensed pharmacy, the obligation to keep and maintain the foregoing records extends only to the performing pharmacist.

SEC. 5. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded medication drug product to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.
(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(B) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(C) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility as authorized by Section 4052.1.

(5) Perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician in accordance, as applicable, with policies, procedures, or protocols of that facility, the home health agency, the licensed clinic, the health care service plan, or that physician, in accordance with subparagraph (C):

(i) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(ii) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(iii) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the
individual patient's treating prescriber, and in accordance with
the policies, procedures, or protocols of the health care facility;
home health agency, licensed clinic, health care service plan, or
physician. Adjusting the drug regimen does not include
substituting or selecting a different drug, except as authorized by
the protocol. The pharmacist shall provide written notification to
the patient's treating prescriber, or enter the appropriate
information in an electronic patient record system shared by the
prescriber, of any drug regimen initiated pursuant to this clause
within 24 hours:

(B) A patient's treating prescriber may prohibit, by written
instruction, any adjustment or change in the patient's drug
regimen by the pharmacist:

(C) The policies, procedures, or protocols referred to in this
paragraph shall be developed by health care professionals;
including physicians, pharmacists, and registered nurses; and, at
a minimum, meet all of the following requirements:

(i) Require that the pharmacist function as part of a
multidisciplinary group that includes physicians and direct-care
registered nurses. The multidisciplinary group shall determine
the appropriate participation of the pharmacist and the direct-care
registered nurse:

(ii) Require that the medical records of the patient be available
to both the patient's treating prescriber and the pharmacist:

(iii) Require that the procedures to be performed by the
pharmacist relate to a condition for which the patient has first
been seen by a physician:

(iv) Except for procedures or functions provided by a health
care facility, a licensed clinic in which there is physician
oversight, or a provider who contracts with a licensed health care
plan with regard to the care or services provided to the enrollees
of that health care service plan, require the procedures to be
performed in accordance with a written, patient-specific protocol
approved by the treating or supervising physician. Any change,
adjustment, or modification of an approved preexisting treatment
or drug therapy shall be provided in writing to the treating or
supervising physician within 24 hours: as authorized by Section
4052.2.
(6) Manufacture, measure, fit to the patient, or sell and repair
dangerous devices or furnish instructions to the patient or the
patient’s representative concerning the use of those devices.

(7) Provide cognitive services such as drug utilization review,
medication therapy management, consultation to patients, and
professional information, including clinical or pharmacological
information, advice, or consultation to other health care
professionals.

(8) (A) Furnish emergency contraception drug therapy—in
accordance with either of the following: as authorized by Section
4052.3.

(i) Standardized procedures or protocols developed by the
pharmacist and an authorized prescriber who is acting within his
or her scope of practice:

(ii) Standardized procedures or protocols developed and
approved by both the board and the Medical Board of California
in consultation with the American College of Obstetricians and
Gynecologists, the California Pharmacist Association, and other
appropriate entities. Both the board and the Medical Board of
California shall have authority to ensure compliance with this
clause, and both boards are specifically charged with the
enforcement of this provision with respect to their respective
licensors. Nothing in this clause shall be construed to expand the
authority of a pharmacist to prescribe any prescription
medication.

(B) Prior to performing a procedure authorized under this
paragraph, a pharmacist shall complete a training program on
emergency contraception that consists of at least one hour of
approved continuing education on emergency contraception drug
therapy.

(C) A pharmacist, pharmacist’s employer, or pharmacist’s
agent may not directly charge a patient separate consultation fee
for emergency contraception drug therapy services initiated
pursuant to this paragraph, but may charge an administrative fee
not to exceed ten dollars ($10) above the retail cost of the drug.
Upon an oral, telephonic, electronic, or written request from a
patient or customer, a pharmacist or pharmacist’s employee shall
disclose the total retail price that a consumer would pay for
emergency contraception drug therapy. As used in this
subparagraph, total retail price includes providing the consumer
with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist’s employer, or a pharmacist’s agent, and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(D) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this paragraph.

(b) (1) Prior to performing any procedure authorized by paragraph (4) of subdivision (a), a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

(2) Prior to performing any procedure authorized by paragraph (5) of subdivision (a), a pharmacist shall have either (A) successfully completed clinical residency training or (B) demonstrated clinical experience in direct patient care delivery.

(3) For each emergency contraception drug therapy initiated pursuant to paragraph (8) of subdivision (a), the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.
Administer immunizations pursuant to a protocol with a prescriber.

A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 6. Section 4052.1 of the Business and Professions Code is amended and renumbered to read:

4052.1. (a) Notwithstanding any other provision of law, a pharmacist may perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals,
including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(1) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(2) Ordering drug therapy-related laboratory tests.

(3) Administering drugs and biologicals by injection pursuant to a prescriber’s order.

(4) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient’s prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(b) Prior to performing any procedure authorized by this section, a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

SEC. 8. Section 4052.2 is added to the Business and Professions Code, to read:

4052.2. (a) Notwithstanding any other provision of law, a pharmacist may perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance with the policies, procedures, or protocols of that facility, home health agency, licensed clinic, health care service plan, or physician, and in accordance with subdivision (c):

(1) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(2) Ordering drug therapy-related laboratory tests.

(3) Administering drugs and biologicals by injection pursuant to a prescriber’s order.

(4) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the individual patient's treating prescriber, and in accordance with the policies, procedures, or protocols of the health care facility, home health agency, licensed clinic, health care service plan, or


physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's treating prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this paragraph within 24 hours.

(b) A patient's treating prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(c) The policies, procedures, or protocols referred to in this subdivision shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and shall, at a minimum, do all of the following:

(1) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(2) Require that the medical records of the patient be available to both the patient's treating prescriber and the pharmacist.

(3) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(4) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(d) Prior to performing any procedure authorized by this section, a pharmacist shall have either:

(1) Successfully completed clinical residency training.

(2) Demonstrated clinical experience in direct patient care delivery.
SEC. 9. Section 4052.3 is added to the Business and Professions Code, to read:

4052.3. (a) Notwithstanding any other provision of law, a pharmacist may furnish emergency contraception drug therapy in accordance with either of the following:

(1) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(2) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American College of Obstetricians and Gynecologists, the California Pharmacist Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(b) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(c) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient a separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars ($10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered
and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(d) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this section.

(e) For each emergency contraception drug therapy initiated pursuant to this section, the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.

SEC. 10. Section 4112 of the Business and Professions Code is amended to read:

4112. (a) Any pharmacy located outside this state that ships, mails, or delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into directly to patients in this state, or that performs prescription review, patient consultation, drug utilization review, medication therapy management, or other cognitive pharmacy services for patients in this state, shall be considered a nonresident pharmacy.

(b) All nonresident pharmacies shall register with the board. The board may register a nonresident pharmacy that is organized as a limited liability company in the state in which it is licensed.

(c) A nonresident pharmacy shall disclose to the board the location, names, and titles of (1) its agent for service of process
in this state, (2) all principal corporate officers, if any, and (3) all general partners, if any, and (4) all pharmacists who are dispensing controlled substances, dangerous drugs, or dangerous devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, or partner.

(d) All nonresident pharmacies shall comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(e) All nonresident pharmacies shall maintain records of controlled substances, dangerous drugs, or dangerous devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(f) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient’s records. This toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(g) The board shall adopt regulations that apply the same requirements or standards for oral consultation to a nonresident pharmacy that operates pursuant to this section and ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state, as are applied to an in-state pharmacy that operates pursuant to Section 4037 when the pharmacy ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state.
face-to-face consultation for a prescription that is shipped, mailed, or delivered to the patient. The regulations adopted pursuant to this subdivision shall not result in any unnecessary delay in patients receiving their medication.

(h) The registration fee shall be the fee specified in subdivision (a) of Section 4400.

(i) The registration requirements of this section shall apply only to a nonresident pharmacy that ships, mails, or delivers controlled substances, dangerous drugs, and dangerous devices into this state pursuant to a prescription.

(j) Nothing in this section shall be construed to authorize the dispensing of contact lenses by nonresident pharmacists except as provided by Section 4124.

SEC. 11. Section 4120 of the Business and Professions Code is amended to read:

4120. (a) A nonresident pharmacy shall not sell or distribute dangerous drugs or dangerous devices in this state through any person or media other than a wholesaler who has obtained a license pursuant to this chapter or through a selling or distribution outlet that is licensed as a wholesaler pursuant to this chapter without registering as a nonresident pharmacy.

(b) Applications for a nonresident pharmacy registration shall be made on a form furnished by the board. The board may require any information as the board deems reasonably necessary to carry out the purposes of this section.

(b) Each application to conduct a nonresident pharmacy shall specify the type or types of pharmacy for which the application is submitted, pursuant to Section 4037. The applicant shall immediately notify the board of any requested addition, deletion, or other change in specified pharmacy type prior to licensure. After licensure, any change in specified pharmacy type shall be reported to the board, on a form to be furnished by the board, at least 30 calendar days prior to implementation or elimination of any activities permitted by the added, deleted, or changed type designation.

(c) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any nonresident pharmacy.
(d) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section to serve as any evidence that the nonresident pharmacy is doing business within this state.

SEC. 12. Section 4201 of the Business and Professions Code is amended to read:

4201. (a) Each application to conduct a pharmacy, wholesaler, or veterinary food-animal drug retailer, shall be made on a form furnished by the board, and shall state the name, address, usual occupation, and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application shall state the information as to each person beneficially interested therein.

(b) Each application to conduct a pharmacy shall specify the type or types of pharmacy for which the application is submitted, pursuant to Section 4037. The applicant shall immediately notify the board of any requested addition, deletion, or other change in specified pharmacy type prior to licensure. After licensure, any change in specified pharmacy type shall be reported to the board, on a form to be furnished by the board, at least 30 calendar days prior to implementation or elimination of any activities permitted by the added, deleted, or changed type designation.

(c) As used in this section, and subject to subdivision (c), the term “person beneficially interested” means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors, and stockholders, provided that no natural person shall be deemed to be beneficially interested in a nonprofit corporation.

(3) If the applicant is a limited liability company, each officer, manager, or member.

(e) In any case where the applicant is a partnership or other unincorporated association, is a limited liability company, or is a corporation, and where the number of partners, members, or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state the information required by subdivision (a) as to each of the five partners, members, or
stockholders who own the five largest interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish the board with the information required by subdivision (a) as to partners, members, or stockholders not named in the application, or shall refer the board to an appropriate source of that information.

(e) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement, the application shall contain a statement of the violation, if any, or reasons which will prevent the applicant from being able to comply with the requirements with respect to the statement.

(f) Upon the approval of the application by the board and payment of the fee required by this chapter for each pharmacy, wholesaler, or veterinary food-animal drug retailer, the executive officer of the board shall issue a license to conduct a pharmacy, wholesaler, or veterinary food-animal drug retailer, if all of the provisions of this chapter have been complied with.

(g) Notwithstanding any other provision of law, the pharmacy license shall authorize the holder to conduct a pharmacy. The license shall be renewed annually and shall not be transferable.

(h) Notwithstanding any other provision of law, the wholesale license shall authorize the holder to wholesale dangerous drugs and dangerous devices. The license shall be renewed annually and shall not be transferable.

(i) Notwithstanding any other provision of law, the veterinary food-animal drug retailer license shall authorize the holder thereof to conduct a veterinary food-animal drug retailer and to sell and dispense veterinary food-animal drugs as defined in Section 4042.

(j) For licenses referred to in subdivisions (f), (g), and (h), any change in the proposed beneficial ownership interest shall be
sec. 13. section 4207 of the business and professions code is amended to read:

4207. (a) Upon receipt of an application for a license and the applicable fee, the board shall make a thorough investigation to determine whether the applicant is qualified for the license being sought. The board shall also determine whether this article has been complied with, and shall investigate all matters directly related to the issuance of the license that may affect the public welfare.

(b) The board shall not investigate matters connected with the operation of a premises other than those matters solely related to the furnishing of dangerous drugs or dangerous devices, or to the performance or provision of prescription or drug order processing or review services or cognitive services, that might adversely affect the public welfare.

(c) The board shall deny an application for a license if the applicant does not qualify for the license being sought.

(d) Notwithstanding any other provision of law, the board may request any information it deems necessary to complete the application investigation required by this section, and a request for information that the board deems necessary in carrying out this section in any application or related form devised by the board shall not be required to be adopted by regulation pursuant to the administrative procedure act (chapter 3.5 (commencing with section 11340) of part 1 of division 3 of title 2 of the government code).

sec. 14. section 4301 of the business and professions code, as added by section 44 of chapter 857 of the statutes of 2004, is amended to read:

4301. The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.
(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or administering or offering to sell, furnish, give away, or administer any controlled substance to an addict.

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
(commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(m) The cash compromise of a charge of violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code relating to the Medi-Cal program. The record of the compromise is conclusive evidence of unprofessional conduct.

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license.
(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

(s) The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but not be limited to, the amount of dangerous drugs furnished to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities, the previous ordering pattern of the pharmacy, and the general patient population to whom the pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be considered in determining whether there has been a violation of this subdivision. This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code.

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

SEC. 15. Section 4303 of the Business and Professions Code is repealed.

4303. (a) The board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of Section 4112, 4124, or 4340, for any significant or repeated failure to comply with Section 4074 or 4076, or for failure to comply with Section 11164 of the Health and Safety Code.

(b) The board may deny, revoke, or suspend a nonresident pharmacy registration for conduct that causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or
licensing agency fails to initiate an investigation within 45 days of the referral.

SEC. 16. Section 4303 is added to the Business and Professions Code, to read:

4303. (a) The board may report any violation of the laws and regulations of this state, any other state, or of the United States, including, but not limited to, any violation of this chapter or of the regulations established by the board, to the appropriate regulatory or licensing agency of the state in which a nonresident pharmacy is a resident.

(b) The board may deny, revoke, or suspend a nonresident pharmacy registration, issue a citation or letter of admonishment to a nonresident pharmacy, or take any other action against a nonresident pharmacy that the board may take against a resident pharmacy license, on any of the same grounds upon such action might be taken against a resident pharmacy.

SEC. 17. Section 4306.5 of the Business and Professions Code is amended to read:

4306.5. (a) Unprofessional conduct for a pharmacist may include acts any of the following:

(1) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(2) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices or with regard to the provision of cognitive services.

(3) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

(b) For pharmacists who practice outside of a pharmacy premises, unprofessional conduct may include acts or omissions that involve, in whole or in part, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.
SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

All matter omitted in this version of the bill appears in the bill as introduced in Assembly, February 23, 2006 (JR11)
An act relating to chiropractors, and declareing the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST


(1) Existing law creates the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of marriage and family therapists, clinical social workers, and educational
psychologists. Under existing law, moneys received by the board are deposited into the Behavioral Sciences Fund and are continuously appropriated to the board, other than the revenue from fines and penalties. Existing law makes a violation of the provisions regulating these practitioners a crime.

This bill would recast the provisions creating the board and those that relate to the licensure and regulation of marriage and family therapists. The bill would delete the board’s responsibility to review the supervision requirements for marriage and family therapist interns and trainees and obsolete provisions relating to intern registration requirements. The bill would revise the requirements for licensure as a marriage and family therapist for out-of-state licensees and for acceptance of education obtained out-of-state toward satisfying licensure requirements. The bill would name provisions regulating social workers the Clinical Social Worker Practice Act and would also establish the Educational Psychologist Practice Act that would continue the licensure and regulation of educational psychologists by the board. The bill would revise the provisions defining and regulating the practice of educational psychologists and would require licensees to complete continuing education as a prerequisite for licensure renewal. The bill would authorize the board to require those continuing education providers to pay fees to fund the administration of this requirement. Because the bill would direct their deposit into the Behavioral Sciences Fund, it would make an appropriation by increasing the amount of funds in a continuously appropriated fund. The bill would continue to make the violation of provisions regulating educational psychologists punishable as a crime and because it would prohibit the commission of additional types of conduct, the bill would expand that crime and thereby impose a state-mandated local program.

(2) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of the act a crime.

Existing law requires every pharmacy to have written policies and procedures for detecting certain impairments or drug-related acts among licensees employed by or with the pharmacy.

This bill would instead require every pharmacy to have written policies and procedures for addressing those impairments or acts by those licensees.
Existing law requires an applicant for a wholesaler license to submit a surety bond or other security to the board, as specified. This bill would exempt a government-owned and operated wholesaler from that requirement.

Under existing law, specified clinics, including surgical clinics, may purchase drugs at wholesale for administration or dispensing to the clinic’s patients. Existing law requires these clinics to maintain certain records for at least 7 years for inspection and to obtain a license from the board. Existing law specifies that each license is to be issued to a specific clinic and for a specific location. Existing law requires those clinics, when applying for a license, to show evidence that a professional director, as defined, is responsible for the provision of pharmacy services. Existing law also requires those clinics, other than surgical clinics, to retain a consulting pharmacist to perform specified tasks, including certifying in writing, at least twice a year, that the clinic is or is not operating in compliance with specified requirements, and requires the most recent certification to be submitted with the clinic’s license renewal application.

This bill would instead require those clinics to maintain those records for at least 3 years and would require a separate license for each clinic location. The bill would expand the definition of “professional director” to include a dentist or podiatrist in certain circumstances. The bill would require a clinic to notify the board of any change of address, any change of the board of directors of a clinic’s nonprofit corporation or, in the case of a surgical clinic, any proposed change in ownership, as specified, and any change in professional director. The bill would require surgical clinics also to retain a consulting pharmacist to perform those specified tasks. The bill would require a consulting pharmacist to provide the certification, with any recommended corrective actions, in writing quarterly and to keep the certification on file for 3 years. Because the bill would specify additional requirements under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program. The bill would make other technical changes.

(3) Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians, imposes specified fees in connection with the issuance of licenses by the board, and authorizes the board to fix certain of those fees within specified minimums and maximums. Existing law requires the board to pay all
revenue received into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund. Existing law prohibits the board from maintaining a reserve balance greater than 3 months of the appropriated operating expenditures of the board in any fiscal year.

This bill would delete that prohibition and reduce the minimum amount of certain fees fixed by the board.

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

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

The Chiropractic Act, an initiative measure approved by the voters on November 7, 1922, provides for the regulation and licensing of chiropractors in this state by the State Board of Chiropractic Examiners. Amendment of the Chiropractic Act requires approval by the voters.

This bill would declare the intent of the Legislature to enact legislation permitting the amendment of the Chiropractic Act, consistent with the intent of the act, by an extraordinary vote of the Legislature, without approval by the voters of this state.

This bill would declare that it is to take effect immediately as an urgency statute:


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

SECTION 1. Section 28 of the Business and Professions Code is amended to read:

28. The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child abuse which will ameliorate, reduce, and eliminate the trauma of child abuse and neglect and ensure the reporting of child abuse in a timely manner to prevent additional occurrences.
(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions of Section 650. The Legislature intends to allow the pooling of resources by marriage and family therapists for the purpose of advertising.

(f) This section shall not be construed in any manner that would authorize a referral service to engage in the practice of marriage and family therapy.

SEC. 5. Section 2908 of the Business and Professions Code is amended to read:

2908. Nothing in this chapter shall be construed to prevent qualified members of other recognized professional groups licensed to practice in the State of California, such as, but not limited to, physicians, clinical social workers, educational psychologists, marriage and family therapists, optometrists, psychiatric technicians, or registered nurses, or attorneys admitted to the California State Bar, or persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry or psychology, or persons utilizing hypnotic techniques—which that offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders, or duly ordained members of the recognized clergy, or duly ordained religious practitioners from doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrist," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology; except that persons licensed under Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 Chapter 13.5 (commencing with Section 4987) may hold themselves out to the public as licensed educational psychologists.

SEC. 6. Section 4104 of the Business and Professions Code is amended to read:

4104. (a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation
authorized by his or her license, or is discovered or known to
have engaged in the theft, diversion, or self-use of dangerous
drugs.
(b) Every pharmacy shall have written policies and procedures
for—detecting addressing chemical, mental, or physical
impairment, as well as theft, diversion, or self-use of dangerous
drugs, among licensed individuals employed by or with the
pharmacy.
(c) Every pharmacy shall report to the board, within 30 days of
the receipt or development of the following information with
regard to any licensed individual employed by or with the
pharmacy:
(1) Any admission by a licensed individual of chemical,
mental, or physical impairment affecting his or her ability to
practice.
(2) Any admission by a licensed individual of theft, diversion,
or self-use of dangerous drugs.
(3) Any video or documentary evidence demonstrating
chemical, mental, or physical impairment of a licensed individual
to the extent it affects his or her ability to practice.
(4) Any video or documentary evidence demonstrating theft,
diversion, or self-use of dangerous drugs by a licensed
individual.
(5) Any termination based on chemical, mental, or physical
impairment of a licensed individual to the extent it affects his or
her ability to practice.
(6) Any termination of a licensed individual based on theft,
diversion, or self-use of dangerous drugs.
(d) Anyone participating in good faith in the making of a
report authorized or required by this section shall have immunity
from any liability, civil or criminal, that might otherwise arise
from the making of the report. Any participant shall have the
same immunity with respect to participation in any
administrative or judicial proceeding resulting from the report.
SEC. 7. Section 4162 of the Business and Professions Code is
amended to read:
4162. (a) (1) An applicant, that is not a government-owned
and operated wholesaler, for the issuance or renewal of a
wholesaler license shall submit a surety bond of one hundred
thousand dollars ($100,000) or other equivalent means of
security acceptable to the board payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

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

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

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

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

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

(d) This section shall become operative on January 1, 2006, and shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.

SEC. 8. Section 4180 of the Business and Professions Code is amended to read:

4180. (a) (1) Notwithstanding any provision of this chapter, any of the following clinics may purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the clinic:
(A) A licensed nonprofit community clinic or free clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic owned or operated by a county as referred to in subdivision (b) of Section 1206 of the Health and Safety Code.

(C) A clinic operated by a federally recognized Indian tribe or tribal organization as referred to in subdivision (c) of Section 1206 of the Health and Safety Code.

(D) A clinic operated by a primary care community or free clinic, operated on separate premises from a licensed clinic, and that is open no more than 20 hours per week as referred to in subdivision (h) of Section 1206 of the Health and Safety Code.

(E) A student health center clinic operated by a public institution of higher education as referred to in subdivision (j) of Section 1206 of the Health and Safety Code.

(F) A nonprofit multispecialty clinic as referred to in subdivision (l) of Section 1206 of the Health and Safety Code.

(2) The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven years for inspection by all properly authorized personnel.

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

(c) A clinic's nonprofit corporation shall report to the board the addition or deletion of a member of the board of directors. The report shall be submitted within 30 days of the addition or deletion on a form furnished by the board.

SEC. 9. Section 4181 of the Business and Professions Code is amended to read:

4181. (a) Prior to the issuance of a clinic license authorized under Section 4180, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services relating to the drug distribution service to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient
consultation occur in a manner that is consistent with the
promotion and protection of the health and safety of the public.
The policies and procedures to implement the laws and
regulations shall be developed and approved by the consulting
pharmacist, the professional director, and the clinic
administrator.

(b) These policies and procedures shall include a written
description of the method used in developing and approving them
and any revision thereof.

(c) The dispensing of drugs in a clinic shall be performed only
by a physician, a pharmacist, or other person lawfully authorized
to dispense drugs, and only in compliance with all applicable
laws and regulations.

SEC. 10. Section 4182 of the Business and Professions Code
is amended to read:

4182. (a) Each clinic that makes an application for a license
under Section 4180 shall show evidence that the professional
director is responsible for the safe, orderly, and lawful provision
of pharmacy services. In carrying out the professional director's
responsibilities, a consulting pharmacist shall be retained to
approve the policies and procedures in conjunction with the
professional director and the administrator. In addition, the
consulting pharmacist shall be required to visit the clinic
regularly and at least quarterly. However, nothing in this section
shall prohibit the consulting pharmacist from visiting more than
quarterly to review the application of policies and procedures
based on the agreement of all the parties approving the policies
and procedures.

(b) The consulting pharmacist shall certify in writing at least
twice a year—quarterly that the clinic is, or is not, operating in
compliance with the requirements of this article; and the most
recent of those written certifications shall be submitted with the
annual application for the renewal of a clinic license. Each
completed written certification shall be kept on file in the clinic
for three years and shall include recommended corrective
actions, if appropriate.

(c) For the purposes of this article, "professional director"
means a physician and surgeon acting in his or her capacity as
medical director or a dentist or podiatrist acting in his or her
capacity as a director in a clinic where only dental or podiatric services are provided.
(d) Licensed clinics shall notify the board within 30 days of any change in professional director on a form furnished by the board.

SEC. 11. Section 4190 of the Business and Professions Code is amended to read:
4190. (a) Notwithstanding any provision of this chapter, a surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic, as provided in subdivision (b). The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven three years for inspection by all properly authorized personnel.
(b) The drug distribution service of a surgical clinic shall be limited to the use of drugs for administration to the patients of the surgical clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.
(c) No surgical clinic shall operate without a license issued by the board nor shall it be entitled to the benefits of this section until it has obtained a license from the board. Each license shall be issued to a specific clinic and for a specific location. A separate license shall be required for each clinic location. A clinic shall notify the board of any change in the clinic's address on a form furnished by the board.
(d) Any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.
SEC. 12. Section 4191 of the Business and Professions Code is amended to read:

4191. (a) Prior to the issuance of a clinic license authorized under this article, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services and the board relating to drug distribution to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation are carried out in a manner that is consistent with the promotion and protection of the health and safety of the public. These policies and procedures shall include a written description of the methodologies used to develop, approve, and revise those policies and procedures. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic that has received a license under this article shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

SEC. 13. Section 4192 of the Business and Professions Code is amended to read:

4192. (a) Each clinic that makes an application for a license under this article shall show evidence that the professional director is responsible for the safe, orderly, and lawful provision of pharmacy services. In carrying out the professional director’s responsibilities, a consulting pharmacist shall be retained to approve the policies and procedures in conjunction with the professional director and the administrator. In addition, the consulting pharmacist shall be required to visit the clinic regularly and at least quarterly. However, nothing in this section shall prohibit the consulting pharmacist from visiting more than quarterly to review the application of policies and procedures based on the agreement of all the parties approving the policies and procedures.

(b) The consulting pharmacist shall certify in writing quarterly that the clinic is, or is not, operating in compliance with the requirements of this article. Each completed written certification...
shall be kept on file in the clinic for three years and shall include recommended corrective actions, if appropriate.

(c) For the purposes of this article, "professional director" means a physician and surgeon acting in his or her capacity as medical director or a dentist or podiatrist acting in his or her capacity as a director in a clinic where only dental or podiatric services are provided.

(d) Licensed clinics shall notify the board within 30 days of any change in professional director on a form furnished by the board.

SEC. 14. Section 4507 of the Business and Professions Code is amended to read:

14507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3 (commencing with Section 4990).

(f) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2.

(g) Teachers credentialed pursuant to Chapter 2 (commencing with Section 13101) of Division 2 of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code of Regulations, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(j) Any other categories of persons the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because
March 17, 2006

Patricia Harris
Executive Officer
California Board of Pharmacy
1625 North Market Blvd, Suite N219
Sacramento, CA 95834

Dear Ms. Harris:

I am writing to respectfully request that the Board of Pharmacy consider including in its sponsored legislation pertaining to non-resident wholesalers a clarifying amendment to California statute relating to surety bond requirements for licensed manufacturers who are also licensed as nonresident wholesalers in California. I have attached proposed language for this amendment.

Currently, as noted in the October 2005 issue of The Script, "[l]icensed manufacturers who are licensed as wholesalers or nonresident wholesalers in California are exempt from [surety bond] requirements." Business & Professions Code Section 4162.5(a)(4) exempts from surety bond requirements a holder of an approved new drug application, which allows for the sale and marketing of a pharmaceutical product in the United States. Our understanding is that this exemption was meant to be applied in its broadest sense to include licensed manufacturers of any pharmaceutical products considered drugs or biologics. Please note, with respect to pharmaceutical products, the FDA uses terminology particular to drugs and biologics. Specifically, manufacturers of biological products may hold a biologics license application, which is the equivalent of a new drug application for biologic products.

The attached proposed language would clarify and remove any ambiguity that the exemption to the surety bond requirement for licensed manufacturers that are also licensed as nonresident wholesalers applies to manufacturers with approved new drug applications and approved biologics license applications.

I very much appreciate your consideration of this request. Please feel free to contact me at (510) 339-1693 if I can answer any questions or if you would like to discuss this further.

Sincerely,

Colleen Chawla
Government Affairs Manager

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

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

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

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

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

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

(d) This section shall become operative on January 1, 2006, and shall become inoperative and is repealed on, January 1, 2011, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.
An act to amend Sections 2570.19 and 2602 of, and to add Section 2660.5 to, and to repeal Section 4163.5 of, the Business and Professions Code, relating to healing arts professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1476, as amended, Figueroa. Professions and vocations.

(1) Existing law, the Dental Practice Act, provides for the licensing and regulation of dentists by the Dental Board of California and for the licensing and regulation of dental auxiliaries by the Committee on Dental Auxiliaries. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(2) Existing law provides for the licensing and regulation of podiatrists by the California Board of Podiatric Medicine, within the jurisdiction of the Medical Board of California. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeale them on January 1, 2011.
(3) Existing law, the Occupational Therapy Practice Act, provides for the licensing and regulation of occupational therapists and the certification and regulation of occupational therapy assistants by the California Board of Occupational Therapy. These provisions will become inoperative on July 1, 2007, and will be repealed on January 1, 2008.

This bill would instead make these provisions inoperative on July 1, 2013, and would repeal them on unspecified dates January 1, 2014.

(2) Existing law exempts certain persons from the requirements of the act, including a licensee from a state with commensurately stringent requirements, if the services are performed for less than 45 days in a calendar year and are performed in association with an occupational therapist licensed under the act.

This bill would instead require a licensee from a state with commensurately stringent requirements to have filed with the board an application for licensure as an occupational therapist or certified occupational therapy assistant and would require that his or her services be performed for no more than 60 days from the date on which the application is filed. The bill would delete the requirement that the services be performed in association with an occupational therapist licensed in the state.

(4) Existing law provides for the licensure and regulation of physical therapists and physical therapy assistants by the Physical Therapy Board of California. These provisions will become inoperative on July 1, 2007, and will be repealed on January 1, 2008.

This bill would instead make these provisions inoperative on July 1, 2013, and would repeal them on unspecified dates January 1, 2014.

Existing law provides for a diversion program for the rehabilitation of physical therapists and physical therapist assistants abusing drugs or alcohol, and authorizes the board to charge a fee of up to $100 for participation in the program. Existing law requires persons convicted of certain sex offenses to register as sex offenders, as specified.

This bill would change the fee for participation in the diversion program to the amount necessary to cover the actual cost of administering the program. Because this bill could increase the fee revenue deposited into the Physical Therapy Fund, a continuously appropriated fund, the bill would make an appropriation. The bill would also require the board to deny licensure as a physical therapist or approval as a physical therapist assistant if the applicant is
required to register as a sex offender, unless the registration is required as a result of a misdemeanor conviction for indecent exposure.

(5) Existing law provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, in the Department of Consumer Affairs, and requires the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(6) Existing law provides for the licensing and regulation of psychologists by the Board of Psychology. Existing law requires the board to employ necessary personnel, and authorizes the board to employ an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(7) Existing law provides for the licensure and regulation of optometrists by the State Board of Optometry, in the Department of Consumer Affairs, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(8) Existing law provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law requires the committee to employ necessary personnel, including an executive officer. Existing law prohibits a physician who provides services in a medically underserved area from supervising more than 4 physician assistants at one time. All of these provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(9) Existing law, The Naturopathic Doctors Act, provides for the licensure and regulation of the practice of naturopathic medicine, and establishes the Bureau of Naturopathic Medicine, in the Department of Consumer Affairs, which is responsible for the administration of the act. A violation of certain provisions of the act is a crime. The act will
become inoperative on July 1, 2009, and will be repealed on January 1, 2010.

This bill would instead make the act inoperative on July 1, 2010, and would repeal it on January 1, 2011.

Because this bill would extend the application of certain provisions, the violation of which would be a crime, it would impose a state-mandated local program.

(10) Existing law provides for the licensure and regulation of respiratory professionals by the Respiratory Care Board of California, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(11) 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. Existing law authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

On and after January 1, 2007, existing law prohibits a wholesaler or pharmacy from selling, trading, or transferring a dangerous drug without a pedigree, as defined, and prohibits a wholesaler or pharmacy from acquiring a dangerous drug without receiving a pedigree, unless the compliance date is extended. Existing law authorizes the board to extend the compliance date to January 1, 2008, in specified circumstances.

This bill would instead impose the prohibition against selling, trading, transferring, or acquiring a dangerous drug without a pedigree on January 1, 2008, and would make other conforming changes.

(12) Existing law provides for the licensure and regulation of veterinarians by the Veterinary Medical Board in the Department of Consumer Affairs, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2009, and will be repealed on January 1, 2010.
This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(13) Existing law provides for the licensure and regulation of acupuncturists by the Acupuncture Board and requires the board to employ necessary personnel, including an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(14) Existing law provides for the licensure and regulation of the practice of behavioral health by the Board of Behavioral Sciences, in the Department of Consumer Affairs, and authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(15) Existing law provides for the licensure and regulation of architects by the California Architects Board, and provides for the creation of the Landscape Architects Technical Committee to assist the board with specified functions. Existing law authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2009, and will be repealed on January 1, 2010.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(16) Existing law provides for the licensure and regulation of professional engineers and land surveyors by the Board for Professional Engineers and Land Surveyors, in the Department of Consumer Affairs. Existing law requires the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(17) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which licenses schools for the training of guide dogs for the blind. Existing law also establishes a pilot project for the arbitration of disputes between guide dog users and guide schools relating to the continued physical custody and use of the guide dog when the dog user is not the legal owner of the dog. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.
This bill would instead make these provisions inoperative on July 1, 2011, and would repeal them on January 1, 2012.

(18) Existing law provides for the licensure and regulation of geologists and geophysicists by the Board for Geologists and Geophysicists, subject to the jurisdiction of the Department of Consumer Affairs. Existing law authorizes the board to appoint an executive officer. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(19) Existing law provides for the licensure and regulation of court reporters by the Court Reporters Board of California, in the Department of Consumer Affairs. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

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

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


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

SECTION 1. Section 1601.1 of the Business and Professions Code is amended to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into
SEC. 19. Section 3710 of the Business and Professions Code is amended to read:

3710. The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter. This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

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

SEC. 20. Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

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

SEC. 21. Section 4001 of the Business and Professions Code is amended to read:

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

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

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of
the following practice settings: an acute care hospital, an
independent community pharmacy, a chain community
pharmacy, and a long-term health care or skilled nursing facility.
The pharmacist appointees shall also include a pharmacist who is
a member of a labor union that represents pharmacists. For the
purposes of this subdivision, a “chain community pharmacy”
means a chain of 75 or more stores in California under the same
ownership, and an “independent community pharmacy” means a
pharmacy owned by a person or entity who owns no more than
four pharmacies in California.
(d) Members of the board shall be appointed for a term of four
years. No person shall serve as a member of the board for more
than two consecutive terms. Each member shall hold office until
the appointment and qualification of his or her successor or until
one year shall have elapsed since the expiration of the term for
which the member was appointed, whichever first occurs.
Vacancies occurring shall be filled by appointment for the
unexpired term.
(e) Each member of the board shall receive a per diem and
to expenses as provided in Section 103.
(f) In accordance with Sections 101.1 and 473.1, this section
shall become inoperative on July 1, 2010, and, as of
January 1, 2011, is repealed, unless a later enacted statute,
that becomes effective on or before January 1, 2011, deletes
or extends the dates on which it becomes inoperative and is
repealed. The repeal of this section renders the board subject to
the review required by Division 1.2 (commencing with Section
473).
SEC. 22. Section 4003 of the Business and Professions Code
is amended to read:
4003. (a) The board may appoint a person exempt from civil
service who shall be designated as an executive officer and who
shall exercise the powers and perform the duties delegated by the
board and vested in him or her by this chapter. The executive
officer may or may not be a member of the board as the board
may determine.
(b) The executive officer shall receive the compensation as
established by the board with the approval of the Director of
Finance. The executive officer shall also be entitled to travel and
other expenses necessary in the performance of his or her duties.
(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

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

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

SEC. 21. Section 4034 of the Business and Professions Code is amended to read:

4034. (a) “Pedigree” means a record, in electronic form, containing information regarding each transaction resulting in a change of ownership of a given dangerous drug, from sale by a manufacturer, through acquisition and sale by a wholesaler, until final sale to a pharmacy or other person furnishing, administering, or dispensing the dangerous drug.

(b) A pedigree shall include all of the following information:

1. The source of the dangerous drug, including the name, state license number, including California license number if available, and principal address of the source.

2. The quantity of the dangerous drug, its dosage form and strength, the date of the transaction, the sales invoice number, the container size, the number of containers, the expiration dates, and the lot numbers.

3. The business name, address, and if appropriate, the state license number, including a California license number if available, of each owner of the dangerous drug, and the dangerous drug shipping information, including the name and address of each person certifying delivery or receipt of the dangerous drug.

4. A certification under penalty of perjury from a responsible party of the source of the dangerous drug that the information contained in the pedigree is true and accurate.
(c) If a licensed health care service plan, hospital organization, and one or more physician organizations have exclusive contractual relationships to provide health care services, drugs distributed between these persons shall be deemed not to have changed ownership.

(d) The application of the pedigree requirement in pharmacies shall be subject to review during the board's sunset review to be conducted as described in subdivision (f) of Section 4001.

(e) This section shall become operative on January 1, 2007.

SEC. 22. Section 4163 of the Business and Professions Code, as amended by Section 31 of Chapter 857 of the Statutes of 2004, is amended to read:

4163. (a) No manufacturer or wholesaler shall furnish any dangerous drugs or dangerous devices to any unauthorized persons.

(b) No person shall acquire dangerous drugs or dangerous devices from a person not authorized by law to possess or furnish those dangerous drugs or dangerous devices. When the person acquiring the dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it has not previously acquired dangerous drugs or dangerous devices.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 23. Section 4163 of the Business and Professions Code, as added by Section 32 of Chapter 857 of the Statutes of 2004, is amended to read:

4163. (a) A manufacturer or wholesaler may not furnish a dangerous drug or dangerous device to an unauthorized person.

(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by law to possess or furnish dangerous drugs or dangerous devices. When the person acquiring the dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it has not previously acquired dangerous drugs or dangerous devices.
1 (c) A wholesaler or pharmacy may not sell, trade, or transfer a
dangerous drug at wholesale without providing a pedigree.
(d) A wholesaler or pharmacy may not acquire a dangerous
drug without receiving a pedigree.
(e) This section shall become operative on January 1, 2007.

SEC. 24. Section 4163.5 of the Business and Professions
Code is repealed.

4163.5. The board may extend the date for compliance with
the requirement for a pedigree set forth in Section 4163 until
January 1, 2008, if it determines that manufacturers or
wholesalers require additional time to implement electronic
technologies to track the distribution of dangerous drugs within
the state. A determination by the board to extend the deadline for
providing pedigrees shall not be subject to the requirements of
Chapter 3.5 (commencing with Section 11340) of Part 1 of
Division 3 of Title 2 of the Government Code.

SEC. 25. Section 4169 of the Business and Professions Code,
as added by Section 39 of Chapter 857 of the Statutes of 2004, is
amended to read:

4169. (a) A person or entity may not do any of the following:
(1) Purchase, trade, sell, or transfer dangerous drugs or
dangerous devices at wholesale with a person or entity that is not
licensed with the board as a wholesaler or pharmacy, in violation
of Section 4163.
(2) Purchase, trade, sell, or transfer dangerous drugs that the
person knew or reasonably should have known were adulterated,
as set forth in Article 2 (commencing with Section 111250) of
Chapter 6 of Part 5 of Division 104 of the Health and Safety
Code.
(3) Purchase, trade, sell, or transfer dangerous drugs that the
person knew or reasonably should have known were misbranded,
as defined in Section 111335 of the Health and Safety Code.
(4) Purchase, trade, sell, or transfer dangerous drugs or
dangerous devices after the beyond use date on the label.
(5) Fail to maintain records of the acquisition or disposition of
dangerous drugs or dangerous devices for at least three years.
(b) Notwithstanding any other provision of law, a violation of
this section may subject the person or entity that has committed
the violation to a fine not to exceed the amount specified in

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Section 125.9 for each occurrence, pursuant to a citation issued by the board.
(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.
(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.
(e) This section shall remain in effect only until January 1, 2007 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007 2008, deletes or extends that date.
SEC. 26. Section 4169 of the Business and Professions Code, as added by Section 40 of Chapter 857 of the Statutes of 2004, is amended to read:
4169. (a) A person or entity may not do any of the following:
(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy.
(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.
(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.
(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.
(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.
(b) Notwithstanding any other provision of law, a violation of this section or of subdivision (c) or (d) of Section 4163 may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.
(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code.
Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.
(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.
(e) This section shall become operative on January 1, 2007.

SEC. 27. Section 4800 of the Business and Professions Code is amended to read:
4800. There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of seven members, three of whom shall be public members.
This section shall become inoperative on July 1, 2009, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.
The repeal of this section renders the board subject to the review provided for by Division 1.2 (commencing with Section 473).

SEC. 28. Section 4804.5 of the Business and Professions Code is amended to read:
4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.
This section shall become inoperative on July 1, 2009, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 29. Section 4928 of the Business and Professions Code is amended to read:
4928. The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter. The appointing powers, as described in Section 4929, may appoint to the board a person who was a member of the prior board prior to the repeal of that board on January 1, 2006.